

Students Matter

Defending students' rights through impact litigation

FOR IMMEDIATE RELEASE:

August 6, 2014

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Students Matter to Join New York Education Lawsuit, *Dauids v. State of New York*

On the Heels of the Historic Victory in *Vergara v. California*, Students Matter Will Support New York Education Lawsuit

NEW YORK, NY – Today, Students Matter, the organizational sponsor of the successful education equality lawsuit, *Vergara v. California*, announced that it would support the plaintiffs in *Dauids v. New York, et al*, a lawsuit filed in Staten Island Supreme Court on July 3rd. This is the second lawsuit supported by Students Matter and the first since the victory in *Vergara* on June 10th.

Filed against the State of New York, the New York Board of Regents, the New York State Education Department, the City of New York and the New York City Department of Education, *Dauids v. New York* seeks to declare unconstitutional certain statutes in New York's Educational Law that deny New York students the fundamental right to a sound education required by Article XI, §1 of the New York Constitution. Similar to *Vergara*, *Dauids* asks the court to strike down certain New York statutes that effectively prevent the removal of ineffective teachers from the classroom and, in economic downturns, require layoffs of more competent teachers. The Challenged Statutes prevent school administrators from prioritizing—or even meaningfully considering—the interests of their students in having effective teachers when making dismissal and layoff decisions. Together and independently, these laws—New York Education Law Sections 1102(3), 2509, 2573, 2590(j), 3012, 3014, 3020-a, and 3013(2)—have a substantially negative impact on students' education by keeping ineffective teachers in the classroom and dismissing effective teachers that deliver a sound education.

The legal team spearheading *Dauids v. New York* will be led by Gibson, Dunn & Crutcher attorneys Theodore J. Boutrous, lead counsel for the plaintiffs in *Vergara*, and Randy Mastro, one of the leading trial attorneys in the country and former Deputy Mayor of New York City. They will be joined by other members of the *Vergara* legal team, including Marcellus A. McRae, who served as lead co-counsel for the plaintiffs in *Vergara*. Mr. Boutrous was also one of the principal attorneys representing the plaintiffs in the successful federal constitutional challenge to California's Proposition 8, which banned same-sex marriage.

"As in *Vergara*, we plan to show that New York's current education system does not serve the needs of kids and in fact prevents them from accessing a sound education," said Mr. Boutrous. "Research shows without a doubt that teacher quality is the number one in-school determinant of educational effectiveness. The

system created by New York's laws restricts access to quality teachers and detracts from the overriding purpose of New York's education system: to serve the best interest of students."

"This is the civil rights issue that will define our children's futures, as we fight to protect and guarantee the right of students to a sound education," said Mr. Mastro. "We are proud to join that fight here in New York, representing these concerned students and parents. The time is now to vindicate their rights and make students our top priority."

"We are thrilled to see the conversation that started in a California courtroom through *Vergara* picking-up steam in New York," added Mr. McRae. "We look forward to presenting overwhelming evidence in the courtroom—an environment removed from rhetoric and hyperbole—to show the significant and long-term harm these laws have on our students."

The Plaintiffs in the *Davids* case are eleven public school children from New York City. As students in New York public schools, each Plaintiff has been harmed, or is at substantial risk of being harmed, as a result of the Challenged Statutes. The case was filed with the support of the New York City Parents Union, a parent-led organization dedicated to ensuring every child receives equal access to a high-quality public education.

"The *Vergara* decision in California was a ground-breaking victory affirming that the needs of students should be first and foremost in our education system," said Mona Davids, President of the New York City Parents Union. "We are delighted that Students Matter and their legal team have accepted our invitation to join this case. Their significant experience in breaking down the barriers to change in California will serve our students and our state well."

Since *Davids* was filed in early July, a similar complaint supported by Partnership for Educational Justice was filed in Albany County Supreme Court. David Boies, who is serving as Chair of Partnership for Educational Justice, previously joined with Mr. Boutrous and Gibson Dunn to return marriage equality to California in the Proposition 8 case.

"We look forward to working with David and all of the other attorneys, organizations, and government officials committed to ensuring that all students have access to the best education possible," added Mr. Boutrous.

Recent studies have confirmed that the key determinant of educational effectiveness is teacher quality. Students taught by effective teachers are more likely to attend college, attend higher-ranked colleges, earn higher salaries, reside in higher socioeconomic status neighborhoods, and save for retirement. Students taught by grossly ineffective teachers suffer lifelong problems and fail to recover from this disadvantage.

"I am a child of our public education and know first-hand the importance of a good education and great teachers on a student's life trajectory," said David F. Welch, founder of Students Matter. "I believe great teachers should be protected, but I also believe that our public education systems have failed to put the needs and success of our students above all else by being blind to the quality of our teachers. We have a responsibility to ensure that state law—whether in New York or California—guarantees that the needs of students comes first and that every student has access to an effective teacher."

The historic decision in *Vergara* struck down five harmful provisions of the California Education Code as unconstitutional. According to the Court, the laws in question—laws that govern teacher tenure, dismissal, and layoffs—impose substantial harm on California's students by forcing administrators to push passionate, inspiring teachers out of the school system and keep grossly ineffective teachers in front of students year after year.

During trial, Plaintiffs presented overwhelming evidence that California's statutes dealing with teacher dismissal and permanent employment impose a real harm on students and their fundamental right to equality in education. Importantly, the *Vergara* trial showed that these laws harm both students and teachers, and that they serve no necessary purpose.

[Read the Amended Complaint in *Dauids v. New York*.](#)

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Students Matter is a national nonprofit organization dedicated to sponsoring impact litigation to promote access to quality public education. Learn more at studentsmatter.org.