

Students Matter

Defending students' rights through impact litigation

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MEDIA CONTACT:

Manny Rivera

Mrivera@WeAreRALLY.com or (626) 864-7467

Plaintiffs to Appeal Flawed Court of Appeal Decision in *Vergara v. California*

California Court of Appeal Reverses Landmark Education Equality Decision

LOS ANGELES – Today, the California Court of Appeal reversed the historic Superior Court ruling in *Vergara v. California*, a landmark decision that struck down five provisions of the California Education Code as unconstitutional. As the Superior Court found, these five provisions—which include California’s teacher tenure, dismissal, and layoff laws—impose serious and long-lasting harms on students, particularly low-income students and students of color. The Court of Appeal’s opinion acknowledges these severe harms, yet concluded that Plaintiffs’ claims nonetheless fell short as a matter of law.

The nine student plaintiffs intend to appeal the ruling to the California Supreme Court.

“We came to court to defend the rights of California’s public school students and will continue to do so, despite today’s temporary setback,” **said Theodore J. Boutros, Jr.**, lead counsel for the Plaintiffs. “The Court of Appeal’s decision mistakenly blames local school districts for the egregious constitutional violations students are suffering each and every day, but the mountain of evidence we put on at trial proved—beyond any reasonable dispute—that the irrational, arbitrary, and abominable laws at issue in this case shackle school districts and impose severe and irreparable harm on students. We are disappointed by the Court of Appeal’s decision today, but expect that the California Supreme Court will have the final say.”

During the ten-week *Vergara* trial, more than fifty witnesses—including a dozen of the world’s leading education experts—testified about the laws at issue and their effects on children. Dr. Thomas Kane of Harvard University, for example, testified that a student assigned to a single grossly ineffective math teacher in the Los Angeles Unified School District loses out on 11.73 months of learning per year, compared to her more fortunate peers. According to Dr. Raj Chetty, this learning loss equates to a loss of approximately \$1.4 million in lifetime earnings per classroom.

As the evidence at trial showed, the five laws at issue cause the hiring and retention of grossly ineffective teachers in a variety of ways:

- The Tenure Statute forces districts to make permanent employment decisions in 18 months or less, even before new teachers have completed their certification process—far too little time to determine whether those teachers are effective in the classroom;
- The Dismissal Statutes impose an exorbitantly costly, time-consuming and rarely-successful process dismissal process, making it nearly impossible to terminate a grossly ineffective teacher who is failing miserably in the classroom; and
- The Last-In-First-Out (“LIFO”) Layoff Law forces districts to conduct layoffs based strictly on teacher seniority, with no consideration for teachers’ effectiveness in the classroom.

“Every student deserves a great public education; yet California’s education laws make this impossible,” said **Dave Welch**, the founder of Students Matter, the nonprofit organizational sponsor of *Vergara v. California*. “Today, the courts failed to safeguard students’ constitutional rights. I hope and expect that the California Supreme Court will step in and protect the rights of millions of students across California.”

A poll conducted for the University of Southern California Dornsife College of Letters, Arts and Sciences and the *Los Angeles Times* shows that California voters overwhelmingly support policy changes designed to elevate teacher quality in public schools. According to the poll, released in April 2015, supermajorities of California voters support eliminating teacher tenure or lengthening the time before teachers receive tenure from two years to at least four years, believe that teacher performance should be taken into account when making layoff decisions, and say a less burdensome dismissal process for underperforming teachers would improve the quality of public schools in California.

The California Supreme Court has discretion whether to grant review of the Court of Appeal’s decision.

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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.