

Students Matter

Defending students' rights through impact litigation

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MEDIA CONTACT:

Manny Rivera

MRivera@wearerally.com, (323) 892-2080

California Supreme Court Declines to Hear *Vergara v. California* Appeal

***Three Justices, Two Appointed by Governor Brown,
Issue Extraordinary Dissents to Court's Order Denying Review***

***California Legislature Must Adopt Common Sense Reforms that
Reward Excellent Educators and Improve Teacher Quality Statewide***

LOS ANGELES — Today, the California Supreme Court denied review of the groundbreaking education equality lawsuit, *Vergara v. California*. While the Court denied review, three of the seven Justices — Justice Liu (appointed by Governor Jerry Brown), Justice Cuéllar (appointed by Governor Jerry Brown) and Justice Chin (appointed by Governor Pete Wilson) — noted that the petition should be granted. Notably, **in his dissenting opinion, Justice Liu said:**

"Because the questions presented have obvious statewide importance, and because they involve a significant legal issue on which the Court of Appeal likely erred, this court should grant review."

In his dissenting opinion, Justice Cuéllar said:

"Public institutions must often reconcile their protection of a fundamental right with the realities of governing, the resolution of competing priorities, and the imperfections of any system forged and adapted by human hands. But here, the trial court concluded that a fundamental right was infringed when it was appreciably burdened by statutes protecting grossly ineffective teachers -- and the evidence "shock[ed] the conscience." There is a difference between the usual blemishes in governance left as institutions implement statutes or engage in routine trade-offs and those staggering failures that threaten to turn the right to education for California schoolchildren into an empty promise. Knowing the difference is as fundamental as education itself. Which is why I would grant review."

"The dissenting Justices had it right — the Court should have taken this case," **said Plaintiffs' counsel Theodore J. Boutros, Jr.** "To have two lengthy, powerful dissenting opinions from the denial of review is extraordinary in California history. Even though the Court denied review, the

words of Justices Liu and Cuéllar will resonate across California and the nation, and hopefully help bring about the change we so desperately need."

In June 2014, the Honorable Rolf M. Treu of the Los Angeles Superior Court issued a landmark decision striking down California's teacher tenure, dismissal and layoff laws, finding that those laws unnecessarily harm children statewide by preventing school districts from making teacher employment decisions that are in the best interests of students. In April 2016, the California Court of Appeal reversed the Superior Court's judgment, adopting an unduly narrow reading of the fundamental right to education set forth in the California Constitution. Today's order by the California Supreme Court leaves the California Court of Appeal's decision in place and shifts responsibility back to the California Legislature to amend and improve the state's flawed teacher employment laws.

The Supreme Court's decision falls short of the binding mandate for change that California voters, parents, students and educators had hoped for; however, Students Matter, the nonprofit sponsor of the *Vergara* litigation, will continue to keep the issues at the heart of the case front and center for California legislators.

"While we are disappointed in the Supreme Court's decision to not grant review, we are grateful to the courts for shining a much-needed spotlight on these shameful laws and the enormous harm they inflict on thousands of children every year. It's important to remember that both lower courts condemned the severe and disproportionate negative impact effected by these laws on California's children, with the trial court passionately noting that the evidence 'shocks the conscience' and the Court of Appeal calling it 'extremely troubling,'" **said Dave Welch, founder of Students Matter.** "But the fight is not over. Californians will continue to demand that the state address the massive and inexcusable inequality in access to quality teachers in our public schools, and the changes we seek are gaining momentum. In Sacramento, politics as usual ordinarily means adults making deals at the expense of kids, but *Vergara* has changed the conversation. Because of this case, we now know the problem and — just as importantly — we know the solution. We hope the California Legislature will listen to the voices of the people and recognize the compelling need to act meaningfully to rewrite our education laws with kids' best interest in mind."

Demand for common sense changes to California's teacher employment laws is higher now than ever before. In June 2016, over 50 signatories filed more than a dozen [amicus curiae or "friend of the court" letters](#), urging the Supreme Court to hear *Vergara* and ultimately, to strike down the laws at issue. These *amicus curiae* signatories included former California Governors Arnold Schwarzenegger and Pete Wilson; Seth Waxman, who served as U.S. Solicitor General during the Clinton administration; former California Supreme Court Justice Cruz Reynoso; the California Chamber of Commerce; renowned constitutional law scholars, including Harvard Professors Laurence Tribe and Lawrence Lessig; civil rights organizations, including Education Trust-West, the Oakland Alliance of Black Educators, the Los Angeles Urban League, and the Black Alliance for Educational Options; and state and district superintendents from across the country.

"My family and I turned to the courts to make sure that all students get the quality teachers they need in order to grow into happy and productive California citizens," **said Evelyn Macias, parent of Vergara plaintiff Julia Macias.** "Even without California Supreme Court review, the journey we

have taken has been a success. The trial pulled back the curtain and exposed a systemic problem that our state's children face every single day. Now our legislators have the responsibility to act. We will keep fighting for the change our children deserve.”

Students Matter will continue to engage with parents, students, education leaders and lawmakers during the 2017-2018 legislative session to meaningfully address and improve California's teacher employment policies.

To read the full dissents from Justices Liu and Cuéllar, [click here](#).

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A national nonprofit organization founded in 2011, Students Matter promotes access to quality public education through impact litigation, communications and advocacy. Learn more at studentsmatter.org.