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Attorneys for Plaintiffs  
Eliezer Williams, *et al.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, a minor, by Sweetie  
Williams, his guardian ad litem, *et al.*, each  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

STATE OF CALIFORNIA, DELAINE EASTIN,  
State Superintendent of Public Instruction,  
STATE DEPARTMENT OF EDUCATION,  
STATE BOARD OF EDUCATION,  
Defendants.

No. 312236

[CLASS ACTION]

**DECLARATION OF LOIS PERRIN IN  
SUPPORT OF OPPOSITION TO  
DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT OR, IN THE ALTERNATIVE,  
FOR SUMMARY ADJUDICATION, AS TO  
ALL CAUSES OF ACTION BROUGHT BY  
THE CLOVERDALE PLAINTIFFS**

Hearing Date: April 11, 2001  
Hearing Time: 8:30 a.m.  
Dept.: 16  
Judge: Hon. Peter J. Busch  
Date Action Filed: May 17, 2000

DECLARATION OF LOIS PERRIN IN SUPPORT OF OPPOSITION TO DEFENDANTS' SUMMARY JUDGMENT  
MOTION AS TO THE CLOVERDALE PLAINTIFFS

ENDORSED  
FILED  
San Francisco County Superior Court

MAR 28 2001

GORDON PARK-LI, Clerk  
BY: MANUELITA ECHEVERRIA  
Deputy Clerk

1 I, LOIS K. PERRIN, declare as follows:

2 1. I am an attorney at law licensed to practice before the courts of the State of California,  
3 and I am an associate with Morrison & Foerster, LLP, one of the counsel of record for plaintiffs  
4 Eliezer Williams, *et al.* ("Plaintiffs"). I make this declaration in support of plaintiffs' opposition to  
5 defendants' motion for summary judgment, or in the alternative, summary adjudication as to all  
6 causes of action asserted by the Cloverdale plaintiffs. The facts stated herein are of my own personal  
7 knowledge and, if called as a witness, I could and would competently testify to the truth thereof.

8 **AUTHENTICATION OF EXHIBITS**

9 2. Attached to this declaration as Exhibit A is a true and correct copy of the declaration  
10 of Cynthia Kehrli, the guardian ad litem of Jason Kehrli who is one of the named plaintiffs in this  
11 action.

12 3. Attached to this declaration as Exhibit B is a true and correct copy of the declaration  
13 of Jason Kehrli who is one of the named plaintiffs in this action and a student at Cloverdale High  
14 School.

15 4. Attached to this declaration as Exhibit C is a true and correct copy of the declaration  
16 of Susan Melton-Piper, a former teacher at Cloverdale High School. Ms. Melton-Piper was a  
17 substitute teacher at Cloverdale High School from January 1997 through June 1998, and was a  
18 science teacher during the 1999-2000 school year.

19 5. Attached to this declaration as Exhibit D is a true and correct copy of the declaration  
20 of Drew Smith, who is one of the named plaintiffs in this action and a student at Cloverdale High  
21 School.

22 6. Attached to this declaration as Exhibit E is a true and correct copy of the declaration  
23 of Rose Smith, the guardian ad litem of Drew Smith, who is one of the named plaintiffs in this action.

**ADDITIONAL DISCOVERY REQUIRED TO ADJUDICATE THE ISSUES PRESENTED  
BY THE STATE'S MOTION FOR SUMMARY JUDGMENT**

7. The purpose of the remainder of this declaration is not to set forth the history of all of the discovery to date, but rather to identify the specific facts that are material to plaintiffs' opposition to defendants' motion for summary judgment, and the methods that plaintiffs intend to employ to obtain the requisite factual information.

8. Defendants contend that, even if all of the plaintiffs' allegations relating to the availability of textbooks are true, plaintiffs cannot establish a constitutional violation. Plaintiffs are currently working with experts in the field to determine: (a) the effect of failing to provide each student with his or her own textbook or complete set of instructional materials for use in class and to take or leave home for homework; and (b) the timeframe in which books for core courses should be replaced.

9. Defendants further argue that even if plaintiffs' allegations that the classes at Cloverdale High School often reach temperatures of 110 degrees are correct, that this alone does not rise to the level of a constitutional violation. Plaintiffs are currently working with experts on educational facilities to ascertain, among other things, the extent of the effect of temperature on a child's learning.

10. Discovery in this matter has only recently commenced, and the Court has yet to set forth a comprehensive time line with deadlines for discovery, disclosure of experts and their reports and pretrial motions. Plaintiffs will make expert disclosures in accordance with the schedule to be set forth by the Court.

11. Plaintiffs originally served their first set of document requests on June 12, 2000. In January 2001, the State produced its first segment of its responsive documents and has since agreed to produce documents responsive to plaintiffs' first set of document requests on a rolling basis every two months until complete. Plaintiffs anticipate that the State's future productions will include documents relating to textbooks and instructional materials, bathrooms, physical maintenance, classroom temperatures, ambient and external noise in classroom spaces, unhealthful conditions, physical classroom size, overcrowding, multitrack programs, WASC reports or FCMAT reports. These documents will likely provide substantive information relating to the availability of textbooks

1 — information that would be material to plaintiffs’ opposition to defendants’ summary judgment  
2 motion.

3 12. Additionally, Plaintiffs note that the agency defendants have already produced some  
4 documents that set forth the recommended standard for with respect to school temperature. The  
5 *Facilities Performance Profile: An Instrument to Evaluate School Facilities*, issued by the California  
6 Department of Education, recommends that “[t]he inside air temperature of all instruction areas can  
7 be maintained at a minimum of 68 degrees Fahrenheit (21 degrees centigrade) during winter  
8 months . . . during all hours of normal occupancy.” See DOE 00184 and 00199, true and correct  
9 copies of which are attached to this declaration as Exhibit F.

10 Discovery in this matter is ongoing, and plaintiffs have reason to believe that  
11 defendants possess and will produce additional documents relating to the evaluation of school  
12 facilities, including maintenance of temperature. This information would be material to the plaintiffs’  
13 opposition to defendants’ summary judgment motion.

14 13. Furthermore, plaintiffs are in the process of preparing a second set of document  
15 requests and a third set of specially prepared interrogatories to all of the named defendants. These  
16 discovery requests will be directed, in part, to obtaining information about the “prevailing statewide  
17 standards” for each of the conditions identified in the amended complaint.

18 14. Finally, there are at least three depositions scheduled that plaintiffs anticipate will  
19 provide relevant testimony about the availability of textbooks to California public schoolchildren and  
20 school facilities.

21 15. Plaintiffs noticed the deposition under California Code of Civil Procedure § 2025(d)  
22 of each of the four named defendants, seeking to question the persons most knowledgeable with  
23 respect to the availability of textbooks, the physical condition of textbooks, and the age of textbooks  
24 in California public schools. In response, defendants have designated two individuals, Shelly  
25 Griffith, Director, Curriculum Frameworks Instructional Resources Division, California Department  
26 of Education, and Greg Geeting, Interim Deputy Executive Director, California Board of Education.  
27 These depositions are currently scheduled to take place on or about April 26 and June 6, 2001,

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1 respectively. Plaintiffs believe that these witnesses will testify, in part, as to the governing standards  
2 relating to the provision of textbooks or instructional materials in California public schools, and as  
3 such will provide information that may be used by plaintiffs to oppose the defendants' summary  
4 judgment motion.

5 16. Plaintiffs have additionally noticed the deposition of Duwayne Brooks, Director,  
6 School Facilities Planning Division, California Department of Education, for May 10, 2001.  
7 Plaintiffs believe that Mr. Brooks has extensive knowledge about the physical condition and  
8 maintenance of California public schools which may provide plaintiffs with additional facts upon  
9 which to oppose the defendants' motion for summary judgment.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing  
11 is true and correct. Executed this 28th day of March 2001 at San Francisco, California.

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Lois K. Perrin

**EXHIBIT A**

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## DECLARATION OF CYNTHIA KEHRLI

I, CYNTHIA KEHRLI, hereby declare:

1. I am the mother of Jason Kehrli, who is one of the plaintiffs in this action. I make this declaration based on my own personal knowledge and, if called to testify as a witness, I could and would do so competently as follows:

2. My son Jason Kehrli goes to Cloverdale High School in Cloverdale, where he was a freshman during the 1999-2000 school year, and where he will be a sophomore during the 2000-2001 school year.

3. Most of the classrooms at Cloverdale High do not have air conditioning, even though the heat becomes really ugly in Cloverdale. For a couple of months of every school year, the temperature is 80 degrees and above outside, which means that the classroom temperatures are similarly hot without air conditioning.

4. Last year, during Jason's freshman year, the bulk of the science resources at Cloverdale High went to the advanced biology class, leaving all the other students with fewer tools. Jason's integrated science class had one set of text books for all of the integrated science classes to share. The students had to bring home photocopies in order to do homework. If you're supposed to do assignments at home, then you need a book at home to use for reference. Also, Jason brought home the advanced biology class newsletter and I saw that those students took a lot of trips, even though my son's class took none. I have a real problem with the school's choice to focus its resources on one small group of kids; all the kids are taking science and they all need access to the tools.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on 7/1, 2000 at Cloverdale, California.

  
Cynthia Kehrli

**EXHIBIT B**





**EXHIBIT C**





**EXHIBIT D**

DECLARATION OF DREW SMITH

I, DREW SMITH, hereby declare:

1. I am one of the plaintiffs in this action. I make this declaration based on my own personal knowledge and, if called to testify as a witness, I could and would do so competently as follows:

2. I am going to be a sophomore at Cloverdale High School in Sonoma in the fall. I was a freshman there last year.

3. The school doesn't have air conditioning in most of the classes—the portables have air conditioning, but there are only four or five portables. The rest of the classrooms do not have air conditioning. It's hot a lot in Sonoma, and our classrooms get really hot. Everyone would just ask if we could go outside under the shade instead of staying in the classrooms in the heat. Teachers would sometimes take us to the library for class time because the library has air conditioning. The school let us bring in bottles of ice water to try to stay cool. Sometimes it just got to me that it was so hot.

4. We didn't have enough science supplies during the 1999-2000 school year; I don't know if we'll have supplies in the fall or not. We mostly had to read about experiments in the books because we didn't have the materials to do the experiments ourselves. We did a few experiments in class, but they felt more like preschool work than like high school work because they were so basic. We didn't have material to do more complex experiments.

5. The only foreign language offered at Cloverdale is Spanish. I'd rather be able to take different languages, too. I'd take French if it was offered at school.

6. We only took one field trip last year. I think more field trips would have been good, but one of my teachers told me the school couldn't afford to send us on more field trips.

7. A special education teacher roved from classroom to classroom because he didn't have a classroom of his own to use. He worked one-on-one with his students in the back of my English class when my class was going on. He had kind of a loud voice, so it was disruptive to have him working with his students while our class was going on.

8. The school has bad roofs. It seemed like all of the ceilings had water spots, and you

1 could tell that one day they're going to give way when it rains.


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3 I declare under penalty of perjury under the laws of the United States and the State of  
4 California that the foregoing is true and correct. Executed on August 2, 2000 at Sonoma,  
5 California.

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Drew Smith

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**EXHIBIT E**



DECLARATION OF ROSE SMITH

I, ROSE SMITH, hereby declare:

1. I am the mother of Drew Smith, who is one of the plaintiffs in this action. I make this declaration based on my own personal knowledge and, if called to testify as a witness, I could and would do so competently as follows:

2. My son Drew attends school at Cloverdale High School in Sonoma. He was a freshman there last year, and he will be a sophomore there in the fall.

3. Drew has complained to me about the heat in his classrooms. It can get to 115 degrees outside here, and his classrooms do not have air conditioning. It can be really hot here in September and even October, and it's often hot here in April, May, and June as well.

4. One of the teachers roves from whatever classroom is available to the next because he doesn't have a classroom of his own to use. He has to carry his supplies with him wherever he goes.

5. When we voted the lottery in, we thought the money was going to go to school supplies and proper buildings for the schools. But the money clearly hasn't gone there because Drew and the other kids at Cloverdale High don't have all the supplies they need at school.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on August 2, 2000 at Sonoma, California.

  
Rose Smith

**EXHIBIT F**

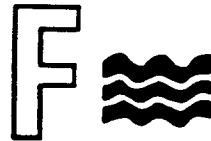
1978 Edition

# Facilities Performance Profile



## An Instrument to Evaluate School Facilities

CALIFORNIA DEPARTMENT OF EDUCATION  
Bill Honig, State Superintendent of Public Instruction  
Sacramento, 1988



## HEAT & AIR

Points  
possible

Rating

### 1. TEMPERATURE

The inside air temperature of all instruction areas can be maintained at a minimum of 68 degrees Fahrenheit (21 degrees centigrade) during winter months and a maximum of 80 degrees Fahrenheit (27 degrees centigrade) during summer months for all hours of normal occupancy. Two-position thermostats are inaccessible except to identified responsible personnel. All mechanical heating, ventilating, and air cooling systems are controlled by seven-day time clocks set to turn off when not needed.

2.0\*

### 2. INSULATION

Heat gain or loss is minimized with energy-responsive concepts such as high-reflectance roofing, windows, and walls shielded from direct sunlight; thermal insulation for exterior walls, ceiling, and roof; air exhaust of attic spaces; insulating glass; weather stripping at exterior doors and windows; two sets of doors (a vestibule) at each entrance and exit; and so on. Building mass is considered as a basis for design.

2.0

### 3. OUTSIDE AIR

When conditions such as low outside noise levels permit, adequate air exchange is provided for instruction areas by natural means such as prevailing breezes or convection. Natural systems, when provided, are automatically or readily controllable during heating and cooling cycles. Mechanical systems, when provided, use outside air for cooling (economizer cycle) to the extent possible (six to eight air changes per hour) and provide code minimums only during heating and cooling cycles.

Generous natural ventilation systems are provided for all shower, locker, and toilet rooms.

Independent exhaust systems, of the gravity or mechanical type, are provided for kitchens, science and homemaking laboratories, and other spaces, with special requirements for removing odors or air impurities.

2.0

\*Critical factor.