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SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al.,) Case No. 312 236
)
Plaintiffs,) Hearing Date: August 25, 2003
)
vs.) Time: 3:30 p.m.
)
STATE OF CALIFORNIA, DELAINE) Department: 16
EASTIN, State Superintendent)
Of Public Instruction, STATE) Judge: Hon. Peter J. Busch
DEPARTMENT OF EDUCATION, STATE)
BOARD OF EDUCATION,)
)
Defendants.)
)
)
)
AND RELATED CROSS-ACTION.)
)

DECLARATION OF CHARLES O'BRIEN IN SUPPORT OF DEFENDANT STATE OF CALIFORNIA'S OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY ADJUDICATION

1 **DECLARATION OF CHARLES O'BRIEN**

2
3 I, Charles O'Brien, say:
4

5 1. I am the principal of Agua Caliente Elementary School in
6 Palm Springs Unified School District. I have been the principal
7 of Agua Caliente for eight years. Prior to that, I worked as an
8 assistant principal and a 5th grade teacher in Palm Springs
9 Unified School District. I have extensive knowledge of the
10 students, teachers, and facilities at Agua Caliente, and am
11 familiar with the curriculum and instructional materials provided
12 to the students. I have personal knowledge of the facts set forth
13 in this declaration; and if called as a witness I would and could
14 testify competently thereto.
15

16 2. I am familiar with Agua Caliente's May 2001 II/USP
17 Action Plan. In fact, I was involved in preparing this Action
18 Plan, which was done in connection with our participation in the
19 Immediate Intervention/Underperforming Schools Program. Agua
20 Caliente was an II/USP school from fall 2000 to spring 2003. The
21 II/USP Program has been very effective at Agua Caliente. During
22 the first year, our API score increased by 80 points and during
23 the second year, our API score increased by 40 points.
24

25 3. I am generally familiar with the Williams lawsuit. I am
26 aware that plaintiffs, in their motion for summary adjudication,
27 have quoted page 10 of Agua Caliente's May 2001 II/USP Action
28

1 Plan, which summarizes a survey taken of 4th and 5th grade
2 parents, teachers and students:

3 Teachers reported that there is a total lack of materials
4 such as books, overheads, and encyclopedias. The majority
5 of teachers reported that more resources would improve the
6 school (83%) . . . Some parents have reported that their
7 children have not been given a mathematics, language arts,
8 social science, or science textbook (~20%). Students in 4th
9 and 5th grade were not consistent in their responses as to
10 whether they have been given a textbook. The lowest
11 responses were for math (27%) and science (38%). Teachers
12 reported that some grades have no class sets of books for
13 spelling, science or history. The majority of teachers
14 reported that they have a classroom set only or no books
15 aligned to the CA content standards.

10

11 4. When this II/USP Action Plan was prepared, Agua Caliente
12 students were taught math through a non-textbook based program
13 called Excel Math. Therefore, students did not have textbooks in
14 math as reported in the survey. Instead, in accordance with the
15 Excel Math program, students were given worksheets, which
16 contained the math lesson, to use in class and to take home. In
17 that same semester, the district purchased new State-adopted math
18 textbooks (McGraw Hill) for the upcoming 2001-2002 school year.
19 With II/USP funds, Agua Caliente also purchased supplemental
20 materials such as manipulatives, homework books, workbooks and
21 teaching materials to accompany these new math textbooks.
22 Starting in fall of 2001, Agua Caliente students were provided
23 these new State-adopted math textbooks and a full set of math
24 manipulatives to use in class and math workbooks and homework
25 books to take home.

26

27 5. Also, contrary to what is reported in the survey, the
28 students at Agua Caliente have had access to a State-adopted

1 language arts textbooks for Language Arts and spelling since the
2 fall of 2000. At that time, the district implemented the State-
3 adopted Open Court program which incorporates spelling
4 instruction and provided each student with an Open Court textbook
5 to use in class. Although there are sufficient Open Court
6 textbooks for each Agua Caliente student to take home as well as
7 use in class, we do not allow the students to take these texts
8 home unless a parent signs a form stating that he or she will be
9 responsible for making sure the book is returned. Given the cost
10 of replacing textbooks and the rate at which textbooks are not
11 returned each year, this precaution is necessary. In addition,
12 we provide reproducible homework books, storybooks, and homework
13 sheets that are part of the Open Court program for the students
14 to take home.

15
16 6. It is also untrue that there are no classroom sets of
17 science and history textbooks at Agua Caliente. The teachers at
18 Agua Caliente have always had access to a classroom set of
19 science and history texts to utilize if they choose. However,
20 because the Open Court instructional materials contain thematic
21 sections in science and history, teachers often opt not to use
22 these science and history textbooks in favor of the Open Court
23 materials.

24
25 7. At the time II/USP Action Plan was drafted, Agua
26 Caliente was experiencing a need for additional supplementary
27 materials. In order to remedy this situation, Agua Caliente
28 bought many books for classroom libraries using approximately

1 \$120,000 of II/USP funds starting in July 2001. The school also
2 purchased new books for the main library collection, overhead
3 projectors, manipulatives and other supplemental learning
4 materials for its students. Agua Caliente also installed on-line
5 internet access in every classroom, enabling students to use on-
6 line encyclopedias and other research sources. These
7 improvements have resolved teacher concerns about lack of
8 materials and resources cited in the May 2001 II/USP Action Plan.

9
10 I declare under penalty of perjury that the foregoing is
11 true and correct.

12
13 Executed this 1st day of August 2003 at Palm Springs,
14 California.

15
16 Charles O'Brien
17 Charles O'Brien
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