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

11 ELIEZER WILLIAMS, et al., ) Case No. 312 236  
12 )  
13 Plaintiffs, ) Hearing Date: September 17, 2003  
14 )  
15 vs. ) Time: 3:30 p.m.  
16 )  
17 STATE OF CALIFORNIA, DELAINE ) Department: 20  
18 EASTIN, State Superintendent )  
19 Of Public Instruction, STATE ) Judge: Hon. Peter J. Busch  
20 DEPARTMENT OF EDUCATION, STATE )  
21 BOARD OF EDUCATION, )  
22 )  
23 Defendants. )  
24 )  
25 )  
26 )  
27 )  
28 )  
AND RELATED CROSS-ACTION. )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

DECLARATION OF WENDY HARRIS IN SUPPORT OF DEFENDANT STATE OF  
CALIFORNIA'S OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY  
ADJUDICATION

1 I, Wendy Harris, declare as follows:

2  
3 1. I am currently employed by the California Department  
4 of Education. I make this declaration in support of the  
5 opposition of defendant State of California to Plaintiffs'  
6 motion for summary adjudication. All the facts set forth in  
7 this declaration are known to me personally and, if called as a  
8 witness, I could testify competently thereto.

9  
10 2. Since December 1999, I have been Director of the  
11 Department's School Improvement Division, renamed in November  
12 2002 from the Education Support and Networks Division. The  
13 Division's mission is to improve student achievement in public  
14 schools, especially in low-performing schools. Major Division  
15 programs include the Immediate Intervention/Underperforming  
16 Schools Program (II/USP), the High Priority Schools Grant  
17 Program (HPSGP), the federal Comprehensive School Reform (CSR)  
18 Program, the Statewide System of School Support (S4), and  
19 various grade span projects. The Division was responsible for  
20 the Scholastic Audit and Intervention Process under Title I of  
21 the Elementary and Secondary Education Act, involving schools  
22 that had consistently failed to make academic progress,  
23 generally referred to as Program Improvement (PI) schools. Each  
24 of these programs includes elements of oversight and  
25 intervention that address the availability of textbooks and  
26 instructional materials in public schools. Within the next year  
27 or two, the Statewide System of School Support will provide  
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1 oversight that addresses the availability of textbooks and  
2 instructional materials.

3           3. I am familiar with the Williams v. State of California  
4 case, and have reviewed the allegations Plaintiffs set forth in  
5 their motion for summary adjudication pertaining to the lack of  
6 instructional materials.

7  
8           4. Scholastic Audit and Intervention Process. In  
9 September 2001, pursuant to the Federal Elementary and Secondary  
10 Education Act (ESEA), Title I, Section 1116(d)(6)(B), California  
11 established the Scholastic Audit and Targeted Intervention  
12 Process to conduct an in depth investigation of specific  
13 dimensions of those schools that had consistently failed to make  
14 academic progress, generally referred to as Program Improvement  
15 (PI) schools, and to determine the strategies that these schools  
16 and their respective districts needed to take to improve the  
17 conditions necessary for academic achievement in  
18 English/language arts and mathematics. A Joint Intervention  
19 Agreement ("JIA") for each school was negotiated, which  
20 addressed through corrective actions and benchmarks of progress,  
21 the specific responsibilities of the school and its district,  
22 and of the state, in improving the school.

23           5. The first group of schools that participated in the  
24 Scholastic Audit and Targeted Intervention Process were the  
25 thirteen Title I schools that had consistently failed to make  
26 sufficient academic progress since first identified in 1996-97  
27 as in need of improvement. The second group of schools included  
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1 eleven Title I schools in nine districts that had consistently  
2 failed to make sufficient academic progress since first  
3 identified in 1997-98.

4  
5 6. Scholastic audits are conducted by teams, consisting  
6 of six to ten members total. Each team intensely reviewed  
7 school operations in these audit areas: 1) curriculum, 2)  
8 instruction, 3) classroom and school level assessments, 4)  
9 evaluation and accountability, 5) professional development, 6)  
10 leadership and administration, 7) school organization and  
11 resources, 8) school culture and environment, and 9) family and  
12 community engagement. Each team interviewed administrative  
13 staff members, teachers, and students, observed classroom  
14 sessions, met with parents and other community members, and  
15 reviewed various documents collected from the site. The audit  
16 resulted in a "Scholastic Audit Team Report," which provided a  
17 listing of findings, recommendations for improvements to  
18 increase student achievement, and a suggested timeline for  
19 implementation of these recommendations.

20 7. Moreover, in reviewing school curriculum and  
21 instruction, scholastic audit teams determine whether there are  
22 appropriate instructional materials that are available to  
23 students. In particular, they observe the textbooks and/or the  
24 instructional materials used in class. They also determine,  
25 from interviews with parents, students and teachers, whether  
26 there are appropriate and sufficient materials available to use  
27 in class and to take home for purposes of homework. If auditors  
28 determine that there are any deficiencies in the instructional

1 materials available to students, such findings are noted in the  
2 Audit Team Report. In addition, a recommendation regarding any  
3 need for instructional materials would also be added to the  
4 Audit Team Report.

5  
6 8. After the audits, the California Department of  
7 Education (CDE) negotiated with district and school personnel  
8 specific timelines by which the various items for improvement  
9 would be met, the specific steps that the district and school  
10 would take to meet the items, and the appropriate parties  
11 responsible for each item. These negotiations produced a Joint  
12 Intervention Agreement ("JIA") between the CDE and each audited  
13 district. The JIA was shared with school staff, the community,  
14 and the school board. The audited district and school have  
15 approximately 18 months to implement the corrective actions  
16 specified in the JIA.

17 9. After the initial audit and the execution of the JIA,  
18 each audit team continued to work with the school and district  
19 for the following eighteen months. Districts provided quarterly  
20 written reports before monitoring visits that addressed the  
21 school's progress regarding each of the corrective actions in  
22 the JIA. In addition to reviewing these reports, an audit team  
23 representative conducted quarterly on-site visits of schools to  
24 verify the report, to observe classrooms, and interview staff,  
25 students, and parents. Among other items, the team ensures that  
26 any findings regarding textbooks and/or instructional materials  
27 have been resolved. At the conclusion of each monitoring visit,  
28 a report of progress was sent to the District Superintendent

1 from the CDE. To date, the monitoring for all but one of the  
2 thirteen schools in the first group has been completed and the  
3 monitoring for the remaining school will be completed in  
4 September 2003. The eleven schools in the second group will be  
5 completed by June 2004.

6  
7 10. In 2001, the Federal No Child Left Behind (NCLB) Act  
8 amended the Elementary and Secondary Education Act (ESEA) to  
9 change the way in which schools that consistently fail to make  
10 academic progress are handled. Under NCLB local school districts  
11 now have the primary responsibility for providing assistance and  
12 taking corrective action at schools identified for improvement.  
13 The NCLB Act replaced the joint plan Scholastic Audit and  
14 Targeted Intervention option in ESEA with the process described  
15 below.

16 11. While NCLB Title I school improvement (called "Program  
17 Improvement" in California) provisions are not my primary  
18 responsibility, I understand that under NCLB, schools that fail,  
19 for two consecutive years, to make adequate yearly progress are  
20 identified for program improvement by the state. Adequate  
21 yearly progress is defined as the progress a school must make  
22 each year so that all of its students will be proficient in the  
23 areas of English/language arts and mathematics by the 2013-14  
24 school year. Schools identified for program improvement (PI)  
25 must, among other things, provide students enrolled in the  
26 school with the option to transfer to a non-PI school in the  
27 district and develop and implement a plan to strengthen the core  
28 academic subjects in the school. The local district must review

1 and approve the PI school's plan to determine if it meets  
2 applicable requirements. The local district must also provide  
3 technical assistance to PI schools. A school that fails to make  
4 AYP after the end of the first year after being identified for  
5 program improvement must continue the option of allowing  
6 students to transfer out of the PI school and make supplemental  
7 education services available to students from low income  
8 families in the school. A school that fails to make AYP after  
9 the end of the second year after being identified for program  
10 improvement must continue the options outlined above;  
11 additionally, the school district must identify the school for  
12 corrective action. Corrective action constitutes acts that  
13 respond substantially and directly to the consistent academic  
14 failure and underlying staffing, curriculum, or other problems.  
15 The local district must take one of several corrective actions,  
16 including replacing school staff, or implementing a new  
17 curriculum.

18  
19 12. Under NCLB the State must review the progress of  
20 school districts receiving Title I funds to determine whether  
21 Title I schools are making adequate yearly progress and identify  
22 for improvement any district that for two consecutive years  
23 fails to make adequate yearly progress. Districts so identified  
24 must develop and implement a district plan that, among other  
25 things, incorporates strategies to strengthen the core academic  
26 program in schools served by the district, addresses the  
27 fundamental teaching and learning needs in the schools, and  
28 specifies the responsibilities of the State and the district.

1 The State must provide technical assistance or other assistance,  
2 if requested, as authorized under NCLB section 1117, to better  
3 enable the district to develop and implement its plan and work  
4 with schools needing improvement.

5 13. NCLB section 1117 requires the State to establish a  
6 Statewide System of School Support for Title I districts and  
7 schools. In 2002, AB 312 added Education Code 52059, which  
8 directed the CDE to establish a Statewide System of School  
9 Support (S4) for purposes of complying with NCLB and  
10 appropriated federal funding for the system's work on school  
11 intervention and support.  
12

13 14. School Support Teams. NCLB Section 1117 mandates that  
14 states give priority to the creation of School Support Teams to  
15 work within the Statewide System of School Support. School  
16 Support Teams offer prioritized assistance to Title I districts  
17 and schools. The first priority is to districts with Corrective  
18 Action schools: Program Improvement schools who have failed to  
19 make Adequate Yearly Progress (AYP) for two years after  
20 identification (NCLB years 3,4,5). The second priority is  
21 districts with Program Improvement schools (NCLB years 1 and 2).  
22 The third priority is other districts and schools that receive  
23 Title I funds.

24 School Support Teams review and analyze all facets of the  
25 school's operation, including the design and operation of the  
26 instructional program, and assist the school in developing  
27 recommendations for improving student performance in that  
28



1 school. They make findings and recommendations to the school,  
2 the district, and, where appropriate, the State.

3 15. California established the Regional System of District  
4 and School Support (RSDSS) to meet state and federal  
5 requirements for the NCLB Statewide System of School Support  
6 (S4). The system consists of regional consortia of county  
7 offices of education that use school support teams, among other  
8 approaches, to work collaboratively with identified Program  
9 Improvement (PI) schools and their districts, as well as schools  
10 that are participating in the state's other Public Schools  
11 Accountability Act programs.

12  
13 16. California has chosen to use a regional approach as  
14 part of this system to address the needs of the state and the  
15 vast numbers of schools and school districts. Counties are  
16 divided into eleven service regions in California. In each  
17 region, a Lead County Office of Education manages the  
18 appropriated federal funding for this purpose in the region and  
19 is accountable to the Department for developing a plan that is  
20 both responsive to NCLB and the unique needs identified within  
21 its region. Ultimately all counties in the region are  
22 accountable for working together to create a system that is  
23 supportive of the academic achievement of all students in the  
24 region. As part of this regional planning, counties agree among  
25 themselves how they will use the range of funded programs  
26 available to them, including the RSDSS, to best meet their  
27 regional needs.

28

1           17. NCLB clearly places the responsibility on districts to  
2 identify and support their low performing schools. Building a  
3 district's capacity to do this work is the clear priority of the  
4 RSDSS. With over 8,900 schools and 6.1 million students in  
5 California, a support system that focuses primarily on school-  
6 level assistance would be incapable of effectively serving all  
7 schools in need. Consequently, regions will develop support  
8 teams to work both with districts and schools as a means of  
9 meeting the expectations set forth in NCLB. RSDSS offices work  
10 with the Lead County Office of Education and other county  
11 offices of education in the region to develop an annual work  
12 plan designed to satisfy the statewide system of school support  
13 requirements of Title I of NCLB and identified regional needs.

14           18. Through regional collaboration and brokerage of  
15 RSDSS services aimed as much as possible on helping districts,  
16 the schools most in need will be able to receive assistance  
17 from their school district. Eventually, districts will have  
18 more capacity to help all of their schools. For those districts  
19 that cannot support their low performing schools, individual  
20 schools may be supported by the statewide system until the  
21 district builds its capacity to do so. CDE expects that the  
22 school and district intervention work of the RSDSS will align  
23 with state intervention practices as described in paragraph 23  
24 using many of the same tools and processes.

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27           19. California's Accountability and Support System for  
28 Underperforming Schools. California's 1999 Public Schools

1 Accountability Act created an accountability system that  
2 measures all schools on a standards-based Standardized Testing  
3 and Reporting program (STAR). Under the STAR program, students  
4 at all schools take standardized tests (including a norm-  
5 referenced examination and examinations based on California's  
6 own standards). These students' scores are then aggregated by  
7 school and the school is assigned a specific score known as an  
8 academic performance index (API). Each school is then assigned  
9 an annual academic performance growth target for improvement  
10 over their base line API score (or, in some instances, where the  
11 school has already demonstrated significant achievement, a  
12 maintenance of an API score).  
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15  
16 20. In 1999 schools in the lower half of the statewide  
17 distribution of the 1999 STAR [API deciles 1-5] were eligible to  
18 participate in the Immediate Intervention/Underperforming  
19 Schools Program (II/USP). 350 schools were randomly selected in  
20 1999 from the pool of schools that volunteered to participate.  
21 Selected schools received \$200 per student for up to two years,  
22 with a possible additional year of funding if they failed to  
23 make specific academic growth to exit the program. An additional  
24 80 schools received the federal CSR funding as part of the  
25 II/USP program in 1999. In addition, participating II/USP  
26 schools were given \$50,000 grants to hire a state approved  
27 external evaluator to work with administrators and school  
28 faculty to develop a school improvement plan. School plans

1 focus on building capacity to meet students' instructional  
2 needs, require data analysis, and provide intervention programs.  
3 Plans must include school conditions identified in the School  
4 Accountability Report Card, including, commencing in the fall of  
5 2000, the quality and currency of textbooks and other  
6 instructional materials and whether they meet state standards.

7  
8 21. In 2000 and 2001, two subsequent cohorts, each with  
9 430 schools in deciles 1-5 which failed to make API growth  
10 targets began II/USP planning with \$50,000 planning grants.  
11 Local governing boards of these schools participating in II/USP  
12 contracted with an external evaluator from the California  
13 Department of Education's (CDE) approved list. The external  
14 evaluators are educational consultants that are to work with a  
15 broadly based school site and community team to develop and  
16 implement an action plan. These plans identify current barriers  
17 at the school and district. The goal is to improve student  
18 achievement and to develop strategies to permanently remove  
19 these barriers. II/USP planning schools in cohorts 2 and 3 had  
20 the option of either receiving two years of state funds to  
21 implement their Action Plan or applying for three years of  
22 federal Comprehensive School Reform Program funding. To date,  
23 three cohorts of II/USP schools, or a total of about 1290  
24 schools, have completed at least one year of implementation of  
25 Action Plans. The first cohort has completed an entire  
26 implementation cycle.

27 22. II/USP schools that fail to meet annual API growth  
28 targets within twelve months are subject to district

1 interventions; schools that fail to meet API growth targets  
2 within 24 months and fail to make any academic progress are  
3 subject to state intervention and/or sanction. On the other  
4 hand, schools that meet or exceed growth targets may be eligible  
5 for monetary or non-monetary awards. In 2002-2003, 24 schools in  
6 the initial II/USP cohort failed to make any academic growth  
7 during two implementation years and became subject to a School  
8 Assistance and Intervention Team (SAIT) for state-monitored  
9 schools, as identified by the State Superintendent of Public  
10 Instruction and as approved by the State Board of Education from  
11 a list of legislated, alternative sanctions.

12  
13 23. In 2002-03, SAIT teams began working with the 24  
14 state-monitored schools using methods similar to those of the  
15 Scholastic Audit and Targeted Intervention Process. In 2003-04,  
16 the process has been modified to insure that for grades K-8,  
17 each student in a state-monitored school has standards-aligned  
18 mathematics and English/language arts instructional materials  
19 adopted by the SBE in January 2001 and 2002, respectively, as  
20 the first step in intensive monitoring and support of the  
21 school.

22 24. For these state-monitored schools, the state allocates  
23 a minimum of \$75,000 for an II/USP elementary or middle school  
24 and \$100,000 for a high school to pay for the services of the  
25 SAIT provider. An additional \$150 per student is annually  
26 appropriated for three years to support implementation of  
27 corrective actions identified as needed by the SAIT Provider.  
28 These implementation funds must also be matched by local funds.

1           25. The Comprehensive School Reform (CSR) Program is a  
2 federally funded school reform initiative that offers schools  
3 and districts the opportunity to implement schoolwide research-  
4 based reform strategies to increase student achievement.  
5 Formerly known as the Comprehensive School Reform Demonstration  
6 Program (CSR), the program was renamed with the passage of the  
7 federal No Child Left Behind Act. According to the Program  
8 Guidance from the United States Department of Education (USDE),  
9 the purpose of the CSR program is to "improve student  
10 achievement by supporting the implementation of comprehensive  
11 school reforms based on scientifically based research and  
12 effective practices so that all children, especially those in  
13 low-performing, high poverty schools, can meet challenging State  
14 content and academic achievement standards."

15           26. Grants are awarded to successful local educational  
16 agencies in an amount up to \$400 per student in each funded  
17 school, with a minimum allocation of \$50,000 per school. Grants  
18 are renewable for two additional years, contingent on federal  
19 funding and substantial progress toward meeting the school's  
20 goals and benchmarks.

21           27. The CSR Program includes many components including  
22 ongoing, high-quality professional development for teachers and  
23 staff; support for teachers, administrators and staff  
24 implementing and evaluating school improvement activities; high-  
25 quality external technical support and assistance from an  
26 external partner with experience and expertise in schoolwide  
27 reform and improvement; and identifies resources to support and  
28

1 sustain the school's comprehensive reform effort. In the 2002-03  
2 school year, out of a total of 160 CSR schools, 66 schools were  
3 participating in California's High Priority School Grant Program  
4 (HPSGP) and in the CSR program. As HPSGP participants, these  
5 schools were required to provide each pupil with standards-  
6 aligned mathematics and reading/language arts instructional  
7 materials approved by the State Board of Education in January  
8 2001 and 2002, respectively. HPSGP high schools must provide  
9 each pupil in grades 9-12 with the instructional materials its  
10 governing board has certified are aligned to both the state  
11 reading or mathematics content standards and curriculum  
12 frameworks.

13  
14 28. In 2001, the Legislature again addressed the needs of  
15 low performing schools in Assembly Bill 961 which established  
16 the High Priority Schools Grant Program (HPSGP) for low  
17 performing schools. This program is intended to assist the  
18 lowest performing schools in the state in raising student  
19 achievement by offering additional resources targeted to student  
20 performance. All schools ranked in decile 1 according to the  
21 statewide 2000 Academic Performance Index (API) were invited to  
22 participate in this program. The legislation specifies that by  
23 participating in the HPSGP, schools automatically participate in  
24 II/USP and must meet all of the requirements of II/USP as  
25 modified by the HPSGP legislation.

26 29. The HPSGP ties together several legislative incentive  
27 programs that have been made available to schools and districts.  
28 For example, schools receiving HPSGP funding must ensure that

1 all of their teachers participate in the Mathematics and Reading  
2 Professional Development Program established under Assembly Bill  
3 (AB) 466. In addition, principals in schools selected to  
4 receive HPSGP funds must, likewise, participate in the Principal  
5 Training Program created by AB 75. Reimbursement for  
6 participating in these programs may be obtained from CDE.  
7 Finally, all participating HPSGP elementary and middle schools  
8 must agree to purchase and provide to each pupil standards  
9 aligned mathematics and reading/language arts instructional  
10 materials approved by the State Board of Education (SBE) in  
11 January 2001 and 2002, respectively. HPSGP high schools must  
12 provide each pupil in grades 9-12 with the instructional  
13 materials its governing board has certified are aligned to both  
14 the state reading or mathematics content standards and  
15 curriculum frameworks.

16  
17 30. Beginning in the 2002-03 fiscal year, schools selected  
18 to participate in the HPSGP received \$400 per student, with a  
19 \$200 per student matching requirement. Schools that had been  
20 participating only in II/USP, but were accepted for the HPSGP,  
21 received \$200 per student from each source.

22 31. The goal of HPSGP is to ensure that these additional  
23 resources will assist all participating schools in implementing  
24 changes to speedily improve pupil performance. Schools must  
25 develop action plans that include as essential components  
26 instructional materials, quality of staff, curriculum, and  
27 facilities. Schools have twenty-four months to meet growth  
28 targets. To ensure that each school is progressing toward the



1 goals of its plan, the district must annually submit a report to  
2 the Superintendent of Public Instruction that includes, among  
3 other things, the academic improvement of students and the  
4 availability of instructional materials in core content areas  
5 aligned with content standards. Failure to meet growth targets  
6 will result in review by the State Board of Education. The  
7 Superintendent of Public Instruction has the discretion, with  
8 approval of the State Board of Education, to direct the  
9 governing board to take action in adopting strategies that meet  
10 benchmarks in the school's action plan. Lack of significant  
11 progress after thirty-six months will result in interventions or  
12 sanctions by the State Board of Education and the Superintendent  
13 of Public Instruction.

14  
15 32. Education Code Section 52055.625 provides that the  
16 HPSGP Action Plan must include components on pupil literacy and  
17 achievement, quality of staff, parental involvement, facilities,  
18 curriculum, instructional materials, and support services. The  
19 instructional materials component must include the development  
20 of a high-quality curriculum and instruction aligned with the  
21 academic content and performance standards. At a minimum this  
22 strategy shall include the goal of adequate logistical support,  
23 including instructional materials. Each district with  
24 participating schools signs an assurance that it will provide  
25 each pupil with current, standards-aligned textbooks as  
26 previously described.

27 33. The role of the district is greater under HPSGP than  
28 under II/USP, and the requirement that the district Board hold a

1 public hearing to discuss whether to apply is new. Schools have  
2 a longer length of time in which to improve student achievement.  
3 Funding is allocated at \$400 rather than at \$200 per pupil (\$200  
4 additional funding for existing II/USP schools). The planning  
5 grant is optional, and requirements for the selection of an  
6 external evaluator have broadened. Although both programs allow  
7 schools in decile ranks 1-5 to participate, priority under HPSGP  
8 shifts to the lowest ranked schools in decile 1.

9  
10 34. California is currently in the process of aligning its  
11 various state underperforming schools' initiatives with the  
12 federal requirements of NCLB Act. Given the need to change  
13 state law, the state anticipates that this will be a two-year  
14 process followed by the phase-in of schools into the federal  
15 system.

16 I declare under penalty of perjury under the laws of the State  
17 of California that the foregoing is true and correct.

18 Executed this 19 day of August 2003, at Sacramento, California.

19  
20   
21 Wendy Harris