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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 CITY AND COUNTY OF SAN FRANCISCO

13 ELIEZER WILLIAMS, et al.,) Case No. 312 236
14)
15 Plaintiffs,) Hearing Date: September 13, 2001
16)
17 vs.) Time: 8:30 a.m.
18)
19 STATE OF CALIFORNIA, DELAINE) Department: 16
20 EASTIN, State Superintendent)
21 Of Public Instruction, STATE) Judge: Hon. Peter J. Busch
22 DEPARTMENT OF EDUCATION, STATE)
23 BOARD OF EDUCATION,)
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25 Defendants.)
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28)
AND RELATED CROSS-ACTION.)
_____)

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I, Carol Shellenberger, declare as follows:

1. I am currently employed by the Office of Public School Construction ("OPSC") of the State of California. I make this declaration in support of the opposition of defendant State of California to Plaintiffs' motion for class certification. All the facts set forth in this declaration are known to me personally and, if called as a witness, I could testify competently thereto.

2. I am currently employed as the Special Assistant to the Interim Executive Officer of the OPSC. I have worked for the OPSC in various capacities for more than sixteen years. The OPSC, as staff to the State Allocation Board ("SAB"), implements and administers the School Facility Program and other programs of the SAB. The OPSC's mission is to facilitate the processing of school applications for facility-related funding and to make funding for construction available to qualifying school districts. These actions enable school districts to build safe and adequate school facilities for their children in an expeditious and cost-effective manner.

3. The School Facility Program ("SFP") provides State assistance for two major facilities construction programs: new construction and modernization. The process for accessing the State assistance for these programs is divided into two steps: an application for eligibility and an application for funding. A school district first must apply for eligibility to the SAB. SAB

LA2:576370.1

1 approval of an application for eligibility establishes that the
2 school district or county office of education meets the criteria
3 under law to receive assistance for modernization and new
4 construction. Next, in order to receive funding for an eligible
5 project, the district representative must file a funding
6 application with the OPSC for approval by the SAB. The SAB
7 action establishes that the district has met the criteria set
8 forth in law and regulation to receive State funding assistance
9 for the construction of new facilities or the modernization of
10 existing facilities.

11
12 4. In order to establish eligibility for new
13 construction funding, a district must demonstrate that existing
14 seating capacity is insufficient to house pupils existing and
15 anticipated in the district using a five-year projection of
16 enrollment. Districts may file on a district-wide basis or,
17 under certain circumstances, using a high school attendance area.
18 The district is required to submit certain information regarding
19 enrollment projections and existing school building capacity.
20 Existing school building capacity is subtracted from the
21 enrollment projection and the number of pupils left, if any, are
22 considered "unhoused" for purposes of the SFP. The number of
23 "unhoused" pupils represents the district's eligibility for new
24 construction grant entitlement.

25
26 5. Once the district has submitted the required
27 eligibility information to the OPSC, the OPSC conducts a
28

1 preliminary review of the package to ensure that it is complete
2 prior to adding the application to the workload lists. A more
3 detailed review is completed prior to presentation to the SAB
4 that may include an on-site visit. When the review is complete
5 and the OPSC has validated the eligibility calculations, an item
6 is presented to the SAB for consideration of approval.
7

8 6. The SFP was implemented in 1998 and changed the
9 way schools are built and modernized in California. Before 1998,
10 new construction and modernization was administered under the
11 Leroy F. Greene State School Building Lease-Purchase Law of 1976,
12 also called the Lease-Purchase Program ("LPP"), which provided
13 State funds for public school capital facility projects in
14 accordance with statute and SAB policy. Under the LPP, as under
15 the SFP, eligibility for State funds was based upon a district's
16 need to house current, as well as projected, enrollment and was
17 determined by comparing the SAB space standards to the total
18 space available in the district.
19

20 7. I am familiar with the Williams v. State of
21 California case, and I have read the Plaintiffs' proposed class
22 definition. I understand that the proposed class includes, among
23 others, all students that attend "overcrowded" schools and that
24 the Plaintiffs assert that a school is "overcrowded" if it does
25 not comply with various building requirements (e.g., classroom
26 size requirements) that did not go into effect until
27 approximately 1994. Thus, it would appear that all students that
28

1 attend classes in classrooms built before 1994 would fall within
2 the Plaintiffs' proposed class. This would include the vast
3 majority of students throughout the entire state.
4

5 8. Based upon data maintained by the OPSC, a total of
6 approximately 411,443 students presently are housed in classrooms
7 built between 1994 and the present.¹ This figure represents the
8 total number of new construction pupils housed under the SFP
9 (165,629)² (which went into effect in 1998) plus the total number
10 of new construction pupils housed under the LPP between 1994 and
11 1998 (245,814). The current total student population in
12 California public schools is approximately 6,050,895.
13 Accordingly, the 411,443 students that have been housed in
14 classrooms built since 1994 constitute approximately 6.7% of all
15 public school students in California.
16

17 9. In addition, OPSC data further reflects that
18 approximately 15,239 classrooms have been built to house these
19 411,433 students. According to information published by the
20 California Department of Education, currently there are 270,000
21 California public school classrooms. Therefore, the 15,239
22 classrooms built under SFP and LPP since 1994 constitute
23

24 ¹ The present includes new construction projects approved by
25 the SAB through the June 27, 2001 SAB meeting.

26 ² The total number of new construction pupils housed under
27 the SFP includes 81,605 pupils in kindergarten through grade 6;
28 28,790 pupils in grades 7 through 8; and 55,234 pupils in grades
9 through 12. Similar data is not available for new construction
pupils housed under the LPP.

1 approximately 5.6% of all classrooms in California public
2 schools.

3
4 10. The OPSC maintains records that show the number of
5 state relocatable classrooms (also known as "portables") on
6 public K-12 school campuses throughout California. These records
7 indicate that there are 5,566 state portables currently leased by
8 school districts. Assuming that each portable houses 26
9 students, we can estimate that approximately 144,716 public
10 school students attend classes in state-leased portables. This
11 number does not include the additional students that attend
12 classes in portables leased or purchased from someone other than
13 the state.

14
15 I declare under penalty of perjury that the foregoing
16 is true and correct.

17
18 Executed this 26th day of July, at Sacramento,
19 California.

20 
21 Carol Shellenberger