

COVENANT NOT TO SUE

It is hereby agreed between the Defendants (the State of California, the State Board of Education, the Superintendent of Public Instruction, the State Department of Education), and the representatives of the plaintiff class that:

1. Members of the plaintiff class shall be bound by a covenant not to sue the defendants on the claims pursued in *Williams v. State of California*, Case Number 312236 in the Superior Court in and for the City and County of San Francisco (“the Action”) for a period of four years from the date the Court grants final approval of the Settlement Agreement; subject to the conditions and exclusions in paragraphs 2 through 5 below.

2. Members of the plaintiff class shall be bound by a covenant not to sue the defendants for constitutional violations based on allegations as to deficiencies in the quality of teachers, with this covenant not to sue in effect for the following periods: (a) through September 30, 2006 (three months after the current compliance deadline for States under the No Child Left Behind Act) for claims with regard to public schools that are not subject to an extended compliance deadline under the No Child Left Behind Act for schools in rural settings (“Extended NCLB Deadline Schools”); and (b) for a period of four years from the date the Court grants final approval of the Settlement Agreement as to claims with regard to Extended NCLB Deadline Schools.

3. Actions pending as of August 9, 2004 brought by parties other than the named plaintiffs in the Action will not be affected by the covenant not to sue.

4. The covenant not to sue shall not apply to an action contesting the denial of graduation from High School based on the results of the High School Exit Examination.

5. If, after final approval of the settlement and during the period of the covenants, plaintiffs contend that the implemented settlement no longer Substantially Conforms to the Legislative Proposals because of actions by the defendants, plaintiffs shall consult with the State and Settling Intervenors and provide defendants with an opportunity to cure any alleged shortcoming by any means available, including fiscal, programmatic, or administrative solutions. After such consultation, plaintiffs may petition the Court to relieve them of the covenant not to sue, provided that such a petition shall be rejected absent clear and convincing evidence that affirmative actions of the defendants after enactment of the 2004 and/or 2004 Legislation caused the implemented settlement no longer to Substantially Conform to the Legislative Proposals. In addition, defendants shall not be required to respond to such a petition unless plaintiffs present a written offer of proof and obtain an order from the Court that the offer of proof is potentially sufficient to carry plaintiffs' ultimate burden as defined above.

Dated: August 12, 2004

DEFENDANT THE STATE OF CALIFORNIA

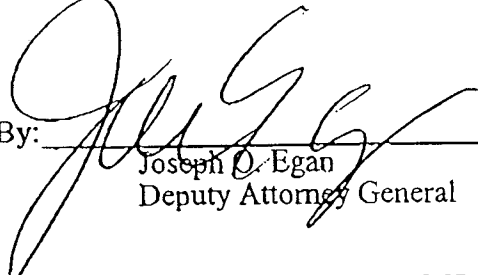
By: _____



David M. Verhey
Deputy Legal Affairs Secretary
Office of Governor Arnold
Schwarzenegger

DEFENDANTS THE STATE
SUPERINTENDENT OF PUBLIC
INSTRUCTION, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF
EDUCATION

By: _____


Joseph O. Egan
Deputy Attorney General

PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
AD LITEM, ET AL., EACH INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED

By: _____

Jack W. Londen
Morrison & Foerster LLP

Mark D. Rosenbaum
Catherine E. Lhamon
Peter J. Eliasberg
ACLU Foundation Of Southern
California

Alan Schlosser
ACLU Foundation Of Northern
California

John T. Affeldt
Jenny P. Pearlman
Public Advocates, Inc.

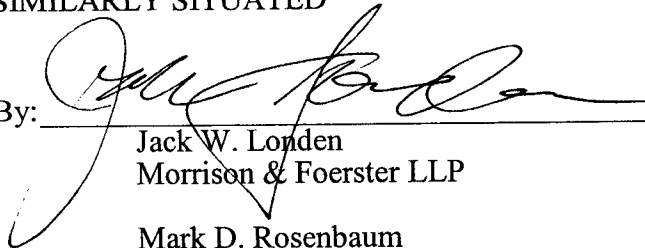
Thomas A. Saenz
Hector O. Villagra
Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs

DEFENDANTS THE STATE
SUPERINTENDENT OF PUBLIC
INSTRUCTION, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF
EDUCATION

By: _____
Joseph O. Egan
Deputy Attorney General

PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
AD LITEM, ET AL., EACH INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED

By:  _____
Jack W. Londen
Morrison & Foerster LLP

Mark D. Rosenbaum
Catherine E. Lhamon
Peter J. Eliasberg
ACLU Foundation Of Southern
California

Alan Schlosser
ACLU Foundation Of Northern
California

John T. Affeldt
Jenny P. Pearlman
Public Advocates, Inc.

Thomas A. Saenz
Hector O. Villagra
Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs