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1 MARK D. ROSENBAUM (BAR NO. 59940)
2 CATHERINE E. LHAMON (BAR NO. 192751)
3 PETER J. ELIASBERG (BAR NO. 189110)
4 ACLU Foundation of Southern California
5 1616 Beverly Boulevard
6 Los Angeles, California 90026
7 Telephone: (213) 977-9500

8 JACK W. LONDEN (BAR NO. 85776)
9 MICHAEL A. JACOBS (BAR NO. 111664)
10 MATTHEW I. KREEGER (BAR NO. 153793)
11 J. GREGORY GROSSMAN (BAR NO. 209628)
12 Morrison & Foerster LLP
13 425 Market Street
14 San Francisco, California 94105-2482
15 Telephone: (415) 268-7000

16 ALAN SCHLOSSER (BAR NO. 49957)
17 ACLU Foundation of Northern California
18 1663 Mission Street, Suite 460
19 San Francisco, California 94103
20 Telephone: (415) 621-2493

21 JOHN T. AFFELDT (BAR NO. 154430)
22 JENNY P. PEARLMAN (BAR NO. 224879)
23 Public Advocates, Inc.
24 131 Steuart Street, Suite 300
25 San Francisco, CA 94105
26 Telephone: (415) 431-7430

27 Attorneys for Plaintiffs
28 ELIEZER WILLIAMS, etc., *et al.*
[Additional Counsel Listed on Signature Page]

ENDORSED FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

DEC 10 2004

GORDON PARK-LI, CLERK
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Deputy Clerk

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,

v.

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

No. 312236

~~PROPOSED~~ ORDER REGARDING
APPROVAL OF SETTLEMENT NOTICE
AND SCHEDULE

Hearing: December 8, 2004
Time: 9 a.m.
Department: 210
Judge: Hon. Peter J. Busch
Date Action Filed: May 17, 2000

CLASS ACTION

1 The Court having considered the Motion for Approval of Settlement Notice and Schedule
2 and supporting papers, the oral argument of counsel, and the other papers of record in this action;
3 good cause appearing,

4 IT IS HEREBY ORDERED that:

5 Plaintiffs' proposed Notice of Class Action Settlement fairly apprises the class members
6 of the terms of the proposed compromise and of the options open to dissenting class members,
7 and approval for such notice is GRANTED.

8 The Court further ORDERS that notice, attached hereto as Exhibit A, shall be
9 communicated to the class using the following methods of publication no later than December 17,
10 2004 (unless otherwise noted):

- 11 • Plaintiffs shall maintain a toll-free voicemail information line, in English and
12 in Spanish, disseminating information about the settlement, directing callers to
13 websites that identify more information and providing space for callers to
14 request that information about the settlement be mailed to them.
- 15 • Plaintiffs will post notice of settlement on the *Williams* website,
16 www.decentschools.org.
- 17 • The California Department of Education will by December 17, or as soon
18 afterwards as is reasonably practicable, post notice of the settlement on their
19 website, www.cde.ca.gov.
- 20 • The California Department of Education will by December 17, or as soon
21 afterwards as is reasonably practicable, request local school districts and
22 county offices of education to post notice of the settlement or a summary,
23 advising that the complete notice can be obtained by calling the toll-free
24 voicemail information line or by downloading from the California Department
25 of Education's website, in each public school's main office or by other means
26 which it believes will reach class members.
- 27 • The California Department of Education will by December 17, or as soon
28 afterwards as is reasonably practicable, distribute the notice of the settlement,
by post or electronic mail, to local school districts and county offices of
education and request that they publish the notice or, in the case they currently
maintain their own website, provide a link to the notice on the California
Department of Education's website. In addition, the California Department of
Education will request the districts to request their schools to provide on
school websites the toll-free number to the voicemail information line or a link
to the notice on the California Department of Education's website.
- Notice of the settlement shall be published by December 17, or as soon
afterwards as is reasonably practicable, on public interest websites, including
the websites for the attorney organizations representing plaintiffs and
www.decentschools.org. In addition, each of the attorney organizations will

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publish notice of the settlement or provide the toll-free number to the voicemail information line in newsletters distributed during the notice period.

- Plaintiffs shall issue a press release of the notice to a broad list of relevant media sources.
- Plaintiffs shall disseminate the notice to plaintiffs' full contact list of persons and organizations with interest in the case.
- Plaintiffs shall distribute the notice, by post or electronic mail, to the California State PTA and the individual district PTAs and request that they publish notice of the settlement on their websites or provide a link to the notice on the California Department of Education's website. Plaintiffs will also request the California State PTA to publish the notice in their newsletter and plaintiffs will request the district PTAs to request their school PTAs to provide parents with the toll-free number to the voicemail information line at PTA meetings that take place during the notice period or in PTA newsletters that are distributed during the notice period.

The Court further APPROVES the proposed schedule for approval of notice, submission of comments, and final approval of settlement, as follows:

- December 14, 2004: Deadline for any opening submissions by other parties relating to settlement.
- February 15, 2005: Deadline for class members to object to or comment on the settlement.
- February 22, 2005: Deadline for defendants' and intervenors' submissions regarding settlement approval.
- March 8, 2005: Deadline for plaintiffs' reply regarding final approval of settlement.
- March 23, 2005: Hearing regarding final approval of settlement.

The Court further ORDERS that the stay on this litigation shall continue in effect pending the final approval hearing or further order of this Court.

Dated: Dec ~~10~~ **DEC 10** 2004

PETER J. BUSCH

 Peter J. Busch
 Judge of the Superior Court

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT IN THE *WILLIAMS v. STATE OF CALIFORNIA* EDUCATION LAWSUIT

This notice sets forth the basic terms of the Settlement Agreement reached in the *Williams v. State of California* education lawsuit and advises class members of their procedural rights relating to this settlement.

The class in this lawsuit has been defined as the following:

All students who are attending or will attend public elementary, middle or secondary schools in California who suffer from one or more deprivations of basic educational necessities. The specific deprivations are as follows:

A) a lack of instructional materials such that the student does not have his or her own reasonably current textbook or educational materials, in useable condition, in each core subject (1) to use in class without sharing with another student; or (2) to use at home each evening for homework;

B) a lack of qualified teachers such that (1) the student attends a class or classes for which no permanent teacher is assigned; or (2) the student attends a school in which more than 20% of teachers do not have full, non-emergency teaching credentials; or (3) the student is an English Language Learner (“ELL”) and is assigned a teacher who has not been specially qualified by the State to teach ELL students;

C) inadequate, unsafe and unhealthful school facilities such that (1) the student attends classes in one or more rooms in which the temperature falls outside the 65-80 degrees Fahrenheit range; or (2) the student attends classes in one or more rooms in which the ambient or external noise levels regularly impede verbal communication between students and teachers; or (3) there are insufficient numbers of clean, stocked and functioning toilets and bathrooms; or (4) there are unsanitary and unhealthful conditions, including the presence of vermin, mildew or rotting organic material;

D) a lack of educational resources such that (1) the school offers academic courses and extracurricular offerings in which the student cannot participate without paying a fee or obtaining a fee waiver; or (2) the school does not provide the student with access to research materials necessary to satisfy course instruction, such as a library or the Internet; or

E) overcrowded schools such that (1) the student is subject to a year-round, multi-track schedule that provides for fewer days of annual instruction than schools on a traditional calendar provide; or (2) the student is bused excessive distances from his or her neighborhood school; or (3) the student attends classes in one or more rooms that are so overcrowded that there are insufficient seats for each enrolled student to have his or her own seat or where the average square footage per student is less than 25 square feet.

This class action lawsuit was brought against the State of California, the California Department of Education, the California Board of Education, and the California Superintendent of Public Instruction in 2000 alleging that a substantial number of students attended substandard schools that lacked basic educational necessities: adequate instructional materials, trained teachers, and classrooms in good repair. Plaintiffs alleged that evidence of such substandard learning conditions at some schools demonstrated that the State was not fulfilling its duty under *Butt v. State of California*, 4 Cal. 4th 668 (1992), to ensure that students have fundamentally equal learning opportunities. Detailed information regarding this case, including the plaintiffs' complaint, court papers, and media coverage may be found on the plaintiffs' website at www.decentschools.org.

Terms of the Settlement Agreement

After many years of intense litigation, the parties in the case reached a Settlement Agreement on August 13, 2004. On August 23, 2004, San Francisco Superior Court Judge Peter J. Busch granted preliminary approval of the Settlement Agreement and subsequently approved this Notice. A complete copy of plaintiffs' Notice of Settlement attaching the parties' complete Settlement Agreement may be downloaded at www.decentschools.org/settlement.php or members of the class or their parents or guardians can obtain copies by mail by calling the toll-free number, 1-877-532-2533.

The parties' Settlement Agreement provides for a package of legislative proposals to ensure that all students will have books in specified subjects and that their schools will be clean and in safe condition. It takes steps toward assuring they have qualified teachers. The legislative proposals include measures to confirm that schools are delivering these fundamental elements to students, and provide very substantial funding for these purposes: a program to make available up to \$800 million over a period of years for repairs of emergent facilities conditions in the lowest performing schools (those ranked in the bottom 3 deciles under the statewide Academic Performance Index [API]); \$138 million for new instructional materials for students attending schools in the bottom two API deciles, in addition to the funding for instructional materials to all schools; and additional funding to conduct an assessment of facilities conditions, supplement the County Superintendents' capacity to oversee low performing schools, fund emergency repairs in those schools and cover other costs of implementation. The legislative proposals also include extending funding of approximately \$200 million for the High Priority Schools Grant Program (HPSGP) and by appropriating savings achieved as low performing schools are phased out of the program to new grants for eligible schools.

On September 29, 2004, Governor Schwarzenegger signed laws implementing the legislative proposals set forth in the parties' Settlement Agreement. *See* 9/24/04 Press Release from the Office of the Governor, *Governor Schwarzenegger Signs Landmark Education Reforms Into Law* (This press release is available for downloading at www.decentschools.org or members of the class or their parents or guardians can obtain a copy by mail by calling the toll-free number 1-877-532-2533). These new education laws include: SB 550 & AB 2727 (establishing minimum standards regarding school facilities, teacher quality, and instructional materials and an accountability system to enforce these standards); AB 1550 (phasing out the use of the multi-track, year-round school calendar with a shortened school year, known as Concept 6, by July 1, 2012 and setting benchmarks for districts to reach this goal); AB 3001 (encouraging

placement of qualified teachers in low performing schools; enhancing an existing oversight mechanism to ensure that teachers are qualified to teach the subject matter to which they have been assigned and to ensure that teachers of English Learners are properly trained; and streamlining the process for highly qualified teachers from out-of-state to teach in California schools); and SB 6 (providing up to \$800 million beginning in the 2005-06 fiscal year for districts to address emergent facility repair projects and approximately \$25 million in 2004-05 to assess the condition of schools in the bottom three deciles.) *Id.* These laws are available for downloading at www.decentschools.org, or members of the class or their parents or guardians can obtain copies by mail by calling the toll-free number, 1-877-532-2533.

The new legislation seeks to accomplish the following:

- Provide financial assistance to repair low performing schools through a new \$800 million School Facilities Emergency Repairs Account;
- Create a School Facilities Needs Assessment program;
- Create standards for instructional materials and facilities and require the Concept 6 school calendar to be eliminated no later than 2012;
- Post instructional materials and facilities standards in all classrooms;
- Collect data on compliance with these standards and teacher requirements;
- Verify this data;
- Require a uniform complaint process in every district for complaints on inadequate instructional materials, teacher vacancies and misassignments, and emergency facilities problems;
- Intervene in decile 1-3 schools if the instructional materials and facilities standards are not met, and in districts having difficulty attracting, retaining or properly assigning teachers;
- Improve the teacher supply by streamlining requirements for out-of-state credentialed teachers to earn California credentials;
- Require each district to implement a facilities inspection system; and
- Include new schools in the High Priority Schools Grant Program when current schools are phased out.

Covenant Not To Sue

In consideration of the settlement, members of the plaintiff class will be bound by a covenant not to sue the defendants on the claims pursued in the Williams case for a period of four years from the date the Court approves this Agreement, subject to certain exceptions. The

full Covenant Not To Sue, including the provisions as to exceptions, can be obtained from www.decentschools.org, or by calling the toll-free number, 1-877-532-2533.

Attorneys' Fees Provision

With respect to attorneys' fees, the State of California and plaintiffs have agreed that "plaintiffs' counsel will be entitled to recover reasonable attorneys' fees and costs from the State in an amount to be agreed between plaintiffs' counsel and the State, or, if not agreed after consultation, to be determined by the Court. After dismissal of the action in other respects, the Court will retain jurisdiction to make that determination, if necessary." See Provision As to Claims for Attorneys' Fees (This provision is available for downloading at www.decentschools.org or members of the class or their parents or guardians can obtain copies by mail by calling the toll-free number, 1-877-532-2533). The parties' Settlement Implementation Agreement does not include a provision awarding a specific amount of attorneys' fees or costs to plaintiffs' counsel. The parties have had initial discussions regarding fees and costs but have not yet reached agreement. Additional procedural issues are addressed in the parties' Settlement Implementation Agreement, which can be obtained from www.decentschools.org or by calling the toll-free number, 1-877-532-2533.

Final Approval Hearing and Objection Procedure

The hearing for final approval of the settlement has been scheduled for **March 23, 2005 at 9:00 a.m.** in front of San Francisco Superior Court Judge Peter J. Busch, Department 210, 400 McAllister Street, San Francisco, California 94102-4514. Class members who wish to object to the parties' Settlement Agreement should file written objections stating their names, addresses, contact telephone numbers (and e-mail address if applicable) indicating the basis for their objection to the settlement with the Court no later than **February 15, 2005** by mailing objections to the Judge at the Court's address above and a copy to the following address: The *Williams* Education Case, Morrison & Foerster, 425 Market Street, San Francisco, California 94105-2482.