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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 CITY AND COUNTY OF SAN FRANCISCO

12 ELIEZER WILLIAMS, et al.,) Case No. 312 236
13 Plaintiffs,)
14 vs.) Hearing Date: October 30, 2000
15) Time: 8:30 a.m.
16 STATE OF CALIFORNIA, DELAINE) Department: 16, Hall of Justice
17 EASTIN, State Superintendent)
18 Of Public Instruction, STATE) Judge: Hon. Peter J. Busch
19 DEPARTMENT OF EDUCATION, STATE)
20 BOARD OF EDUCATION,) Action Filed May 17, 2000
21)
22 Defendants.)
23)

24 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

25 **IN SUPPORT OF MOTION FOR STAY**

26 **OF DEFENDANT STATE OF CALIFORNIA**

27 Defendants' Reply Memorandum in Support of Demurrer
28 ("Reply"), filed simultaneously herewith, sets out the reasons
that it makes practical and legal sense to require plaintiffs to
exhaust their administrative remedies by invoking the Uniform

1 Complaint Procedures, Cal. Code Reg. tit. 5 § 4600 et seq.
2 ("UCP"). Reply 9-17. The State incorporates that discussion by
3 reference here. If for some reason the Court should be persuaded
4 that exhaustion is not technically required, nevertheless the
5 practical advantages of requiring plaintiffs to pursue their
6 remedy under the UCP should induce the Court to exercise its
7 discretion to grant a stay until the UCP procedures have been
8 exhausted.

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10 Plaintiffs argue that they should not be required to
11 invoke the UCP because the Department of Education supposedly has
12 no jurisdiction to grant them relief. Plaintiffs' Memorandum in
13 Opposition to Defendants' Motion to Stay ("Opp.") 1-2. The State
14 has shown elsewhere, however, that the UCP apply to many of the
15 problems that plaintiffs raise, and that the UCP have the
16 potential to solve those problems. See Reply 9-17. Plaintiffs'
17 argument is also belied by the fact that plaintiffs actually
18 invoked the UCP, that the Department took jurisdiction, and that
19 the administrative process proceeded until plaintiffs themselves
20 decided, for tactical reasons, that they no longer wished to
21 follow the UCP. Memorandum of Points and Authorities of
22 Defendant State of California In Support of Demurrer, filed
23 September 25, 2000, at 20-24.

24
25 Plaintiffs' other arguments, both about primary
26 jurisdiction and about a discretionary stay, all acknowledge that
27 a stay is within the sound discretion of the Court. Opp. 2-5.
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1 The State agrees with this legal principle. The only question
2 is how the Court's discretion should be exercised. That depends
3 primarily on the facts and circumstances of this case, and on
4 considerations of judicial efficiency and economy.
5

6 The State thinks it is clear that a sound discretion
7 favors a stay, and favors invoking the UCP. Plaintiffs'
8 Complaint raises a large number of highly individualized
9 problems, involving particular students at particular schools.
10 If plaintiffs' allegations are mistaken, invoking the UCP will
11 quickly reveal plaintiffs' mistakes, just as it did with the
12 Ravenswood district. If plaintiffs' allegations are out of
13 context, invoking the UCP will usefully put the allegations in a
14 proper context. And where plaintiffs have alleged problems that
15 actually do exist, the UCP holds the promise of getting the
16 problem fixed much faster and more efficiently than litigation.
17 That is in everyone's interest, and it is particularly in the
18 interest of the students in whose name this case has been filed.
19

20 Invoking the UCP will not only identify false problems
21 and solve real ones. It will clear out the underbrush of this
22 case. The parties and the Court can focus on issues, if any are
23 left, where the local district and the Department cannot, or will
24 not, solve problems to plaintiffs' satisfaction, or where there
25 is a real difference between the State and plaintiffs about what
26 should be done. Litigation is not an efficient way to fix broken
27 windows or toilets, or to get textbooks into the hands of
28

1 students. The UCP will accomplish that, and will do so quickly.
2 When the process has been completed, the Court and the parties
3 will have streamlined this litigation, and can proceed
4 efficiently to deal with what, if anything, is left.

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6 For the reasons stated herein and in the State's
7 Opening Memorandum, the State's motion for a stay should be
8 granted.

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10 DATED: October 25, 2000

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