

Eric A. Hanushek

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June 6, 2016

Honorable Tani Cantil-Sakauye
and Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, California 94102

Re: *Vergara v. State of California*
California Supreme Court Case No. S234741
Amicus Curiae Letter in Support of Petition for Review
Court of Appeal decision filed April 14, 2016

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to California Rules of Court, rule 8.500(g), I respectfully submit this letter urging the Court to grant review in the above-entitled case.

I am the Paul and Jean Hanna Senior Fellow at the Hoover Institution of Stanford University, as well as a Professor (by courtesy) of Education and Economics at Stanford University. My works primarily focus on the impact that teacher quality, high-stakes accountability, and class-size reduction have on student achievement. Most recently, I conducted a study demonstrating that the quality of education is closely related to national economic growth. I am also the Chairman of the Executive Board of the Texas Schools Project at the University of Texas at Dallas, a Research Professor at the ifo Institute of the University of Munich, and a Member of the Koret Task Force on K-12 Education at the Hoover Institution. I am a Research Associate at the National Bureau of Economic Research, and a Member of the Management Team of the Center for Analysis of Longitudinal Data in Education Research ("CALDER"). From 2011 to 2013, I was a Commissioner on the Equity and Excellence Commission of the U.S. Department of Education. From 2004 to 2010, I was a Member of the Board of Directors of the National Board of Education Sciences, and was its chair from 2009 to 2010. From 2008 to 2010, I was a Member of the Council of Economic Advisors in California. From 2005 to 2008, I was a Member of the Governor's Committee on Education Excellence. And in 2007, I was a Member of the Governor's Commission for a College Ready Texas. I previously served as the Deputy Director of the Congressional Budget Office.

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CLERK SUPREME COURT

At the trial before the Superior Court, I testified about the importance of teacher quality on student achievement and the effects of various California laws on school districts and students.

Why Review Should Be Granted

Too often, the children of California fail to receive the quality of education that they need to compete in the modern world. This shortcoming of the current schooling system can be traced to governmental failure to ensure that all students have an effective teacher. And, this failure to provide them with a minimally effective teacher can be traced to California statutes that protect ineffective teachers. The most affected students tend to be poor and minority children of California.

There is no doubt that a high quality education has a high return for the economic future of both individuals and the Nation. A wide range of studies shows that higher individual skills as measured by existing standardized tests in basic subjects generate on average higher incomes over the lifetime.¹ Higher skills for all citizens also lead to faster economic growth for both the Nation² and for California.³

It is simply the case that effective teachers enhance the skills that are rewarded in the economy. Effective teachers can systematically lift the skills and achievement of students.⁴ At the same time, ineffective teachers can dramatically damage the future economic prospects of students by lowering their achievement significantly below expectations.⁵

¹ Hanushek, Eric A., Guido Schwerdt, Simon Wiederhold, and Ludger Woessmann (2015) "Returns to skills around the world: Evidence from PIAAC," *European Economic Review* 73: 103-130.

² Hanushek, Eric A., and Ludger Woessmann (2015) *The knowledge capital of nations: Education and the economics of growth*. Cambridge, MA: MIT Press.

³ Hanushek, Eric A., Jens Ruhose, and Ludger Woessmann (2016) "It pays to improve school quality: States that boost student achievement could reap large economic gains," *Education Next* 16, no. 3 (Summer): 16-24.

⁴ Hanushek, Eric A., and Steven G. Hanushek, Eric A. (2011) "Generalizations about using value-added measures of teacher quality," *American Economic Review* 100, no. 2 (May): 267-271.

⁵ Chetty, Raj, John N. Friedman, and Jonah Rockoff (2014) "Measuring the impacts of teachers II: Teacher value-added and student outcomes in adulthood," *American Economic Review* 104, no. 9 (September): 2633-2679; Hanushek, Eric A (2011) "The economic value of higher teacher quality," *Economics of Education Review* 30, no. 3 (June): 466-479.

California students suffer the possibility of getting extremely ineffective teachers. First, it is difficult to identify either highly effective or grossly ineffective teachers before they teach in the classroom, meaning that tenure decisions acquire huge importance. But, the California statute providing an impossibly short time to evaluate teachers before making tenure decisions guarantees that significant numbers of grossly ineffective teachers achieve permanent employment status.

Further, the combined effect of the three dismissal statutes is to retain grossly ineffective teachers who make it through the tenure screen and to permit them to teach for as long as these teachers wish to continue teaching. Mistakes in hiring, which historical evidence demonstrates happens systematically, cannot be corrected by the current personnel system in schools without extraordinary expense, long time lags, and considerable uncertainty.

Finally, when economic circumstances – through either budgetary shortfalls or reduced enrollment – require reducing the number of teachers, California statutes prohibit school districts from using teacher effectiveness to determine which teachers are laid off. While reductions in force offer an opportunity for districts to improve the average quality of their teaching force if districts can use teacher quality as a criterion, the last-in-first-out statute precludes this and virtually assures that no improvement in teacher quality can come through a given lay off.⁶ In particular, it is equally as likely that a grossly ineffective teacher is retained as it is that a superb teacher is retained.

The costs of retained grossly ineffective teachers falls on the unfortunate students who must attend classes led by these teachers. Some students may complete their schooling career without ever encountering grossly ineffective teachers. Many others will not escape: They will be assigned a grossly ineffective teacher, effectively scarring them for life through the reduced quality of their schooling. It is not fair to assign any student to these grossly ineffective teachers. Faced with an oversupply of such teachers due to the challenged statutes, administrators have no choice other than to assign some students to them.

The costs to individual students are enormous. By historical experience, a teacher in the tenth percentile of effectiveness with a class of 25 students subtracts almost \$700,000 in present

⁶ Goldhaber, Dan, and Roddy Theobald (2013) “Managing the Teacher Workforce in Austere Times: The Determinants and Implications of Teacher Layoffs,” *Education Finance and Policy* 8, no. 4 (Fall): 494-527; Boyd, Donald, Hamilton Lankford, Susanna Loeb, and James Wyckoff (2011) “Teacher Layoffs: An Empirical Illustration of Seniority versus Measures of Effectiveness,” *Education Finance and Policy* 6, no. 3 (Summer): 439-454.

value of future incomes of the student.⁷ This is the present value of the annual loss compared to the earnings that would accrue to students in the class with an average teacher.⁸ The annual and continuing nature of these costs underscores the cumulative impact of retaining a grossly ineffective teacher for multiple years.

The costs to the State of California can also be calculated. If the bottom 5-8 percent of the teachers in terms of effectiveness were replaced with just an average teacher, historical growth projections indicate that the gains in state GDP would amount to over seven times the current GDP of California.⁹ On average over the next 80 years the GDP of California would be 15.5 percent greater according to these gains in economic growth for the state.

This difference in state income has a direct impact on the tax receipts of the state. In turn these lower revenues make it very difficult to maintain the social safety net in the state, directly affecting the poor and disadvantaged of the state. These people are disproportionately underrepresented racial and ethnic minorities.

Additionally, the lower state income and lower tax revenues that follow not improving teacher quality by dealing with the grossly ineffective teachers imply continuing pressure on the state's ability to fund the schools. This feedback loop would mean that school budgets remain continually under pressure.

The challenges to the state from its own actions in the challenged legislation are enormous. The Court must not ignore the harm to specific students who are matched with grossly ineffective teachers, particularly since the harm falls disproportionately on blacks, Hispanics, and economically disadvantaged students.

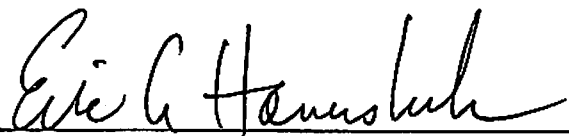
⁷ Hanushek, Eric A. (2011) "The economic value of higher teacher quality," *Economics of Education Review* 30, no. 3 (June): 466-479.

⁸ The present value calculations provide the present worth of the stream in income losses over the lifetime of the students. Values in the future are discounted at three percent per year so that added income far in the future is valued at much less than current income gains.

⁹ Hanushek, Eric A., Jens Ruhose, and Ludger Woessmann (2015) "Economic Gains for U.S. States from Educational Reform," NBER Working Paper No. 21770. Cambridge, MA: National Bureau of Economic Research (December).

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Respectfully submitted,

By: 
Eric A. Hanushek

cc: See attached Proof of Service

PROOF OF SERVICE

I am a resident of the County of Santa Clara, State of California; I am over the age of eighteen years and am not a party to this action; my residence is 1092 Cathcart Way, Stanford, in said county and state. On June 6, 2016, I served the foregoing document described as:

AMICUS LETTER IN SUPPORT OF PETITION FOR REVIEW

to each of the persons named below at the address(es) shown, in the manner described below:

Plaintiffs-Petitioners

Theodore J. Boutrous, Jr.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071

Defendants-Respondents

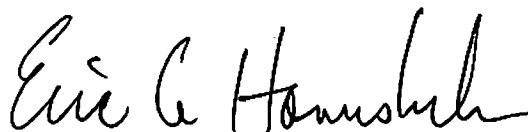
Susan M. Carson
Office of the Attorney General
455 Golden Gate Ave., 11th
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San Francisco, CA 94102

Intervenors-Respondents

Eileen B. Goldsmith
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108

- BY MAIL:** I placed a true copy in a sealed envelope, with postage fully prepaid, addressed as indicated above for collection and mailing in a mailbox regularly maintained by the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 6, 2016, at Stanford, California.



Eric A. Hanushek