

Court of Appeal Upholds Teacher Tenure, Dismissal, and Layoff Statutes

Vol. 2016, No. 6 | April 14, 2016

The California Court of Appeal issued its long-awaited decision in *Vergara v. State of California* (April 14, 2016, B258589) holding that the teacher tenure, dismissal, and layoff provisions of the Education Code do not violate the fundamental rights of students under the California Constitution. The Court held that these provisions do not inevitably cause a certain group of students, including poor and minority students, to receive an inferior education or to be taught by a disproportionate share of grossly ineffective teachers. Accordingly, the current teacher tenure, dismissal, and layoff provisions remain in effect.

Background

In 2012, nine public school students sued the State of California seeking to invalidate various provisions of the Education Code. Specifically, the students argued that the teacher tenure statute (Ed. Code, § 44929.21(b)) forced school districts to decide whether probationary teachers should be granted tenure before their effectiveness could be determined; the dismissal statutes (Ed. Code, §§ 44934; 44938(b)(1), (2); 44944) made it nearly impossible to dismiss poorly performing teachers; and the layoff statute (Ed. Code, § 44955) required districts, in the event of layoffs, to terminate teachers based on seniority alone, regardless of their effectiveness.

Plaintiff students contended that as a result, these challenged statutes negatively impacted their fundamental right to an education by causing “grossly ineffective” teachers to become employed and retain their employment in the school system. Additionally, the students argued that because of these laws schools predominantly serving minority and economically disadvantaged students have more than their proportionate share of grossly ineffective teachers. In 2014, after eight weeks of trial, the trial court agreed with the students, declaring these statutes unconstitutional under the equal protection clause of the California Constitution.

Decision

The Court of Appeal reversed the trial court’s decision. In essence, the Court concluded that while the students identified a “troubling problem” regarding the retention and assignment of grossly ineffective teachers, they did not properly target or identify the cause of this problem.



DANNIS WOLIVER KELLEY

Attorneys at Law

The Court ruled that the students simply failed to establish that the laws themselves violate equal protection because they did not show that the statutes “inevitably cause” a certain group of students to receive an education inferior to the education received by other students. The Court reasoned that administrators—not the statutes—ultimately determine where teachers are assigned to teach and that staffing decisions, including teacher assignments, is a process guided by teacher preference, district policies, and collective bargaining agreements. The Court also found that the students failed to show that the statutes themselves make any certain group of students more likely to be taught by ineffective teachers than any other group of students.

In this case, the students brought a “facial” equal protection challenge, meaning that they challenged the laws themselves, not how the laws are implemented in particular school districts. Thus, the Court suggested that the students could possibly have prevailed if they could show that the challenged statutes, *regardless* of how they were implemented, inevitably caused poor and minority students to be provided with an education that was not “basically equivalent to” their more affluent and/or white peers. However, after reviewing the trial court’s decision, the Court found that the students did not make this showing at trial. The Court recognized that, although the evidence presented at trial highlighted drawbacks to the current tenure, dismissal, and layoff procedures, the students simply did not demonstrate a constitutional violation and therefore the laws could not be struck down on this basis.

Impact

Because the Court did not strike down the challenged laws, the current statutory scheme governing the certificated employee tenure, dismissal, and layoff process still remains in effect. Accordingly, school district operations with respect to these procedures should not be affected. We anticipate, however, that the students will petition the California Supreme Court to hear the case. If the Supreme Court were to hear the case, it will not be decided in short order as that process takes many months or even years to get a final decision. In addition, the California Legislature is currently considering a bill (A.B. 934), which proposes numerous revisions to the certificated statutory scheme. In any event, the potential for big changes to the tenure, dismissal, and layoff procedures—whether through a Supreme Court ruling or by legislative action—is significant and school district officials are encouraged to closely track these developments.

If you have any questions regarding this case or on school districts’ obligations related to teacher tenure, dismissal, and layoffs, please do not hesitate to contact us.

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DANNIS WOLIVER KELLEY

Attorneys at Law