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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

MIRIAM FLORES, individually and as a parent of)
 MIRIAM FLORES, a minor child, et. al.,

CIV 92-596 TUC ACM

Plaintiffs,

v.

STATE OF ARIZONA, et. al.,

ORDER

Defendants.

Post-judgment Relief

On January 24, 2000, this Court issued a declaratory judgment against the Defendants for failing to provide limited English proficient (LEP) children with a program of instruction calculated to make them proficient in speaking, understanding, reading, and writing English, while enabling them to master the standard academic curriculum as required of all students. (See Findings of Fact and Conclusions of Law (citing Lau v. Nichols, 414 U.S. 563 (1974) (failure to provide English instruction to students of Chinese descent who do not speak English denies them a meaningful opportunity to participate in public education and violates Title VI, 42 U.S.C. § 2000d)). The Court's ruling came against a backdrop of state inaction, existing in 1992 when Plaintiffs filed the class action law suit and continuing through the duration of the case.

This Court held that as a matter of law the State's minimum base level for funding Lau programs¹ bears no relation to the actual funding needed to ensure that LEP students are achieving

¹Now being called the English Acquisition Program (EAP).

226

1 mastery of the State's specified "essential skills." (Judgment at 23.) The Court ruled that the
2 State's appropriation of \$150.00 per LEP student is arbitrary and capricious.

3 This was the basis upon which this Court entered its Order of October 12, 2000 granting
4 post-judgment relief and ordered the State to prepare a cost study to establish the proper
5 appropriation to effectively implement the State's Lau educational theory. In that Order, the
6 Court ordered that the cost study should be prepared in a timely fashion so that the Arizona
7 legislature could appropriate funding during the budget session beginning January 1, 2001.

8 While the cost study was completed, the legislature did not consider funding the Lau
9 programs. Therefore, Plaintiffs seek further post-judgment relief. On May 22, 2001, Plaintiffs
10 filed a Motion for injunctive relief, asking the Court to set a deadline for the State to comply with
11 the Court's January 24, 2000 Declaratory Judgment. Specifically, Plaintiffs asked the Court to
12 set a date by which Defendants shall remedy the arbitrary and capricious nature of the State's
13 minimum base level that it appropriates per LEP student. Plaintiffs asked the Court to consider
14 its request for further post-judgment relief on an expedited basis so that any injunction issued by
15 the Court would be in place in the event a special session of the state legislature convenes. The
16 State objected to the request for an expedited ruling, but did not file a Response to the Motion for
17 Injunctive Relief.

18 On June 8, 2001, the Court held a hearing on Plaintiffs' Motion for Injunctive Relief.
19 Defendants argued that the Department of Education should study the issues further and prepare
20 a recommendation to the legislature regarding appropriate funding levels. The Court rejected
21 these arguments and granted the Plaintiffs' Motion for Injunction. The Court issued a Minute
22 Entry setting a deadline for the end of January 2002, for the state to comply with the Declaratory
23 Judgment issued January 24, 2000 and ordered that if the Governor calls a special session of the
24 Arizona legislature, the call shall include the necessary agenda item to ensure legislative
25 compliance during the special session. The Court asked counsel for Plaintiffs to prepare a formal
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1 Order for its signature. Plaintiffs' counsel has submitted such an Order, which basically
2 paraphrases the Court's civil minute entry. Defendants object.

3 Defendants assert that this Court has no power to order the Governor to place the issue
4 of Lau funding on the agenda of a legislative special session. Defendants note that the January
5 24, 2000 Order, was declaratory in nature and asks that a supplemental Order be issued to set out
6 the precise aspects of the Declaratory Judgment, which require compliance. First, these
7 arguments should have been made in response to the Motion for Injunction or at oral argument.
8 Second, while the Judgment granted for Plaintiff was declaratory, the Court's Findings of Facts
9 and Conclusions of Law set out the specific violations upon which the Court based its Declaratory
10 Judgment.

11 Just as these findings were an adequate basis for the issuance of this Court's post-
12 judgment directive to the State to perform the cost study, these findings are an adequate basis for
13 this Court to grant Plaintiff's request for further injunctive relief. On January 24, 2000, this
14 Court held that as a matter of law the State's minimum base level for funding Lau programs was
15 arbitrary and capricious because it bears no relation to the actual funding needed to ensure that
16 LEP students are achieving mastery of the State's specified "essential skills." (Judgment at 23.)
17 Until remedied, Defendant fails to comply with the declaratory judgment and Plaintiffs are entitled
18 to equitable relief.

19 Accordingly,

20 **IT IS ORDERED** that Plaintiffs' Motion for Injunctive Relief, filed May 22, 2001,
21 (document # 217) is GRANTED.

22 **IT IS FURTHER ORDERED** that on or before January 31, 2002, Defendants shall
23 comply with the Court's Declaratory Judgment, filed January 24, 2000. Specifically, the State's
24 minimum base level of funding per LEP student shall not be arbitrary and capricious, but shall
25 bear a rational relationship to the actual funding needed to implement language acquisition

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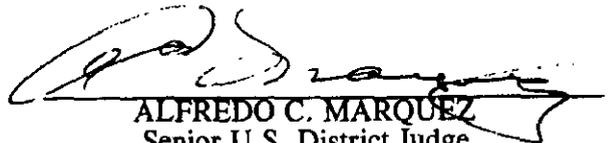
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1 programs in Arizona's schools so that LEP students may achieve mastery of the State's specified
2 "essential skills."

3 **IT IS FURTHER ORDERED** that if a special session of the legislature is convened
4 prior to the deadline of January 31, 2002, the deadline for compliance shall then be the date of
5 adjournment of the special session.

6 **IT IS FURTHER ORDERED** that the Request for Telephonic Conference Re: Form of
7 Order Granting Injunctive Relief (document # 224) is DENIED.

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9 Dated this 25 day of June, 2001.

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13 ALFREDO C. MARQUEZ
14 Senior U.S. District Judge
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