

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

ROBERT MARTINEZ et al.,

Plaintiffs and Appellants,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA
et al.,

Defendants and Respondents.

C054124

(Super. Ct. No. CV052064)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[NO CHANGE IN JUDGMENT]

It is ordered that the opinion filed herein on
September 15, 2008, be modified as follows:

1. On page 76, line 5, after the sentence that ends with
the word "invalid" insert the following as a new paragraph:

That in-state tuition is conferred by state rather than
federal law does not defeat the privileges and immunities claim
here, where plaintiffs allege a violation of their rights under
federal law, 8 U.S.C. section 1623.

2. On page 76, lines 10 through 14, delete the words "the
parties' other arguments regarding the privileges and immunities
clause, including defendants' argument that the clause does not

apply to the privilege of college attendance conferred by state rather than federal law, and"

3. The paragraph commencing on the bottom of page 83, with "In summary" and ending at the top of page 84 with "immunities claim" is modified to read as follows:

In summary, the demurrer was improperly sustained as to the preemption and privileges and immunities claims, and leave to amend should be granted as to the equal protection claim.

These modifications do not change the judgment.

The petitions for rehearing of all parties are denied.

_____ SIMS _____, Acting P.J.

_____ RAYE _____, J.

_____ HULL _____, J.