

# ***Williams Settlement Highlights***

## **April 2005**

### **I. SUMMARY**

The *Williams* settlement requires that all students have instructional materials and that their schools be clean and safe. It also takes steps toward assuring they have qualified teachers. The settlement holds schools accountable for delivering these fundamental elements, and provides nearly \$1 billion to accomplish these goals. The settlement also expands the number of schools benefiting from the High Priority Schools Grant Program and phases out the use of the Concept 6 multi-track, year-round calendar by 2012.

### **II. BACKGROUND AND BREAKDOWN OF THE SETTLEMENT**

On May 17, 2000 --- the 46<sup>th</sup> anniversary of *Brown v. Board of Education* --- the American Civil Liberties Union (ACLU), Public Advocates, the Mexican American Legal Defense and Educational Fund (MALDEF) and other civil rights organizations, along with Morrison & Foerster LLP, filed a class-action lawsuit on behalf of public schoolchildren against the State of California, claiming the State and its agencies have denied thousands of California children their fundamental right to an education under the California Constitution by failing to give them the basic tools necessary for that education. The case was named *Williams v. State of California*.<sup>1</sup>

The parties announced a Settlement Agreement on August 13, 2004, and approximately six weeks later, on September 29, 2004, five bills implementing the legislative proposals set forth in the Settlement Agreement were signed into law by Governor Schwarzenegger. The Court approved the Settlement Agreement at a hearing on March 23, 2005.

The five bills implementing the Settlement Agreement were:

- **SB 550 & AB 2727** (establishing minimum standards regarding school facilities, teacher quality, and instructional materials and accountability systems to enforce these standards);
- **AB 1550** (phasing out the use of the Concept 6 calendar by July 1, 2012, and setting benchmarks for districts to reach this goal);
- **AB 3001** (encouraging placement of qualified teachers in low performing schools; enhancing an existing oversight mechanism to ensure that teachers are qualified to teach the subject matter to which they have been assigned and to ensure that teachers of English learners are properly trained; and streamlining the process for

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<sup>1</sup> For more information, visit [www.decentschools.org](http://www.decentschools.org).

- highly qualified teachers from out-of-state to teach in California schools); and
- **SB 6** (providing up to \$800 million beginning in the 2005-06 fiscal year for districts to repair facility conditions that threaten health and safety and approximately \$25 million in 2004-05 for a one-time comprehensive facilities needs assessment of schools ranked in the bottom 3 deciles under the 2003 statewide Academic Performance Index (API)).

#### **A. Schools Affected by the Settlement**

All California public schools are affected by the settlement because the new minimum standards and most of the related accountability systems apply to all schools and districts. For example, every school district must now provide a uniform complaint process for complaints regarding insufficient instructional materials, unsafe or unhealthy facility conditions, and teacher vacancies and misassignments. Schools ranked in deciles one to three, inclusive, on the 2003 base Academic Performance Index (API) receive additional funds and oversight.

#### **B. New Standards**

- **Facilities:** The new statutory definition of “good repair” for school facilities requires that “the facility is maintained in a manner that assures that it is clean, safe, and functional as determined pursuant to an interim evaluation instrument developed by the Office of Public School Construction [OPSC].” (SB 550; Education Code Section (“ECS”) 17002(d).)

The interim evaluation instrument, better known as the “IEI,” was developed by OPSC and is being utilized by schools and districts throughout the State. By September 1, 2006, SB 550 requires that “the Legislature and Governor shall, by statute, determine the state standard [for good repair of school facilities] that shall apply for subsequent fiscal years.” (SB 550, § 3.)

- **Instructional Materials:** SB 550 defines “sufficient textbooks or instructional materials” to mean that “each pupil, including English learners, has a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments.” (SB 550, § 18; ECS 60119(c).)
- **Teachers:** SB 550 created new standards in teacher quality, establishing definitions for teacher “misassignments” (i.e., where a teacher lacks subject matter, English Learner (“EL”) or other required training or authorization) and “teacher vacancies” (i.e., where a classroom has no single, designated full-time teacher, but is staffed by a series of substitutes). (SB 550, § 10, 12; ECS 33126, 35186.) The State also reaffirmed its commitment to comply with the teacher quality provisions of the federal No Child Left Behind Act, which require that there be a “highly qualified teacher” teaching every core academic class in all schools by the 2005-2006 school year. (20 U.S.C. § 6319(a)(2).)

- **Concept 6 Calendar (providing 163 days of classroom instruction, instead of the normal 180 days):** AB 1550 prohibits the operation of a Concept 6 program after July 1, 2012, prohibits districts from starting new Concept 6 programs, and requires each district using Concept 6 currently to develop a comprehensive action plan to eliminate it and to comply with benchmarks toward doing so in the meantime. (AB 1550; ECS 37670, 37680-37695.)

### **C. Accountability Systems**

- **Uniform Complaint Process:** The uniform complaint process now allows students, parents, teachers, and others to complain about insufficient instructional materials, teacher vacancies and misassignments, and unsafe or unhealthy facilities conditions. Every classroom in the State must contain a posted notice articulating students' rights to sufficient instructional materials and schools that are safe and clean and where to obtain a form to file a complaint if necessary. (SB 550, § 12 and AB 2727, § 1; ECS 35186.)

Complainants may write as much as they would like on the complaint and then file the complaint with the principal. The principal or the designee of the district superintendent shall make all reasonable efforts to investigate any problem and remedy a valid complaint in a reasonable time not to exceed 30 working days from receipt of complaint. The principal or the designee shall report the remedy to the complainants within 45 working days of the initial filing of the complaint. A complainant who is not satisfied has the right to describe the problem to the governing board of the school district at a regularly scheduled hearing. A complainant can appeal a decision regarding a facilities condition that poses an emergency or urgent threat to health or safety directly to the Superintendent of Public Instruction. School districts must report summarized data on the nature and resolution of all complaints on a quarterly basis to the County Superintendent and the district governing board. (SB 550, § 12 and AB 2727, § 1; ECS 35186.)

- **County Superintendent Visits:** County Superintendents are now required to annually inspect each of the schools ranked in deciles one to three, inclusive, on the 2003 base API in their counties to determine compliance with the new instructional materials<sup>2</sup> and facilities standards and whether the schools' School Accountability Report Cards (SARCs) accurately report this data.<sup>3</sup> At least one quarter of the visits must be unannounced and County Superintendents must report the results of these visits to each school district's school board on a quarterly basis. The County Superintendent must also make an annual report on the state of these schools to the county board of education, the

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<sup>2</sup> Visits to determine the sufficiency of instructional materials must be conducted within the first four weeks of the school year. (SB 550, § 1; ECS 1240.)

<sup>3</sup> For single-school-district counties, including Alpine, Amador, Del Norte, Mariposa, Plumas, Sierra, and the City and County of San Francisco, the legislation provides that the County Superintendent must contract with another county office of education or an independent auditor to satisfy these obligations. (SB 550, § 1; ECS 1240.) Similarly, the Commission on Teacher Credentialing shall be responsible for teacher assignment monitoring and reviews in such counties or cities and counties. (AB 3001, § 3; ECS 44258.9(b)(3).)

county board of supervisors, and each district governing board in the county. (SB 550, § 1; ECS 1240.)

If a County Superintendent determines that a school lacks sufficient standards-aligned instructional materials, the legislation provides a series of steps for corrective action, culminating in the actual purchase and distribution of books. (SB 550, § 1; ECS 1240.)

- **County Superintendent Reviews of Teacher Misassignments:** Building on the existing monitoring system, County Superintendents are now required to *annually* review and correct teacher misassignments in schools ranked in deciles one to three, inclusive, on the 2003 base API and schools that are likely to have problems with teacher misassignment and teacher vacancies based on past experience or other available information. As part of this system, County Superintendents shall review and correct assignments of teachers who are assigned to teach English Language Learners but lack the proper training. (AB 3001, § 3; ECS 44258.9.)

- **District-level Facilities Inspection Systems:** By July 1, 2005, each district or county office of education participating in the School Facility Program or the Deferred Maintenance Program must establish a facilities inspection system to ensure that each of its schools are maintained in good repair (using the new “good repair” standard). (SB 550, § 7; ECS 17070.75(e).)

- **District Textbook and Instructional Materials Resolutions:** Each school district governing board must now hold a public hearing no later than the eighth week of the school year to determine, through a resolution, whether each pupil in the district has sufficient textbooks or instructional materials. If the governing board determines there are insufficient textbooks or instructional materials, or both, the board shall provide information to teachers and the public explaining the insufficiency and take action to ensure that each pupil has sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination is made. (SB 550, § 18; ECS 60119.)

- **School Accountability Report Cards (SARCs):** Each school must now include in its annual School Accountability Report Card, which is published on the Internet and is made available in paper form to parents who request it, accurate and current information regarding sufficiency of instructional materials, the number of teacher misassignments and vacancies, and the condition of school facilities, including any needed maintenance to ensure “good repair.” (SB 550, § 10-11; ECS 33126, 33128.1.)

- **K-12 Audits and Audit Guides:** Starting with the 2004-05 annual independent compliance audits, County Superintendents’ review of audit exceptions must now include exceptions related to use of instructional materials program funds and the reporting requirements for the sufficiency of textbooks and instructional materials, teacher misassignments, and information reported on the SARC. County Superintendents shall determine whether the exceptions are either corrected or an acceptable plan of corrections has been developed. If the County Superintendent certifies to the Superintendent of

Public Instruction and the Controller that the audit exception was corrected or that an acceptable plan of correction was submitted to the County Superintendent, the local educational agency is not required to repay the apportionment based on the significant audit exception. (SB 550, § 2, 13, 14; ECS 14501(b), 41020(i)(2), 41344.4.)

- **Concept 6 Phase-Out Progress Deadlines:** Districts operating schools on the Concept 6 calendar were required to submit action plans to the Department of Education by January 1, 2005, detailing strategies and steps to be taken annually to eliminate the use of the Concept 6 program as soon as practicable and no later than July 1, 2012. Districts must now submit annual progress reports to the Superintendent of Public Instruction and meet other periodic “substantial progress” deadlines. The State Department of Education, State Board of Education, Superintendent of Public Instruction, Office of Public School Construction, and State Allocation Board have different oversight and assistance responsibilities to ensure satisfactory progress toward the final elimination date of July 1, 2012. (AB 1550; ECS 37670, 37680-37695.)

#### **D. Resources Provided by the Settlement**

- **New Resources in the 2004-2005 State budget:**

- **\$138 million** for new instructional materials for students attending schools in the bottom two deciles (2003 API). (SB 550, § 22.) These funds have been apportioned.
- **\$25 million** for a **one-time comprehensive assessment of school facilities conditions and needs in decile 1-3 schools** (2003 API). (SB 6, § 4.) These funds have been apportioned. Assessments are to be conducted as soon as possible, but no later than January 1, 2006, with results reported to OPSC. (ECS 17592.70.)
- **\$15 million** to County Offices of Education for implementation of the *Williams* legislation. (SB 550, § 23.) These funds have been apportioned.
- **\$5 million** for the State Department of Education to purchase instructional materials when County Superintendents report insufficiencies pursuant to ECS 1240(i). (SB 550, § 23.) The funds expended by the Department shall be a loan to the district. (ECS 1240(i).)
- **\$5 million** for the new School Facilities Emergency Repair Account (for emergency facilities repairs in decile 1-3 schools (2003 API). (SB 6, § 4; *see generally* ECS 17592.71, 17592.72) These funds have been apportioned.
- **\$250,000** to the State Allocation Board to implement the *Williams* legislation. (SB 6, § 3.)

- **\$200,000** to the State Department of Education to implement the *Williams* legislation. (SB 550, § 23.)

- **Additional Resources:**

- **\$800 million** shall be allocated in upcoming years, starting with a minimum of at least \$100 million per fiscal year in 2005-2006, for the **new School Facilities Emergency Repair Account, which will reimburse districts for emergency facilities repairs in decile 1-3 schools** (2003 API). (SB 6, § 1; ECS 17592.71; *see generally* ECS 17592.72.)
- **The *Williams* settlement legislation repealed the June 30, 2006, sunset of the Instructional Materials Program and its contingent funding status.** (SB 550, § § 19, 20, 21; ECS 60240, 60252.) In 2004-2005, the year of the *Williams* settlement, the program provides \$363 million for school districts to purchase standards-aligned instructional materials. This figure represents an increase of \$188 million from the 2003-2004 budget and does not include the \$138 million in one-time instructional materials funding for decile 1 and 2 schools (2003 API). The Governor has proposed \$380.3 million in 2005-2006 for the Instructional Materials Program.
- **SB 550 expands the number of schools benefiting from the High Priority Schools Grant Program (which provides improvement grants to the lowest-performing 10% of schools in the State) by maintaining the program’s annual funding of at least \$200 million and adding new schools when current grant recipients are phased out.** (SB 550, § 17; ECS 52055.662.) In accordance with this provision, the Governor’s 2005-06 budget proposes \$45.5 million in General Funds to fund a new cohort of the High Priority Schools Grant Program. This would bring total funding for the program to \$238.7 million in 2005-06. The Department of Finance estimates that the additional \$45 million will provide funding to 180 additional decile 1 schools (assuming 400 students per school).

#### **E. Additional Steps to Improve Students’ Access to Qualified Teachers**

- County Superintendents (for schools in fiscal distress) and intervention teams (for schools under state review for poor academic performance) are now authorized to assign the Fiscal Crisis and Management Assistance Team (“FCMAT”) to review and recommend improvements in teacher recruitment, hiring, assignment, and retention practices. If a FCMAT team is assigned by a County Superintendent, FCMAT’s recommendations must be followed absent the district showing good cause. (AB 3001, § § 1, 10; ECS 42127.6(a)(1)(G), 52059(b)(1)(B).)
- In order to obtain and continue funding under the existing High Priority Schools Grant Program, districts will now be required to show an improvement in the distribution of experienced teachers across the district using the new standards of

schools having at least 80% of their teachers credentialed and having classes in which 20% or more of the students are English Language Learners taught by properly-trained teachers. (AB 3001, § 9; ECS 52055.640(a)(2).)

- The Superintendent of Public Instruction shall incorporate into the Principal Training Program new training for principals to improve the hiring, recruitment, and retention of qualified teachers and to reduce the misassignment of unqualified teachers. (AB 3001, § 8; ECS 44511(a)(1).)
- The pool of experienced out-of-state teachers available to teach in California should increase as duplicative and unnecessary requirements for out-of-state teachers seeking California credentials have been eliminated (namely, a health requirement and a fifth year of study and a basic skills test requirement where comparable requirements have already been met). (AB 3001, §§ 4, 5, 6; ECS 44274, 44275.3, 44325.)
- The Legislature now “encourages school districts to provide all the schools it maintains that are ranked in deciles 1 to 3, inclusive, of the Academic Performance Index first priority to review resumes and job applications received by the district from credentialed teachers.” (AB 3001, § 11.)
- Consistent with the federal No Child Left Behind Act, the Commission on Teacher Credentialing shall ensure that California’s district and university interns (currently over 10,000 of California’s teachers) are in programs that provide “high-quality professional development” “before and while teaching” and a program of "intensive supervision" with "structured guidance and regular ongoing support" as set forth in 34 C.F.R. 200.56. (AB 3001, § 7; ECS 44453(b).)
- The Commission on Teacher Credentialing shall annually report to the Legislature and the public on the quality of California’s teaching force, specifically reporting by county and school district, the number and percentage of teachers with full or sub-standard credentials or authorizations. (AB 3001, § 2; ECS 44225.6(a)(5).)
- The Legislature may hold hearings in the future on the teacher quality data that shall now be collected. In such hearings, the Legislature may consider how to improve reviews to correct teacher misassignments and vacancies and how to help low-performing schools eliminate misassignments and vacancies. (AB 3001, § 3; ECS 44258.9(g).)