

Williams v. California:

Lessons From Nine Years
of Implementation.



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September 29, 2013

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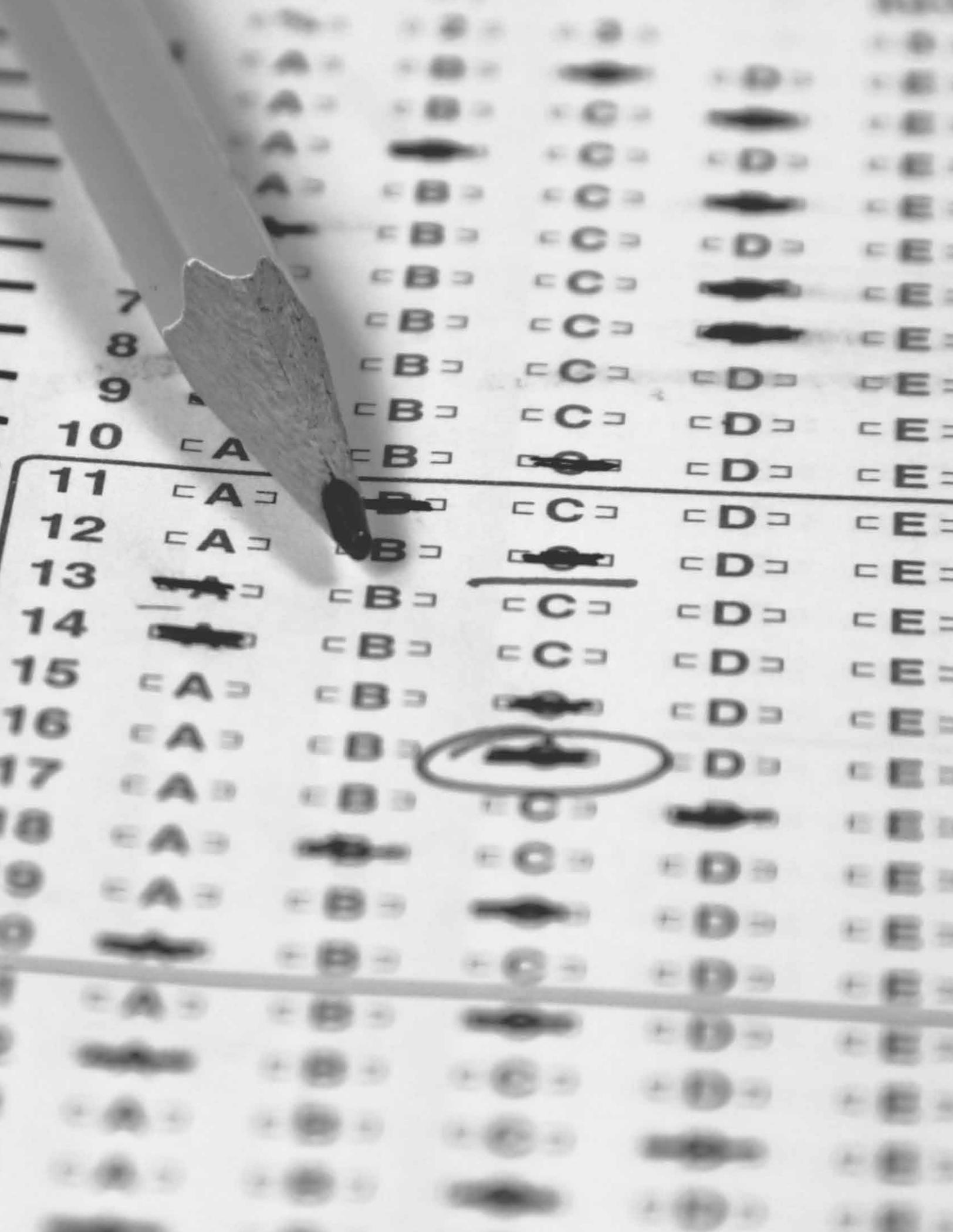
ACLU Foundation of Southern California



The ACLU Foundation of Southern California is deeply grateful to The Weingart Foundation and the Denison family for supporting the generation and production of this report.

We also thank our co-counsel for the Williams plaintiffs: Morrison & Foerster LLP, ACLU of Northern California, Public Advocates, Inc., Mexican American Legal Defense and Educational Fund, ACLU of San Diego and Imperial Counties, Lawyers Committee for Civil Rights of the San Francisco Bay Area, Asian Pacific American Legal Center, Center for Law in the Public Interest, Professor Karl Manheim, Professor Allen Ides, Professor Peter Edelman, and Newman. Aaronson. Vanaman.

We are indebted to the many district- and county-level staff that took time out of their busy schedules to respond to our survey and participate in follow-up interviews. We would like to acknowledge the California County Superintendents Educational Services Association for their support and assistance in distributing the survey.



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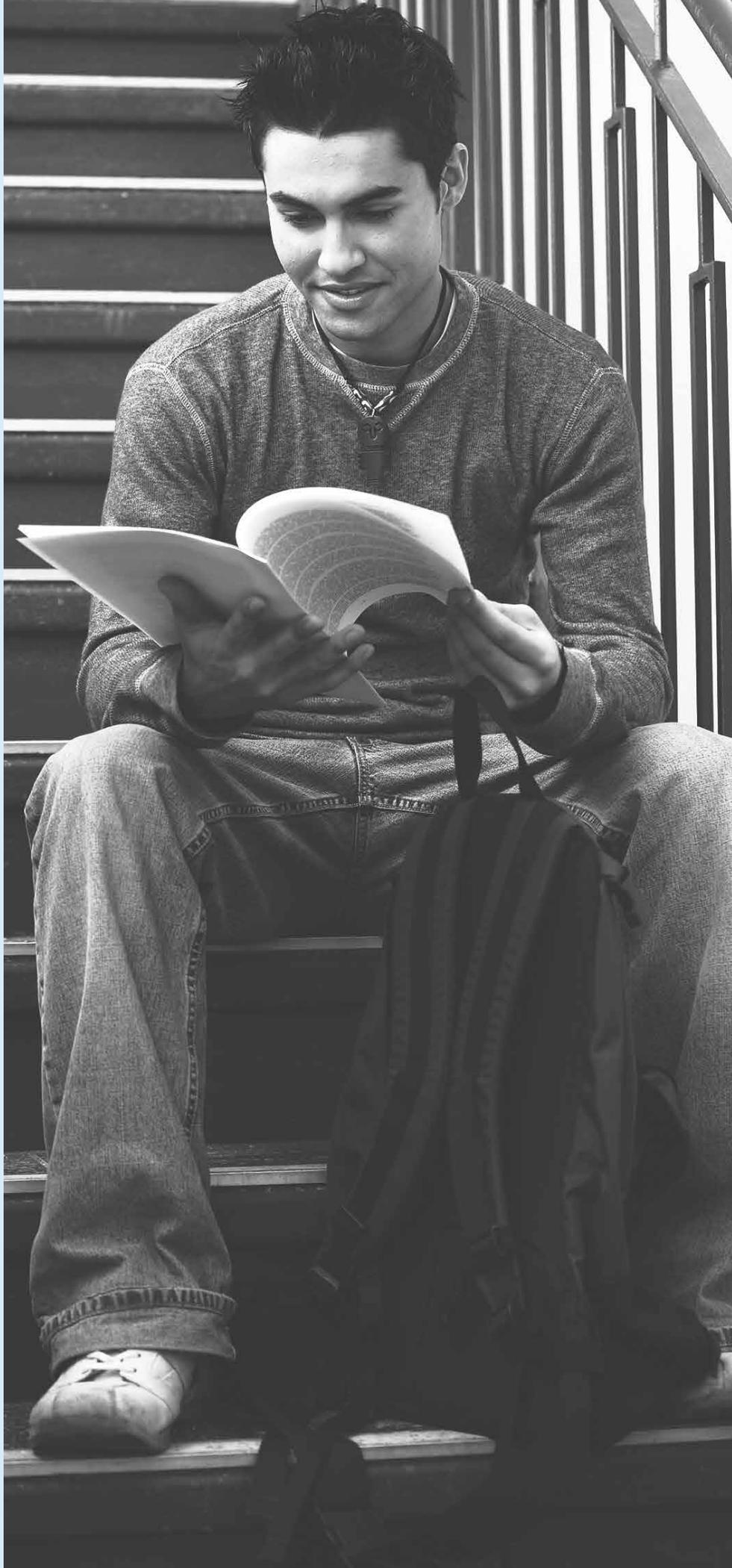
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On August 7, 2013, State Superintendent Tom Torlakson and State Board of Education President Mike Kirst sent a letter to all superintendents and charter school administrators regarding implementation of California's new school funding system, the Local Control Funding Formula (LCFF). They emphasized that all local educational agencies are expected to begin rethinking their approach to planning, budgeting, and using funds aligned to the eight state priorities established by the LCFF legislation. The first state priority, as identified in the letter, is **“Compliance with Williams requirements – appropriate teacher assignment, sufficient instructional materials, and facilities in good repair.”**



INTRODUCTION AND SUMMARY OF KEY FINDINGS

“

[T]hese thresholds for teacher quality, instructional materials, and school facilities are intended by the Legislature and by the Governor to be a floor, rather than a ceiling, and a beginning, not an end, to the State of California’s commitment and effort to ensure all California school pupils have access to the basic elements of a quality public education.

Williams v. California Settlement Legislation,
Sec. 25 of Ch. 900 of the Statutes of 2004 (Senate Bill 550)
Enacted September 29, 2004

”

On September 29, 2004, *Williams v. California*, a lawsuit filed on behalf of thousands of California’s public school students who were denied equal educational opportunity, reached a successful conclusion when five bills implementing the settlement agreement were signed into law. The settlement requires **all of California’s public schools** to provide students with at least the basic necessities of educational opportunity: sufficient textbooks and instructional materials, clean and safe school facilities, and qualified teachers. The settlement establishes clear standards for the provision of these essentials and holds schools accountable for meeting them.

This report examines the long-term impact of *Williams* nine years after the settlement. Though much has changed since the early years of implementation, the standards and accountability measures established by the *Williams* Settlement Legislation have remained a steadfast constant, maintaining a foundation of opportunity during a time of fiscal crisis.

Starting in 2009, unprecedented state budget deficits created monumental new challenges for California’s public schools. Dramatic reductions to school revenues led to a host of consequences detrimental to educational opportunity, including teacher layoffs, increased administrator turnover, and cuts to maintenance and custodial staff. The Legislature enacted categorical flexibility which allowed districts to use funds that previously had been dedicated for specific priorities, such as instructional materials and facilities maintenance, for other purposes. Throughout these challenges, the standards and accountability systems established by the *Williams* Settlement Legislation have ensured that schools remain committed to providing the basic necessities of equal educational opportunity.

In fact, according to the results of a statewide survey of county offices of education, California’s lowest performing schools—which receive additional assistance and oversight under the Settlement Legislation—have made remarkable progress in all of the areas addressed by *Williams*.¹ Students have received hundreds of thousands of books and instructional materials that would not have been put in their hands without *Williams* reviews of their schools. The number of classes taught by misassigned teachers has plummeted. County offices of education also report that fewer school sites than ever before present emergency threats to the health and safety of students or staff. Furthermore, the flawed multi-track, year-round Concept 6 school calendar was successfully phased out as required by *Williams* in 2012. The evidence is clear: *Williams* is working.

“

All students in California should have access to instructional materials, qualified teachers, and safe, clean, and functional learning conditions regardless of their socioeconomic status. Schools should be a haven where students and staff can thrive. Williams continues to promote this ideal.

Los Angeles County Office of Education

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“

I believe that this legislation has made some important inroads for learning conditions. Being thoughtful about access and equity is now a part of how our districts make decisions... I often say that the Williams legislation is foundational for what schools and districts should provide students.

San Diego County Office of Education

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The State recognized and reaffirmed the critical importance of *Williams* in developing California’s new education finance system, the Local Control Funding Formula (LCFF). Enacted on July 1st of this year, the LCFF replaces the State’s old education finance system with a more equitable, rational formula that increases school funding and directs resources to high-need students. It delineates eight state priorities to guide local planning and expenditures; the first priority is the delivery of those basic necessities for educational opportunity protected by the *Williams* Settlement Legislation. It is noteworthy that throughout the era of categorical flexibility and this comprehensive overhaul of the State’s education finance system, *Williams* has been expressly retained. The California Department of Education (CDE) and State Board of Education (SBE) recently issued guidance on the implementation of the LCFF, making clear that the standards established by the *Williams* Settlement Legislation are just as vital and authoritative now as they were when they were first enacted nine years ago.²

Moving forward, it will be essential to maintain and refine these standards and accountability measures. With burgeoning demand for digital instructional materials and the implementation of California’s Common Core State Standards, for example, schools are looking towards the *Williams* standards regarding equal access to instructional materials to guide these complicated transitions. The State also needs to fulfill its obligation to fund the Emergency Repair Program (ERP) established by the *Williams* Settlement Legislation to address facility conditions that pose urgent threats to students’ health and safety. Thousands of critical repair projects at low-performing schools are waiting in a 5-year long queue for funding. It remains the one gaping hole in the State’s commitment to the *Williams* Settlement and must be addressed immediately.

The *Williams* promise—that every California public school student will have, at the very least, sufficient textbooks and instructional materials; clean, safe, and functional buildings and facilities; and permanent, appropriately trained and assigned teachers—remains a work in progress. The remarkable improvements documented in this report offer lessons on how to provide the necessary support to improve learning conditions in every classroom and school as we collectively seek to ensure equal educational opportunity for all of California’s students.

“

Teachers and principals often comment that they are glad we come to review every year for Williams because “things get fixed” and “we get our books on time.”

San Mateo County Office of Education

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■ Summary of Key Findings

TEXTBOOKS AND INSTRUCTIONAL MATERIALS

- ⇒ In the first year of *Williams* implementation, county offices of education found that 19% of decile 1-3 schools had insufficient textbooks and/or instructional materials. In 2012-13, this figure decreased to less than 5%.
- ⇒ Over the first four years of *Williams* implementation, county offices of education found that students in decile 1-3 schools were missing an average of approximately 50,000 textbooks and/or instructional materials each year. In 2012-13, fewer than 7,000 textbooks and instructional materials were required to remedy all identified insufficiencies.
- ⇒ More than 215,000 additional textbooks and instructional materials have been provided to students at decile 1-3 schools since *Williams* implementation first began. This is a conservative estimate that does not capture the number of insufficiencies that were resolved in preparation for or concurrent with county superintendent visits. This estimate also does not include the many textbooks and instructional materials provided to students from the 2008-09, 2009-10, and 2010-11 school years, for which survey data were not collected.
- ⇒ Some causes of insufficiencies that had been pervasive in the early years of implementation have been eliminated. For example, it used to be common for schools to use “class sets” of textbooks, in which there were enough books for each student to use in a single class period but not enough for all students to have their own to take home. No longer do county offices of education cite this as a problem.

- ⇒ County offices of education report that schools have developed or improved systems to more efficiently acquire, distribute, and track instructional materials as a result of *Williams*. Many districts operate centralized repositories so schools can work together to help ensure that all students receive the materials they need.

SCHOOL FACILITIES

- ⇒ In 2007-08, county offices of education found that 86% of all schools monitored had one or more “good repair” deficiency (i.e., there was an issue that prevented the school from being deemed completely clean, safe, and functional). In 2012-13, that figure decreased to 75%.
- ⇒ Reported data suggest that decile 1-3 schools are safer now than in any of the preceding years of *Williams* implementation. In the first four years, county offices of education identified emergency facilities conditions at 11-13% of all schools monitored. In 2012-13, that figure decreased to 4%.
- ⇒ Starting in the 2007-08 school year, county offices of education began using the Facilities Inspection Tool (FIT) to evaluate the condition of school facilities. The FIT resolved concerns that facility inspectors had with its predecessor, the Interim Evaluation Instrument, and thus encouraged more accurate reporting.
- ⇒ The State has failed its obligation under the *Williams* Settlement Legislation to fund the Emergency Repair Program. Fully \$800 million should have been transferred to the ERP Account by now; instead, the State’s net transfers have totaled only \$338 million through the 2013 Budget Act and the State’s cumulative net contribution to the ERP in the last five years has been \$0. Schools continue to wait in a 5-year long queue for funds to repair conditions that present urgent threats to health and safety.





Williams continues to put the focus where it should be -- on the kids, and the materials that the students and teachers need to have.

San Joaquin County Office of Education



When we first started these visits, there were many misassignments noted, especially for EL students. We have been seeing a steady decline in these numbers, so that this monitoring period saw no EL misassignments at all!

Madera County Office of Education



- ⇒ Despite notable progress, schools are facing an impending crisis. Insufficient budgets have forced many of the lowest-performing schools to reduce maintenance and custodial staff, making it increasingly difficult to maintain facilities in good repair. Districts have been accumulating a backlog of large-scale deferred maintenance projects delayed due to lack of funding. Many schools are aging and in desperate need of emergency repairs.

TEACHERS

- ⇒ Data reported by the California Commission on Teacher Credentialing (CTC) show that the percentage of teachers and certificated staff identified as misassigned has significantly decreased since *Williams* implementation first began. In 2005-06, 29% of teachers were identified as misassigned. In 2010-11, that figure decreased to 13%.
 - This trend is corroborated by data on the number of classes with a high concentration (20% or more) of EL students in decile 1-3 schools taught by teachers lacking the proper EL authorization. In 2004-05, nearly a third of these classes were taught by misassigned teachers; by 2010-11, this figure decreased to 1.2%.
 - Moreover, EL misassignments now account for a smaller proportion of all identified misassignments. In 2005-06, an astonishing 76% of all misassignments identified were due to teachers lacking the correct EL authorization; by 2010-11, that figure decreased to 13%.
- ⇒ County offices of education report that districts have changed their employment practices as a result of *Williams* to place special emphasis on checking if teachers are authorized to teach EL students during the hiring process.
- ⇒ There has also been significant improvement in the number of teacher vacancies. In 2007-08, the CTC reported 547 vacancies. In 2010-11, 235 vacancies were identified.
- ⇒ The numbers consistently show that even amongst the lowest-performing schools, there continues to be a negative correlation between a school's ranking on the Base Academic Performance Index and the number of misassignments at that school. This suggests students in lower-performing schools remain more likely than students in higher-performing schools to be taught by a misassigned teacher.

WILLIAMS v. CALIFORNIA: THE CASE AND THE SETTLEMENT

CHAPTER 2

■ *Background of the Case*

On May 17, 2000, the American Civil Liberties Union, Public Advocates, the Mexican American Legal Defense and Educational Fund, and other civil rights organizations, along with Morrison & Foerster LLP, filed a class-action lawsuit on behalf of public school students against the State of California. The case argued that the State and its agencies were denying thousands of California students their fundamental right to an education under the California Constitution by failing to provide them with the basic resources necessary for that education.

The *Williams* suit highlighted the fact that the State operated thousands of classrooms without enough textbooks for students; provided school facilities that were overcrowded, in disrepair, and unhealthy for students; and employed many under-trained teachers in California public schools. The case was premised on two basic principles: 1) The State of California is responsible for ensuring that all students have the basic resources they need to learn—qualified teachers, sufficient textbooks and instructional materials, and decent facilities; and 2) All students have a fundamental right to an education that must be provided to all students on equal terms. The case argued that California’s public education system failed on both of these counts: it did not give all students the necessary educational resources and it allowed unequal opportunities to persist across schools. *Williams* called on the State to create standards for basic educational materials, a system of management and oversight, and accountability to ensure schools live up to these standards.

On August 13, 2004, after more than four years of litigation, the parties announced a Settlement Agreement. Just over two weeks later, on August 27, 2007, the state Legislature passed five bills implementing the legislative proposals set forth in the Settlement Agreement. Governor Arnold Schwarzenegger signed the bills into law on September 29, 2004, and they took effect immediately. The settlement embodied the central principles of the plaintiffs’ case and included significant changes to California’s education laws.

■ *Scope of the Settlement*

The *Williams* Settlement Legislation established new standards and accountability mechanisms to ensure that all California public school students have textbooks and instructional materials, qualified teachers, and safe, clean, and functional school facilities. The Settlement Legislation holds the State accountable for delivering these fundamental elements and provides approximately \$1 billion to accomplish these goals. It also phased out the use of the Concept 6 multi-track, year-round school calendar by 2012.³

The new standards and many of the accountability systems established by the *Williams* Settlement Legislation **apply to all California public schools**.⁴ Each and every student has a right to “sufficient textbooks,” a qualified teacher, and a school in “good repair.” All districts must perform self-evaluations to ensure compliance with the textbook and facilities standards. Further, the overall condition of facilities, the availability of textbooks and instructional materials, and the number of teacher misassignments and teacher vacancies must be reported in annual School Accountability Report Cards (SARCs) that are made available to all parents and the public.



California's Decile 1-3 Schools

Each year, schools receive a state decile rank according to their Base API score. API scores are sorted from the highest to the lowest, by school type, and divided into 10 equal ranks (i.e., deciles). A rank of 10 is the highest and a rank of 1 is the lowest.

Though schools receive a new API score annually, the list of schools that receive additional county oversight for the purposes of *Williams* is updated every three years. The lists have been based on the 2003, 2006, 2009, and most recently, 2012 Base API.

The 2012 list includes 2,169 decile 1-3 schools (the lowest-performing 30% statewide) from 48 counties all over the state of California. These schools educate a total of approximately 1,593,787 students.⁵

Changes to the API and Decile Ranking System

In 2012, Governor Jerry Brown signed into law SB 1458, which will recalibrate California's API by changing the criteria by which public schools are held accountable. The API has traditionally measured school performance almost exclusively based on state test scores; starting in 2016, test scores will comprise no more than 60 percent of a school's API. The new formula will include a broader gauge of student accomplishment and preparation, including measures of college and career readiness.

Notably, the State Superintendent of Public Instruction is required to report to the Legislature on an alternative method or methods, in place of the decile rank, for determining eligibility, preferences, or priorities for any statutory program that currently uses decile rank as a determining factor. The report is due to the Legislature by October 1, 2013.⁶

The Settlement Legislation also created a new Uniform Complaint Process for parents, students, teachers, and others to use to ensure that all schools and districts meet the new standards and provide sufficient instructional materials, qualified teachers, and safe, healthy school facilities.

The lowest performing schools in the state — the schools ranked in deciles one to three, inclusive, on the Base Academic Performance Index (API) — receive additional funds and oversight. Pursuant to the Settlement Legislation, the State of California committed to providing \$800 million in installments of at least \$100 million each year to pay for emergency repairs in these “decile 1-3 schools.” In the first year of implementation, districts received \$25 million to conduct comprehensive assessments of the facility conditions and needs in these schools, and \$138 million for new instructional materials for students attending schools ranked in the lowest two API deciles.

County superintendents provide additional oversight to decile 1-3 schools, conducting annual visits and reviews to determine compliance with the instructional materials and facilities standards and to determine whether the school's SARC accurately reports these data. Beginning with the 2005-06 school year, the Settlement Legislation requires county superintendents to visit decile 1-3 schools at least annually and to complete their reviews of textbook sufficiency in these schools by the fourth week of the school year.⁷ The visits to examine facility conditions can be conducted simultaneously with the textbook sufficiency reviews or at a later point in the school year. The Settlement Legislation requires that at least 25% of the county superintendent visits be unannounced.

The Settlement Legislation also requires county superintendents to annually monitor, review, and report on teacher assignments and teacher vacancies in decile 1-3 schools.⁸ County superintendents submit the results of all assignment monitoring and reviews to the California Commission on Teacher Credentialing (CTC) and the California Department of Education (CDE), including information regarding whether teachers in decile 1-3 schools assigned to classes comprised of 20% or more pupils who are English learners (ELs) have appropriate authorization or training to teach these students.⁹ All teacher misassignments (i.e., where a teacher lacks subject matter, EL, or other required training or authorization) and teacher vacancies (i.e., where a classroom has no single, designated full-time teacher, but is instead staffed by a series of substitutes) must be reported to district superintendents for correction. Ultimately, the CTC is required to submit biennial reports to the state Legislature concerning teacher assignments

and misassignments, including the data from the county superintendent reports.¹⁰

County superintendents report the results of their annual visits and reviews to each school district's governing board on a quarterly basis and submit an annual report in November to the governing board of each school district, the county board of education, and the county board of supervisors of his/her county, describing the state of decile 1-3 schools in the county. The reports must include school-specific findings regarding student access to sufficient standards-aligned instructional materials, compliance with facilities maintenance requirements, teacher misassignments and vacancies, and accuracy of SARCs with respect to the availability of sufficient textbooks and instructional materials and the safety, cleanliness, and adequacy of school facilities including good repair.¹¹

■ *Maintaining Equity*

Nine years of implementation have demonstrated the unequivocal value of *Williams*. County superintendent reports prove that the standards and accountability measures established by the *Williams* Settlement Legislation, while impacting all of California's students, have significantly improved students' access to the basic necessities of educational opportunity at the state's lowest performing schools. Conditions at decile 1-3 schools reflect remarkable progress, and the majority of these schools have come to

embrace the *Williams* monitoring process as a positive means of leveraging needed change. County offices of education shared that relations between schools, districts, and counties have greatly improved as a result of the annual visits. After so many years of implementation, commitment to the *Williams* standards has become culturally ingrained.

Williams has also precipitated notable institutional change. In 2012 *Williams* successfully eliminated the Concept 6 multi-track, year-round school calendar, which provided only 163 days of classroom instruction instead of the traditional 180 days. Lodi Unified School District and Los Angeles Unified School District (LAUSD) were the only two school districts still operating schools on the Concept 6 calendar in 2004-05 when *Williams* settled. The Settlement Legislation required the two districts to submit comprehensive action plans to the CDE 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. In 2004-05, over 255,000 students were enrolled in schools that operated under the Concept 6 calendar.¹² As the ACLU of Southern California's Executive Director Hector Villagra noted in an Op-Ed published in the *Daily News*, the evidence was undisputed that students on the Concept 6 calendar were at a substantial disadvantage compared to those on the traditional school calendar.¹³ By 2007-08, LAUSD had reduced its number of Concept 6 schools from 130 to 42, and by 2012, the district had successfully phased out the inequitable system that provided some students a staggering 204 fewer



school days than others over the course of their K-12 years. A study released by Policy Analysis for California Education in 2012 found that the overcrowding relief in LAUSD, which allowed the district to end its reliance on Concept 6, has led to significant student achievement gains.¹⁴

The standards and accountability systems established by *Williams* have also been adopted by other efforts to improve educational opportunity. For example, in 2006, the Quality Education Investment Act (QEIA) was established to implement the terms of the *California Teachers Association v. Schwarzenegger* settlement. QEIA provides funds to assist California's lowest-performing schools in increasing student achievement; in order to be eligible, schools are required to undergo annual *Williams* monitoring and achieve specified benchmarks in accordance with the *Williams* standards. Also in 2006, *Valenzuela v. O'Connell* alleged that the State failed to provide students, especially those living in poverty, an equal and reasonable opportunity to pass the California High School Exit Exam (CAHSEE). Its settlement legislation included a county oversight component modeled after the *Williams* monitoring process, and integrated concerns about CAHSEE instruction and services into the Uniform Complaint Process. In addition, some county offices of education have reported that schools engaged in Title I School Program Improvement model their plans to make the target outcome full compliance with *Williams*. This appropriation by other settlements and programs demonstrates that the *Williams* standards and accountability systems are considered effective measures for improving access to equal educational opportunity.

As borne out by the data and anecdotal evidence presented in the following pages of this report, *Williams* is continuing to make a positive difference for children in California's schools.

■ Data and Methodology

The remainder of this report examines the impact the *Williams* Settlement Legislation has made on educational opportunity in California's lowest-performing schools over the course of nine years of implementation.

Ideally, this report would also examine the impact of the *Williams* standards and accountability systems on higher-performing schools. After all, the standards and accountability systems, including the annual instructional materials sufficiency hearings, the Uniform Complaint Process, the facility inspection systems, and the teacher assignment monitoring procedures, **apply to every public school in the state**. Each school now reports on the sufficiency of instructional materials, the good repair of facilities,

and teacher misassignments and vacancies in its annual School Accountability Report Card. However, it was not feasible to collect data from the more than 9,300 schools and 1,000 districts across the state. Therefore this report focuses on the impact the *Williams* Settlement Legislation has had on California's lowest-performing schools because the Settlement Legislation provides these schools with additional financial assistance and oversight. The need for improvement in these decile 1-3 schools is most critical.

Annual information was collected through a survey distributed to every county office of education with jurisdiction over one or more schools in deciles 1-3. The list of schools that receive additional county oversight is updated every three years. The lists have been based on the 2003, 2006, 2009, and most recently, 2012 Base Academic Performance Index.¹⁵ Therefore the survey data reported represent not a single uniform set of schools, but three distinct cohorts that have cycled through over the course of nine years of implementation. There is, however, substantial overlap between cohorts. Out of approximately 2,100 schools listed in deciles 1-3 for each cohort, 1,215 schools or 58% have consistently remained in deciles 1-3 throughout the three cohorts thus far.

Forty-six county offices of education representing 99.7% of all the decile 1-3 schools in the state responded to a survey that asked county superintendents to provide information for the 2011-12 and 2012-13 school years. No survey was distributed to collect information regarding the 2008-09, 2009-10, and 2010-11 school years due to funding constraints; unfortunately, this means that there is a gap in data.¹⁶ Nevertheless, the available data enables meaningful comparisons between the years for which surveys were completed. Responses to this year's survey were supplemented by follow-up interviews conducted with county administrators and district staff. Taken together, the near-perfect survey sample and rich anecdotal evidence present a comprehensive picture of how implementation of *Williams* has altered the landscape of educational opportunity in California.



TEXTBOOKS AND INSTRUCTIONAL MATERIALS

The *Williams* instructional materials sufficiency standards and accountability systems have dramatically improved students' access to standards-aligned textbooks and instructional materials. The number of textbook “insufficiencies” identified in decile 1-3 schools – instances where a student does not have a textbook or instructional materials to use in class and to take home – decreased significantly in recent years. Counties report that meticulous attention to sufficiency has become ingrained in the culture and practices of schools across the state, and it is now considered rare for a decile 1-3 school to have insufficient textbooks. Schools are proactive about ordering materials early and many districts have developed centralized inventory systems to more efficiently distribute materials to students. The *Williams* monitoring process has even eliminated some problems that had presented significant obstacles to sufficiency in the past. County offices of education widely attribute schools' success in this area to *Williams*, and agree that it is important to continue the monitoring process to ensure that textbook sufficiency remains a priority. Though a few persistent challenges remain, data and anecdotal evidence unequivocally show that *Williams* is working.

■ Background

The *Williams* Settlement Legislation established a legal definition for “sufficient textbooks or instructional materials,” which requires schools to ensure that “each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home.”¹⁷ If a student does not have a textbook and/or instructional materials to use in class and take home, there is an insufficiency that must be remedied. The Settlement Legislation also enhanced existing accountability systems, such as district textbook hearings and School Accountability Report Cards (SARCs), and created others, such enforcement powers for parents, students, and teachers through the new Uniform Complaint Process, to ensure the sufficiency standard is met by all schools. The Settlement Legislation provided millions of dollars to help schools buy new books as well.

What is an insufficiency?

An insufficiency occurs when a student does not have a textbook and/or instructional materials to use in class and to take home.





Relevant Legislation and Education Code Sections²⁰

SUFFICIENCY

- ⇒ **Education Code Section 60119(c)** defines “sufficient textbooks or instructional materials” to mean schools must ensure that “each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home.”
- ⇒ **Assembly Bill 1246** (Chapter 668, Statutes of 2012) amended Education Code Section 42065(e)(2)(A) to define standards-alignment as being aligned to either the state standards adopted in 1998-99 (pursuant to Section 60605) or to the California Common Core Standards (pursuant to 60605.8).
- ⇒ **Senate Bill 509** (Chapter 629, Statutes of 2011) amended Education Code Section 1240.3(a), authorizing LEAs to purchase instructional materials for their neediest schools (ranked in deciles 1-3 of the Academic Performance Index) without having to acquire new materials for the higher performing schools.

ADOPTION SUSPENSIONS

- ⇒ **Assembly Bill X4 2** (Chapter 2, Statutes of the 2009-10 Fourth Extraordinary Session) suspended the process and procedures for adopting instructional materials, including framework revisions, until the 2013-14 school year.
- ⇒ **Senate Bill 70** (Chapter 7, Statutes of 2011) extended the adoption suspension until the 2015-16 school year.

Though all schools are held accountable to these sufficiency requirements, the *Williams* Settlement Legislation provides additional oversight to schools in deciles 1-3. These schools receive annual site visits from their county offices of education within the first four weeks of the school year. If a county superintendent determines that any student at a school lacks sufficient textbooks or instructional materials, the Settlement Legislation provides a series of remedial steps. The school or district must remedy the insufficiency by either correcting the distribution error or purchasing and distributing the necessary instructional materials. If the insufficiency is not remedied by the end of the second month of the school year, the county superintendent must request that the California Department of Education, with approval by the State Board of Education, purchase the necessary instructional materials and bill the district.

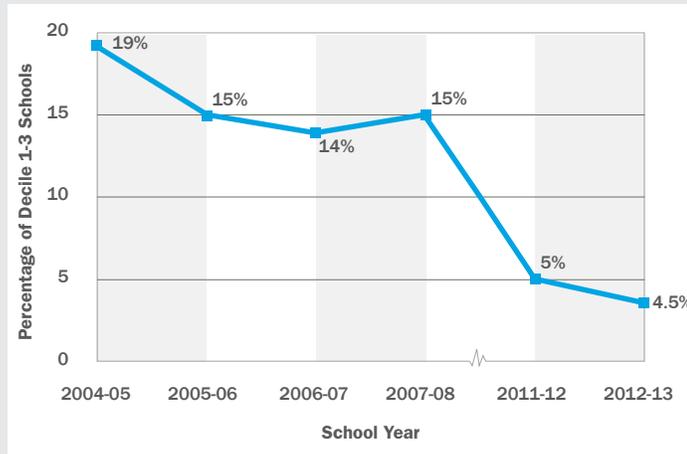
Since 2004, there have been a number of amendments to the Education Code concerning instructional materials. Notably in 2009, the introduction of categorical flexibility enabled local education agencies to utilize previously restricted categorical funds for “any educational purpose.”¹⁸ However, these flexibility measures did not alter the *Williams* standard or accountability requirements regarding the provision of instructional materials. In fact, the flexibility statute supplemented the sufficiency standard by requiring that all students in the same grade level or course within a school district receive instructional materials from the same adoption.¹⁹ Thus *Williams* has continued to ensure instructional materials sufficiency despite changes to related provisions of law.

■ Dramatic Decreases in Textbook Insufficiencies

Over the course of the first four years of implementation, county offices of education identified nearly 200,000 textbook and instructional materials insufficiencies, ensuring that tens of thousands of students received missing books each year. From 2004-05 to 2007-08, county offices of education found an average of approximately 16% of all decile 1-3 schools had insufficient textbooks. In recent years, both the percentage of decile 1-3 schools with insufficient textbooks and the number of materials required to remedy these insufficiencies have dramatically decreased. In 2011-12, just 5% of low-performing schools had one or more insufficiencies, requiring 9,169 additional instructional materials. These figures improved even further in 2012-13, in which just 4.5% of low-performing schools had insufficiencies and required 6,961 additional materials. Though there is still need for improvement, schools have made remarkable progress in ensuring that students receive the materials they need in order to learn.

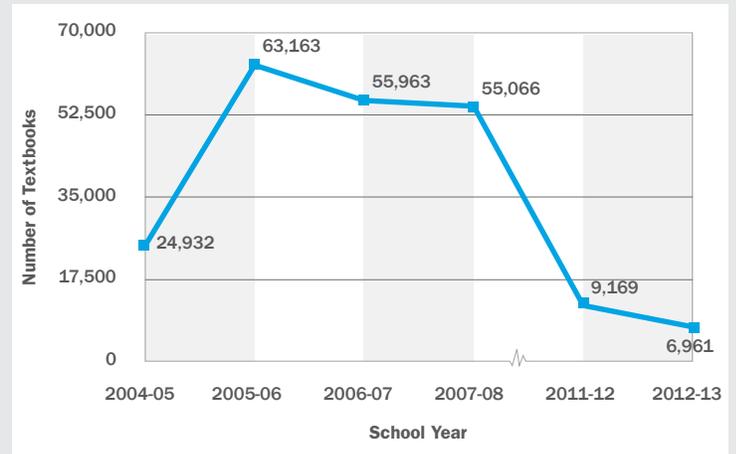
After nine years of implementation, many counties report that attention to textbook sufficiency has become embedded in the culture and practices of their schools. In the initial years of

Percentage of Decile 1 - 3 Schools with One or More Textbook Insufficiencies



Data from the ACLU Williams Implementation Survey

Number of Textbooks Required to Remedy Insufficiencies at Decile 1 - 3 Schools



Data from the ACLU Williams Implementation Survey

Williams, it was not uncommon for schools to be unprepared for site visits. Some expressed resentment towards external oversight, and others failed to resolve their insufficiencies promptly. Now counties note that schools are proactive and prepared for reviews, understand the rationale of the *Williams* monitoring process, and are diligent about compliance. As one administrator from Riverside County shared,

In the first few years, we really saw districts scrambling to ensure that all students have textbooks. Now, it is extremely rare to find a student that doesn't. Because we have conducted Williams visits for so long, there are far fewer issues in the number and quality of textbooks. Districts have improved their planning for textbook ordering and distribution. Teachers and administrations know the expectation that each student will be assigned a textbook.

Other administrators have also observed notable improvement, stating that “*Williams* visits have heightened awareness regarding instructional materials sufficiency” and that “there has been a big improvement in the number of students with textbooks over the years.” As an example, when counties identify insufficiencies at a school site, the school has five days to remedy those insufficiencies before a letter is issued notifying the district. A number of county offices of education reported having to issue fewer five-day letters. Fresno County Office of Education shared,

On the first year of implementation we sent out 52 letters to schools who didn't have sufficient textbooks at the beginning of the school year. This year we only sent out letters to two schools. Clearly the knowledge that someone is going to come and count the books makes the principals prioritize making sure all students have books.

Counties widely maintain that schools are diligent about compliance, and have become more proactive about ordering new materials to ensure that all students get their books in a timely manner. For example, Kings County Office of Education shared,

Overall, our schools take pride in having a sufficient number of high-quality textbooks and materials. They take a proactive approach by ordering additional back-ups during the initial ordering phase to prevent delays in providing newly-enrolled students with the required materials.

Monterey County Office of Education similarly shared,

School personnel are paying more attention to inventory at the end of the school year and are concerned about having insufficiencies so they spend time projecting class sizes and textbooks / instructional materials for the upcoming year. Purchase Orders are completed early in hopes that books will come in prior to the beginning of the school year.

Overall, counties praise *Williams* as a positive process that's making a difference. Many describe their visits as being well-received, and comment that principals and teachers express appreciation for the county oversight. An administrator from San Bernardino County shared, “Schools and administrators are excited that we are coming out to visit because they feel that more of the issues they want to be addressed are given greater priority due to the *Williams* Settlement.”



Notably, an administrator from Los Angeles County shared that “school sites welcome site reviews and even applaud reviewers for checking on their books.” The same administrator further elaborated,

When we go for instructional material reviews, principals and teachers will say “Thank goodness that you came, because without you enforcing this, we may not have gotten our books!” Because the school knows we are coming, they are on the priority list to get those books.

Other counties agreed, reporting that “schools greet us with open arms” and “Williams visits and reviews are always in the minds of district and site administration in a very positive way.” And just as much as school and district administrators express appreciation for county oversight, county administrators were quick to praise the dedication and hard work of district and site staff. Frequently they cited the diligence of a particular staff member as being key to the success of a given school or district with regard to textbook sufficiency. Thanks to the commitment of county, district, and school staff alike, Williams is making education more equitable for California’s students.

■ Improved Textbook Management Systems

Counties report that many schools have developed or improved systems to more efficiently acquire, distribute, and track instructional materials, sometimes as a direct result of Williams oversight. For example, the Orange County Office of Education noted, “School site administrators have shared that the Williams visits have led them to develop better inventory processes for textbooks.” According to anecdotal evidence from numerous county administrators, most districts now operate centralized repositories so that schools can work together to help ensure all students receive the materials that they need. One administrator from Tulare County described,

Every district that I review has some kind of internal process. Many districts have a central curriculum center, and the materials are both inventoried there and sent out to schools based on per-pupil need. That’s their central hub for any new students who need new materials or lost material replacement. Most districts have some sort of system in place, either at the district level or at the site level in which schools network with each other.

Counties that identified few or no textbook insufficiencies for the past two years emphasized the importance of having such systems to their schools’ success. Administrators also noted that implementing centralized systems, in addition to improving efficiency, has helped districts cut back significantly on unnecessary costs. Schools in need of textbooks can take advantage of other schools’ existing stores rather than



purchase extraneous materials. An administrator from San Diego County described,

If a school did not have enough of the needed materials, they would usually purchase more, as opposed to utilizing a centralized system where the materials could be transferred to the school in need. This alone has saved a significant amount of money. If they are still short on materials and the publisher does not have them we have a county list of adopted materials and try to connect districts to support one another.

These systemic advancements and collaborative efforts between counties, districts, and schools are continuing to help improve students' access to textbooks and instructional materials.

■ Old Problems Resolved, A New Problem Emerges

The *Williams* monitoring process has been so successful that some causes of insufficiencies that had been pervasive in the early years are no longer being reported. For example, it used to be common for schools to have “class sets” of textbooks. A “class set” existed when there were enough books for each student to use in one class period, but not enough for all students to have their own to take home. No longer is this cited as a problem. It had also been common for schools to require students to pay for lost or stolen textbooks before issuing a replacement; now it is rare to hear of such instances taking place. One administrator from Stanislaus County shared,

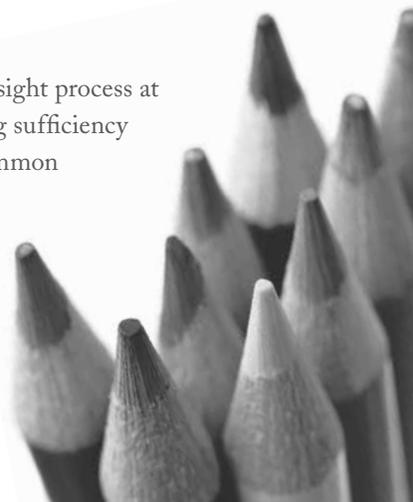
*If a student lost a book, there used to be a policy that the student wouldn't get another book until it's paid for, but there are some families that cannot afford to pay for those books. I was always concerned for those students — they're here to learn, how are they going to continue to learn if they don't have a book? I have to say, that since *Williams* has been instituted, those problems no longer exist. I don't ever see that anymore.*

Though these problems have thus been resolved, a new problem has emerged. As a result of the state adoption suspensions, many districts have been holding onto textbooks from adoption cycles as far back as 2001. Because local education agencies are also required to provide each student with instructional materials from the same adoption,²¹ when schools need more books — whether enrollment has increased, textbooks have become unusable due to wear and tear, or more consumable materials such as workbooks are required — they have to get the same editions that they had first purchased as many as 12 years ago. The problem is that these editions are no longer in print.

In the last two years, publisher backlog has emerged as the most commonly reported cause of textbook insufficiencies. County administrators confirm that adoption suspensions are at the heart of the issue; because publishers either wait for orders to be placed before printing older editions or refuse to produce new copies at all, schools struggle to locate additional copies. Some have been able to utilize their district's centralized inventory to locate extras or make use of discarded copies left over by a school in another district that has since moved on to a more recent adoption. Others have resorted to online marketplaces such as Amazon or eBay. Administrators at both San Bernardino County and San Diego County report districts have even paid significant costs for the rights to duplicate materials in-house. Fortunately, all county and district staff that noted problems due to the adoption suspensions also affirmed that schools were able to resolve them through a combination of the aforementioned strategies. Many of the schools that continue to hold onto older adoptions due to budgetary concerns are the very schools that have been subject to *Williams* monitoring for many years, and are therefore well-equipped with the systems, experienced personnel, and capacity to overcome these new challenges.

■ County Oversight Remains Important

County offices of education across the state agree that it is still important to maintain the *Williams* oversight process at decile 1-3 schools. Remarkable progress notwithstanding, there remain persistent challenges to ensuring sufficiency that are ameliorated by annual county monitoring. Inventory and distribution issues are still cited as common causes of insufficiencies, as are newly transferred students and unexpected changes in enrollment. Schools and districts that are new to the *Williams* process invariably require additional guidance, and administrator turnover generates insufficiencies even for schools that have been subject to additional oversight through multiple cohorts. An administrator from Los Angeles County shared, “Unless you go out there and ensure through monitoring, it's very easy to backslide, especially with large turnover in administrative staff and changes in the priorities of that staff.”



SMARTER BALANCED ASSESSMENT

In 2011 California joined the Smarter Balanced Assessment Consortium (SBAC), a multi-state consortium tasked with designing a new assessment system aligned to the Common Core State Standards. The new assessments utilize online, computer-adaptive tests, and will be ready for implementation in to 2014-15 school year. Though the SBAC has released system requirement specifications and developed a “Technology Readiness Tool” to identify infrastructure gaps that might serve as barriers to computer-based assessments, it remains unclear exactly how the SBAC will ensure that all students have equal access to the devices and internet connectivity required for these new tests.

For more information, see <http://www.smarterbalanced.org> and <http://www.cde.ca.gov/ta/tg/sa/smarterbalanced.asp>.

An administrator from San Mateo County echoed this worry, offering an example of one district that experiences frequent turnover:

Despite the fact that they might get someone in there who gets the process down, that person is often gone a year or two later and someone else has to step in and learn the process. The schools depend on this person at the district office, and that person keeps turning over. So if we were not to go back and visit, I would not feel comfortable saying, “I’m pretty sure those books are in those classrooms.”

Many county administrators agree that schools and districts may not be as conscientious about adhering to *Williams* sufficiency standards without county oversight, especially in tough fiscal times. With many competing demands on insufficient funds, districts facing hard choices must often allocate their budgets strategically and it is only realistic that some might be tempted to give textbooks less of a priority. But *Williams* makes clear that every student has a right to sufficient instructional materials and reinforces the absolute importance of providing equal educational opportunity at all of our schools. An administrator from San Joaquin County shared,

When money’s scarce, it’s easy to say, “Oh, we could have kids share books,” or “We’ll order just the first part of the books now and worry about the rest later.” It would be easy to do that, but Williams continues to put the focus where it should be — on the kids, and the materials that the students and teachers need to have. I’m not saying that people would do that maliciously, but if you’re really strapped for money, you try to be creative with how you can make your money go further. People might see making do with insufficiencies as a positive solution when in fact it’s not a solution at all.

Williams ensures that sufficiency of textbooks and instructional materials remains a top priority. The sufficiency standard and oversight processes established by the *Williams* Settlement Legislation continue to positively impact student learning at California’s most vulnerable schools.

■ Looking Forward: Common Core and Digital Instructional Materials

Maintaining the *Williams* sufficiency requirements will continue to be critical as schools address changes in the content and delivery of instructional materials. As districts implement the California Common Core State Standards, they will have greater autonomy to determine the content of their adoptions and will be purchasing new materials for all students that need to be distributed equitably. Moreover, burgeoning demand for digital instructional materials means the concept of what constitutes “instructional materials” is quickly evolving, and the definition of “sufficiency” must adapt to keep up with it. Schools are looking towards *Williams* for guidance on how to ensure commitment to equal educational opportunity is preserved throughout these complicated transitions.

Nearly every county reported receiving questions about the implementation of digital instructional materials, and more specifically about what “sufficiency” looks like for devices, licenses, software, media, and internet connectivity as



opposed to textbooks. The sufficiency standard established by the *Williams* Settlement Legislation and modified by subsequent legislation offers a useful starting point for developing policies to ensure equity and access for all students.

Keeping the *Williams* sufficiency standard in mind, many schools have already begun experimenting with pilot programs. For example, one high school in San Bernardino County has purchased Kindle readers in lieu of textbooks for every student in a single period of Calculus to take home and use in class. Napa County offers a pilot program to all of its middle school social studies and science classes that tests the use of Discovery Techbooks as supplementary materials. Fresno County reports some of their schools have 1:1 laptop or iPad environments. Notably, in February 2013, the Los Angeles Unified School Board approved \$50 million in school construction bonds to buy tablet computers, install wireless systems, and train teachers at 47 schools.²³

Schools in rural or remote locations, however, are more apprehensive. They worry that in the rush to go digital, their students — who have marginal accessibility to broadband services — will get left behind. For example, an administrator from Mendocino County shared,

The cost per student for connectivity is so high, it becomes an equity issue. How do you provide them the opportunity? The problem is, for those kids at that remote school, it could cost you hypothetically \$3,000 per kid, because for the vendors the infrastructure might cost them \$500,000 just to run the line in there. And they can't charge a school district that, it would break the school district.

As schools across the state experiment with digital instructional materials and grapple with questions of how to provide their students access, the *Williams* standards should ensure that equal access to instructional content is prioritized.



Education Code and Official Guidance on Digital Instructional Materials

California Education Code Section 60119(c)(1) includes a provision that directly addresses digital materials:

The materials may be in a digital format as long as each pupil, at a minimum, has and can access the same materials in the class and to take home, as all other pupils in the same class or course in the school district and has the ability to use and access them at home.

The California Learning Resource Network (CLRN) provides the following guidance:

... if a district provides students with standards-aligned electronic textbooks, each student must have the electronic equipment necessary to access the materials in class and at home in order to meet the sufficiency standard. If a district provides students with standards-aligned web-based instructional materials, each student must have the electronic equipment necessary to access the materials and an active Internet connection in class and at home.

If any students cannot access the electronic instructional materials at home because they do not have the necessary electronic equipment and/or an active Internet connection, the district may still meet the sufficiency standard if those students receive printed instructional materials that are identical in content to the electronic or web-based instructional materials. Alternatively, school districts may meet the sufficiency standard by providing those students with the electronic equipment and/or active Internet connections they need at home to access the materials, but they cannot require students or their parents/guardians to pay for the electronic equipment and/or Internet connections.²²

ENSURING EQUITY IN A DIGITAL WORLD: RIVERSIDE UNIFIED SCHOOL DISTRICT

Riverside Unified School District (RUSD) was the first district in California to formally adopt digital textbooks and has made significant progress in bringing its instructional technology program to scale. The district has deployed devices – iPads, tablets, netbooks, and laptops – to approximately one fourth of its 44,000 K-12 students. Three schools have fully implemented 1-to-1 computing environments where the district has provided a device to all students, and devices have replaced traditional textbooks as the core instructional material. At other schools, implementation is consistent across either grade level or subject matter, but otherwise incomplete. For example, a school may have implemented digital materials for all of its fifth graders but no other grade, or for all of its Algebra classes but no other subject.

In implementing its instructional technology program, RUSD has been conscientious about ensuring equity and access for all its students. Deputy Superintendent Michael Fine reported how Riverside has approached these issues in practice. The points below offer tangible examples for other districts also engaging with the process of implementation.

- ⇒ *No changes to adopted material.* Where devices have replaced textbooks as the core instructional material, the content provided in the device is identical to that of the board-adopted textbook. In the vast majority of cases, the material is simply a .pdf version of the textbook which is available from publishers free of charge. Identical content is important for maintaining sufficiency where not all schools have made the switch; even if the method of delivery is different within a district, the required content remains the same. RUSD has also looked into multi-dimensional instructional materials made for digital delivery, though such materials come with additional costs and license fees. The district has made use of such materials to supplement their core instructional materials.
- ⇒ *Using an app and online Learning Management System.* RUSD uses an app that it helped develop called Intelligent Papers. This app interfaces with the student information system and downloads the textbooks necessary for all of the classes the student is enrolled in. If a student's schedule changes, the app takes away and replaces appropriate content as needed. Instructional materials are then on the devices themselves, and students do not require internet to access their materials after the initial download is complete. Teachers post assignments and instructions onto an online learning management system. To account for the fact that students may not have 24 hour access to the internet, the Intelligent Papers application caches all of the learning management system updates so students can still access all necessary materials as files on their devices.
- ⇒ *All campuses have wireless access.* All RUSD campuses have wireless access. Some are more robust than others, but the district is in the process of getting all connectivity to the same standard. The district has recently upgraded its bandwidth to 1 Gbps and transitioned from a switched, fiber network to a private point-to-point network. It is also considering providing wi-fi on schoolbuses for student use.

⇒ *Off-campus internet access.* Not all students have reliable access to the internet outside of school. Though Riverside as a community has a public wi-fi service, it is not sufficient enough for regular use. To account for this, teachers upload important materials onto the learning management system instead of just providing a link. If there is something for an assignment that must be downloaded, it is the student's responsibility to make sure to do so before leaving campus. RUSD has also worked to collaborate with local businesses that offer wi-fi hotspots, such as coffeeshops, to broaden student internet access. In addition, the district is in constant communication with a service provider about offering low-price broadband access for students' homes. At present the district has been able to negotiate a price of about \$9 per month per household, and hopes to bring that price even lower.

⇒ *BYO Device.* Many of the schools in RUSD operate a "bring your own device" program. Schools issue a survey to gauge student need, and those who are unable to bring their own device are provided one by the district at no cost. Students check out a device to use in class and take home, and the device is theirs for the entire school year. Schools use the same inventory system as they do for textbooks to keep track of what device has gone to what student. Though it is not required, parents may purchase insurance against loss or theft.

⇒ *Equity within school.* Though different schools may have different levels of implementation, principals are careful to ensure all students within the same school are given equitable access to digital materials. For example, one

elementary school was able to provide some form of digital instruction to nearly all grades but would only have been able to afford partial implementation for the fourth grade. Rather than give some fourth graders access to digital materials but not others, the school has opted to make a clean cut and not implement any digital materials for all fourth graders. Note that while certainly important to consider, this particular attention to intra-school equity of digital delivery is not necessarily a concern in terms of *Williams'* definition of sufficiency so long as all students have the required materials in some format to use in school and take home.

Deputy Superintendent Michael Fine notes that for all its success, the district is still learning. RUSD has not issued a written policy or statement regarding equity of implementation and continues to grapple with the many complex issues associated with providing digital instructional materials. Nevertheless, their experience offers an example of how one district is navigating the transition while remaining true to the principle of equal educational opportunity for all.





The State could assist in this transition by supporting improved inventory and distribution tracking systems for instructional materials.

Though gains in sufficiency ranked among the greatest successes reported by county offices of education, the amount of time required to conduct textbook reviews was consistently identified as a challenge. Many districts still do not have a digital process for inventory and distribution and make determinations at their instructional materials sufficiency hearings based on inadequate information. The lack of real-time information concerning what textbooks are available seriously impedes districts' ability to ensure students have the appropriate materials in their hands and also makes it more difficult for *Williams* team members to complete their reviews.

A comprehensive, digital tracking system will become increasingly important with the implementation of Common Core. With districts having discretion to determine which standards-aligned curriculum to adopt, the universe of materials used will likely vary and counties will become reliant upon district systems to inform the *Williams* monitoring process. Furthermore, at a time when the State is encouraging schools to modernize school curricula, library and textbook staff are still relying on paper trails and counting books by hand. If California is serious about delivering education into the 21st century, the Legislature should provide adequate support for schools to update their infrastructures accordingly.

SCHOOL FACILITIES

CHAPTER 4

The school facility standards and reporting procedures established by the *Williams* Settlement Legislation continue to help California’s schools identify deficiencies and maintain facilities in good repair. Conditions in low-performing schools have reportedly improved even in the face of mounting fiscal challenges and reductions in maintenance and custodial staff, but the urgent need for more financial support is increasingly apparent. Many school sites are aging and experiencing general degradation. A significant number of emergency facility needs remain unaddressed due to a dearth of resources for major repairs, including the stalled Emergency Repair Program (ERP) funding. Counties, schools, and districts are working diligently to maintain facilities in good repair, but are struggling to accomplish more tasks with fewer people and fewer funds. Despite their best efforts, our schools cannot hope to fully realize *Williams*’ promise of safe, clean, and functional facilities for all students without increased support from the State.

■ Background

The *Williams* Settlement Legislation created substantive standards for “good repair” and “emergency facilities needs,” and established overlapping accountability systems to ensure these standards are met. The Settlement Legislation developed an Interim Evaluation Instrument (IEI), replaced in 2007 by the permanent Facilities Inspection Tool (FIT), in order to standardize the assessment of school conditions. If a school exhibits any condition that prevents it from being deemed completely clean, safe, and functional as determined by the FIT, then that school has a “good repair” deficiency. Deficiencies can range from relatively minor, such as a burned-out light bulb, to urgent and extreme, such as structural damage. Conditions that pose a threat to the health or safety of students or staff are identified by the FIT as “emergency facilities needs.” All schools are held accountable to the good repair standards, and must evaluate and report on facility conditions using the FIT. Also, by using the Uniform Complaint Process, parents, students, teachers, and other community members can identify threats to health or safety at their schools and make sure they are addressed. County superintendents provide an additional layer of oversight in decile 1-3 schools. Low-performing schools were also eligible for millions of dollars in emergency repair funds through the Emergency Repair Program established by the Settlement Legislation.

What is a good repair deficiency?

A good repair deficiency is any condition that prevents a school from being deemed completely clean, safe, and functional as determined by the Facilities Inspection Tool.

What is an emergency facilities need?

An emergency facilities need is any condition that poses a threat to the health or safety of students or staff.

■ Reports Indicate Improved Conditions Against All Odds

Data collected from county offices of education show that facility conditions at decile 1-3 schools have improved. In 2007-08 when the FIT was introduced, county superintendents found that 86% of all schools monitored had one or more good repair deficiencies. By 2012-13, that figure had decreased to 75% (Table 1). The percentage of schools with one or more emergency facilities need has also decreased significantly in recent years, suggesting that schools may be safer now than they ever had been in preceding years of *Williams* implementation. From 2004-05 to 2007-08, the percent of schools with emergency facilities needs held constant at 13%, with the exception of a minor dip in 2006-07. In the last two years however, less than 5% of all decile 1-3 schools were reported as having any conditions that posed a threat to the health or safety of students or staff (Table 2).

TABLE 1

Percentage of Decile 1-3 Schools with Good Repair Deficiencies

	2004-05	2005-06	2006-07	2007-08	2011-12	2012-13
Percentage of decile 1-3 schools with one or more good repair deficiency	64%	60%	83%	86%	77%	75%

Data from the ACLU *Williams* Implementation Survey

TABLE 2

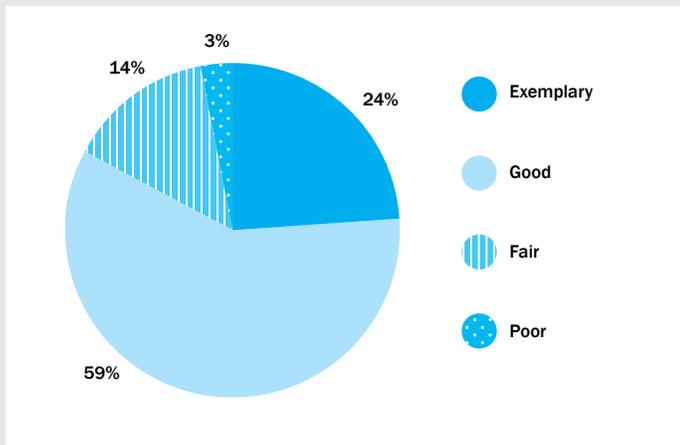
Percentage of Decile 1-3 Schools with Emergency Facilities Needs

	2004-05	2005-06	2006-07	2007-08	2011-12	2012-13
Percentage of decile 1-3 schools with emergency facilities needs	13%	13%	11%	13%	5%	4%

Data from the ACLU *Williams* Implementation Survey

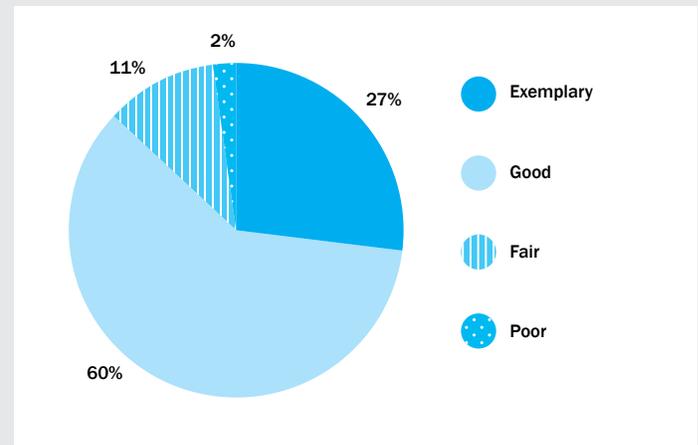
Individuals familiar with the facility inspections attribute the increase in the percentage of decile 1-3 schools with one or more good repair deficiencies after the first two years of implementation to facilities inspectors having an improved understanding of what constitutes a good repair deficiency, and increased willingness to document all deficiencies after the introduction of the FIT with its more nuanced rating system. In addition to the learning period that accompanies any new process, some inspectors in the early years of implementation expressed reticence about formally reporting deficiencies that they believed were relatively minor because the IEI used to determine good repair before 2007 placed schools in only two categories — “good repair” or “not in good repair.” The FIT responded to this concern by including a ratings system that enables inspectors to rank schools from “Poor” to “Exemplary” and place individual deficiencies in context.

Good Repair Ratings of Decile 1-3 Schools in 2007-08



Data from the ACLU Williams Implementation Survey

Good Repair Ratings of Decile 1-3 Schools in 2012-13



Data from the ACLU Williams Implementation Survey

After nine years of implementation, school site staff and county inspectors alike are more knowledgeable about what constitutes a deficiency and how such deficiencies must be reported. The decreases in the number of decile 1-3 schools with identified good repair deficiencies in recent years can therefore be understood as representing actual improvements in the condition of school grounds.

Accounts from County Offices of Education Confirm Positive Changes

Anecdotal evidence from county offices of education confirm that the emphasis *Williams* placed on good repair and school facilities generally has translated into positive changes. After an initial period of apprehension regarding facilities inspections, decile 1-3 schools have largely come to embrace *Williams*. For example, one member of San Joaquin County's inspection team reported,

Initially they were somewhat apprehensive the first year, but once they realized we were there to be objective and offer support and help, they were much more receptive. The schools that seem to have done the best are the ones that really embraced this, were eager to accept our suggestions and assistance, and really strived to improve conditions at their schools.

Over time, facilities inspections have often grown into a collaborative endeavor that has fostered greater transparency between schools and counties with regard to deficiencies. County offices of education report that the monitoring process has improved relationships between counties, districts, and schools, and that all work together to help maintain sites in good repair. One county administrator noted that school staff are "more eager to share the things that need a little mending" because they see *Williams* as something "positive." Another shared, "Teachers and principals often comment that they are glad we come to review every year because 'things get fixed.'"

The substantive standards, evaluation system, and provisions for additional county oversight established by the *Williams* Settlement Legislation not only defined the expectations for maintaining good repair, but also equipped school site staff with a positive means of leveraging district support to ensure their facilities are brought into compliance. An administrator from Kern County shared,

They take it very seriously, they really do. And the site staff actually like it because it gives them ammunition to go back to the district and say "Look, Williams found this deficiency, it's got to be corrected, and we've got to show that it's been corrected on our SARC."

Districts now give greater priority to decile 1-3 schools as a result of *Williams* monitoring and accountability measures. For example, one administrator reported seeing "a reallocation of funds to the decile 1-3 schools in order to meet the minimum requirements for *Williams* inspections." An administrator from Los Angeles County shared that one district prioritizes the work orders of schools that have had multiple years of "Poor" ratings. Still other counties confirmed that it has become district practice to attend to repairs at schools that are subject to *Williams* oversight before attending to the needs of schools that are not in deciles 1-3. County administrators noted that staff at these low-performing schools, previously unaccustomed to receiving prompt attention from their districts, express



great appreciation for the additional oversight. A member of San Diego County's facilities inspection team shared,

Staff will tell me, "Remember you cited this? Well I talked to the boss and we got it taken care of. We had been complaining about this for 12 years! And your writing it up, you helped us find a solution." They're very appreciative, and they are so proud when they get to resolve a problem.

■ Struggling To Do More With Less

Accompanying this narrative of improvement, however, is an escalating narrative of financial need. School budgets were significantly reduced starting in 2009, and legislative measures intended to ease the difficulty of absorbing these large revenue cuts enabled local administrators to allocate funds previously restricted for facilities maintenance towards other needs. This meant that not only was less funding given to schools for maintenance, but also that those dollars were often funneled away to cover other educational expenses. Many schools have been forced to substantially cut their maintenance and custodial staff as a result, decreasing schools' capacity to address mounting facilities needs. Lack of financial support for facilities has made it increasingly difficult for schools to keep up with good repair.

In the past, the Deferred Maintenance Program and required contributions to Routine Restricted Maintenance Accounts ensured that districts kept up at least a minimum level of support for facilities maintenance. But as highlighted by Legislative Analyst's Office (LAO) survey results, categorical flexibility has resulted in a massive disinvestment in maintaining school facilities. According to the latest LAO survey, over 70% of districts shifted funds away from Deferred Maintenance in 2011-12 and 31% reported shifting all funding away from Deferred Maintenance since the state granted categorical flexibility in 2009.²⁴ Notably, in the same survey, districts identified Deferred Maintenance as the top categorical program that they would like to see maintained. Only 27% of districts surveyed believed it should be eliminated completely.²⁵

In another report, the LAO cited these findings and warned against the dangers of eliminating the Deferred Maintenance Program:

We are concerned that repealing spending requirements for maintenance would jeopardize the large local and state investments in school facilities made over the past decade. Data on how districts have responded to recent categorical flexibility provisions suggest that competing spending priorities at the local level can lead districts to underinvest in maintaining their facilities. Such practice could result in unsafe conditions, a push to pass new state bonds, and/or additional lawsuits against the state.²⁶

Now, under the new Local Control Funding Formula (LCFF), there are no protected Deferred Maintenance funds. Enacted in 2013, the LCFF eliminated the majority of the existing categorical programs and subsumed them into the new finance system. Though the funding districts previously received for Deferred Maintenance is still included in the new formula, districts are not specifically required to use these funds for that purpose.

In 2009 the state Legislature also reduced the amount of general funds that schools must set aside for their Routine Restricted Maintenance Accounts, which are dedicated to providing funds for ongoing and major maintenance of school buildings, from 3% to 1%. The Legislature made this decision despite having recognized through previous legislation that contributions below 3% are inadequate to properly maintain school facilities.²⁷ Moreover, districts that maintain their facilities in good repair are exempt from making even this 1% contribution.²⁸ These provisions will remain in effect until at least 2014-15.

Nearly every county reported reductions in maintenance and custodial staff in the wake of state budget cuts. Los Angeles Unified School District alone has lost over 1,000 custodians, plant managers, carpenters, electricians, and plumbers in the last five years.²⁹ Though schools are reportedly still careful to promptly resolve emergency facility needs, many do not have the staff available to prevent degradation or remedy good repair deficiencies in a timely manner. Custodial issues, such as declining overall cleanliness, were commonly reported. The San Bernardino County Office of Education shared a representative statement:

Our staff has observed an increase in facility deficiencies related to cleanliness. Districts have communicated that there has been a decrease in janitorial staff due to state budget cuts. As a result, frequency of routine cleaning has decreased in classrooms and ancillary areas. In addition, some districts have reported closing more restrooms due to lack of janitorial and supervisory staff. A few districts have also expressed to our Williams teams that recent budget cuts have impacted the financial resources necessary to maintain their school sites in good repair.

Many counties expressed concern that their schools are barely getting by, struggling to maintain good repair with inadequate funding and reduced staff. One county administrator shared, “They’re at the point now that if things get cut yet again, they’re not sure what they are going to do. We just go year by year with that.” A district staff member also shared, “They’ve just tightened their belts up and said they’re going to just have to do as much as they can with fewer people.” Some sites have already begun to see more extreme consequences. For example, the Mendocino County Office of Education shared,

We have observed roofs covered in plastic because the budget did not support re-roofing. We have seen broken windows, deteriorating asphalt walkways, and unsafe fall zone areas under play structures. We have seen ancient electrical services that would frighten most electricians that are waiting to be replaced because more urgent items must be addressed first to keep the school open.



■ Critical Need For Emergency Repair Funds

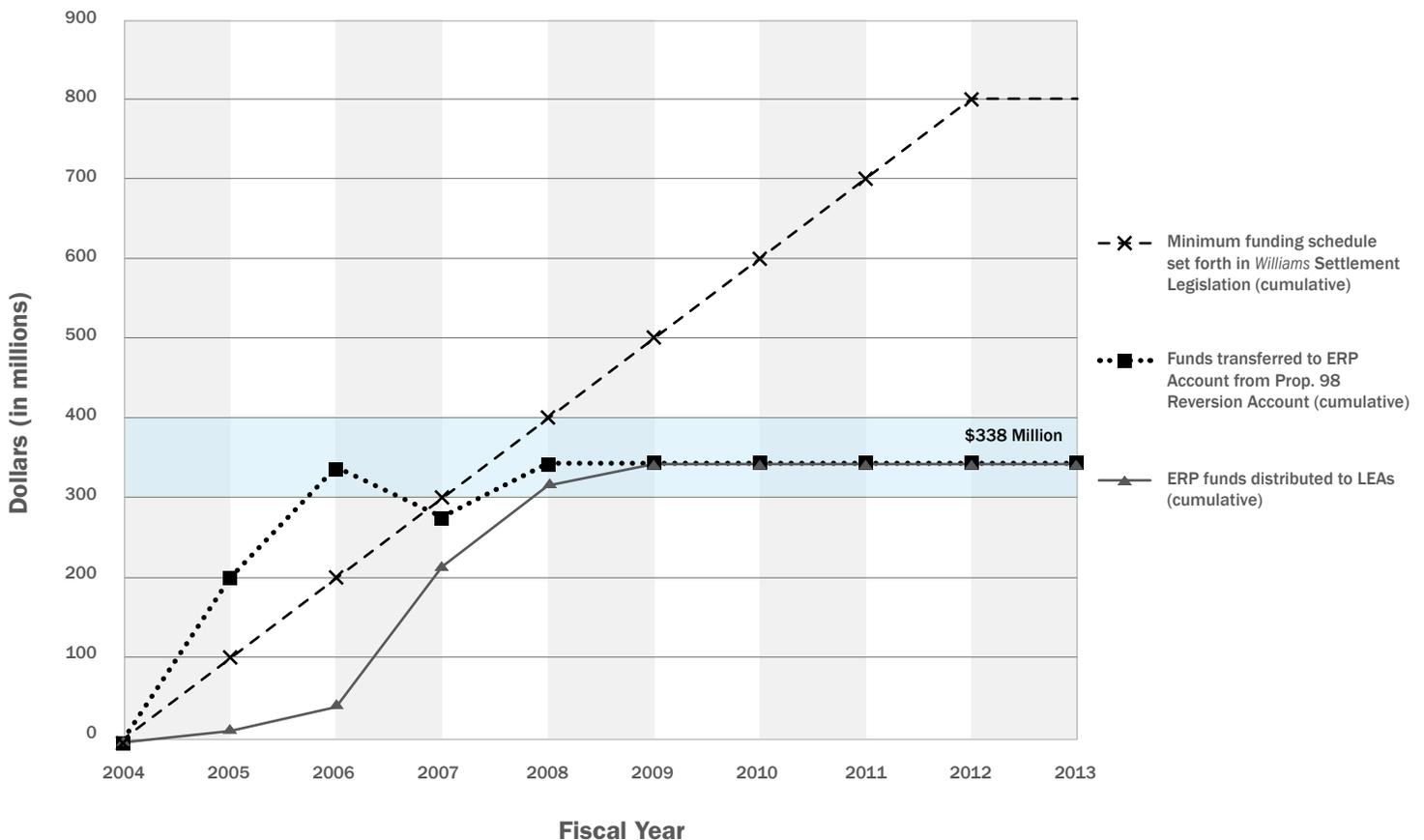
These problems are exacerbated by the fact that there is no statewide source of dollars available to allocate towards urgent, large-scale school facilities repairs. Bond authority for the School Facilities Program, which provided grants for constructing and modernizing school facilities, is at the point of being exhausted.³⁰ The *Williams* Settlement Legislation established the ERP precisely to address the need for emergency repair funds, but the state Legislature has not fulfilled its funding obligation. With the ERP account empty, many districts have nowhere else to turn.

THE EMERGENCY REPAIR PROGRAM

The *Williams* Settlement Legislation established the ERP to provide school districts with \$800 million to immediately address facility conditions in low performing schools that pose urgent threats to students' health and safety.³¹ The statutory ERP funding formula called for annual transfers of \$100 million dollars or more from the Proposition 98 Reversion Account to the ERP Account. Had the State allocated the minimum required amount each year, fully \$800 million should have been transferred to the ERP Account by 2012. Instead, the State's net transfers to the ERP Account have totaled only \$338 million through the 2013 Budget Act and the State's cumulative net contribution to the ERP in the last five years has been \$0.

Now the ERP Account is empty, the Legislature has been annually amending the settlement statute to postpone appropriation of the required funds, and students in low-performing schools whose districts applied for help with health and safety repair projects up to five years ago continue to be exposed to critical dangers.

ERP Funding (2004 - 2013)





The State is \$462 million behind the minimum funding schedule set forth in the *Williams* Settlement Agreement. The Legislature must use both the Reversion Account and its authority under Education Code Section 17592.71(c) to transfer sufficient funds into the ERP Account and fulfill the State's obligations under the *Williams* Settlement to address long-standing threats to students' health and safety.

Upwards of one hundred districts across the state are waiting to address identified emergency facility conditions that would have been resolved long ago if only ERP funds had been made available on schedule. For example, the \$100 million minimum allocation due each year would provide more than 60 districts with funding to pay for emergency repairs at over 550 schools. Projects that could be completed with \$100 million include over \$11 million for fire-life safety system repairs (e.g., faulty or non-functioning smoke/fire alarms and sprinkler systems), nearly \$34 million for critical plumbing and electrical repairs, and \$55 million to rectify extensive structural damage.

Funding for urgent health and safety repairs is in such high demand that the State Allocation Board's Office of Public School Construction stopped adding to its workload list in 2008, and ceased accepting further applications in 2010. The balance of the \$800 million has already been claimed, promised to thousands of emergency projects that have been languishing in the funding queue for over five years.

SNAPSHOT OF APPROVED YET UNFUNDED ERP PROJECTS AS OF 2013

Project Type	Number of Projects	Amount Approved	Description of Common Repairs
Roofing	459	\$119,445,569	Damaged or leaking roofs, or other structural roof damage; mold, dry-rot damage
Paving	406	\$93,602,286	Cracked, broken, or damaged concrete; uneven walking and playing surfaces create trip and fall conditions
Structural Damage	75	\$54,866,404	Dry-rot; extensive termite damage; existing building deemed unsafe; severe water intrusion
HVAC	471	\$47,356,497	Failed or leaking air conditioning and heating units; malfunctioning equipment and components; extreme, unbearable temperatures
Other	1,183	\$33,580,054	Damaged, moldy, and falling ceiling tiles; deteriorated and vandalized gas lines and equipment; gang related graffiti; pest infestation; tree removal
Campus Grounds	69	\$20,817,672	Playfields have tripping hazards and are infested with gophers; track is damaged and uneven; irrigation systems broken
Electrical	384	\$17,592,285	Nonfunctioning, unsafe electrical system; deteriorated and vandalized electrical wiring, fixtures, and service panels; broken ballasts; exposed wiring causing fire and shock hazards
Plumbing	471	\$16,315,777	Broken, leaking, or backed up water, sewer, or gas lines; deteriorated water lines, valves, and fixtures
Fire / Life Safety	198	\$11,029,452	Nonfunctioning or faulty fire and smoke alarms
Playground Equipment	90	\$10,565,591	Deteriorated and vandalized equipment; damaged ramps and uneven grounds
Flooring Systems	280	\$10,350,970	Deteriorated flooring creates dangerous trip hazards
Windows / Doors / Gates	466	\$9,137,200	Damaged or broken windows, doors, and gates
Hazardous Materials	37	\$7,898,257	Asbestos; toxic mold; severely chipped and cracked lead paint
Wall Systems	170	\$6,927,725	Deteriorated and vandalized wall systems and components; walls water damaged, causing life / health hazards
Total	4,759	\$459,485,739	



The Costs of Failing to Fund the ERP

A 2012 *California Watch* article highlighted other consequences of the State's failure to fund the ERP:

As school districts continue to wait on state funds, initial needs have grown more severe and expensive. In some cases, the cost of waiting goes beyond deteriorating buildings. Moreno Valley Unified closed off a portable classroom at Edgemont Elementary School after mold and water saturated its walls and ceiling and seeped beneath its floors. As a result, Edgemont does not have enough classrooms to serve students, and the district must bus children elsewhere. This past year, 18 kindergartners who would have used the portable were sent to two other schools.

For more than four years, the district has been waiting for more than \$75 million to make repairs at its lowest-performing schools.

"If we had that portable available, those 18 kids, they would have stayed at the site," said Sergio San Martin, director of the district's facilities planning division.

The portable remains on campus, unused, because the district cannot afford to remove and replace it without emergency repair funding.³²

Keeping Districts Waiting

Consider how a single school district is being affected by the ERP funding shortfall. Santa Ana Unified submitted ERP applications in March 2008 and is still waiting to receive funding to address a range of critical health and safety threats at a number of district schools, including:

- ⇒ Failing boilers and a non-functional fire alarm system at a large high school;
- ⇒ A high school with deteriorating plumbing that forced the school to shut off water to drinking fountains and restrooms, broken sewer lines, gas line leaks, and broken windows throughout the campus;
- ⇒ Dangerous conditions on elementary school playground and play structures that have led to injuries, resulting in children not using the fields due to safety concerns;
- ⇒ Elementary school and high school roofs that have failed and are in distress, causing major leaks and creating an unhealthy environment for the students and staff; and
- ⇒ Deteriorated fencing at a high school that it is compromising campus security.

Once the State makes good on its obligation to fund the ERP Account, Santa Ana Unified will receive funding for all of these critical repairs, but not until then.



Some districts have been able to pass bonds to fund maintenance, modernization, and new construction. Upon follow-up, county and district administrators vigorously agreed that were it not for such bond monies, they would not have had adequate funds to maintain good repair. For example, an administrator representing San Diego Unified School District shared that the district has been relying solely on bond funds for major repair and replacement projects but noted that these funds will run out by next year:

We have another bond, but we can't use that for emergency repairs... So two years from now when we only have general fund money, we're going to be really limited. I don't know what we're going to do. As maintenance gets underfunded, it's going to be more of a problem because the longer we defer maintenance, the more we're going to have emergency repairs, and then we're just going to have to take the money from something else.

Others, however, have not been able to pass any bonds. A quarter of school districts have not been able to pass a bond in 30 years.³³ For these districts, the need for ERP funds is particularly pressing. A district administrator from Kings County shared:

In our district's case, there are no other options. We can't pass a bond, so ERP money is just critical. I can't think of any other way to do it. We've already gone out and tried to pass a bond twice, and it failed.

In some cases, school buildings have aged to the point that even relatively routine maintenance requires significant funding. Without additional financial support, these schools cannot hope to keep up good repair. The same administrator elaborated,

My oldest building is from 1913, and the majority of my buildings were built in the 1950s. They're coming up with this modern day standard of what my facilities have to be held to, and it's basically impossible to do that. You could do whatever you want to an old building but you still have the same old shell, the same old pipes and utilities, and when things like that break down, it's not just a quick easy fix. It's a great big major deal. And without this Emergency Repair money, it's just not possible. And so that's the frustrating part... sometimes we're asked to do things that are just not feasible for us.

County and district administrators sang praises about how effective the ERP had been in the past, with an enthusiasm matched only by the disappointment generated by its abandonment. When asked to share particular successes, administrators frequently offered stories of districts being able to make substantial repairs that would have been impossible without ERP funds. For example, one district administrator shared,

I had schools that I was able to put new roofs on with the help of ERP funding, and had that not been possible we would still be patching leaky roofs. It's enabled us to keep the kids in a good, healthy learning environment. Each school cost about \$300,000 and it would have been impossible for us to fund those kinds of projects on our own. I can't speak well enough about it. I was disappointed to hear that the funding had stopped because it's a lawsuit, I don't know how the State of California can just stop paying into it. They haven't met their obligation.

When asked to share what challenges to *Williams* compliance they faced, administrators and staff invariably focused on insufficient funding and specifically emphasized the lack of ERP money. Failure on the part of the State to provide adequate funding has seriously hindered the *Williams* monitoring process and bred frustration for county inspectors and school maintenance staff alike. Counties noted decreased morale on the part of staff conducting facilities visits; without the ERP providing a credible funding source, inspectors are no longer able to offer a solution when pointing out schools' deficiencies. An administrator from San Bernardino County reported,

We've always looked at the process as a very collaborative process, and we look forward to working with the districts on the issues; however, when we go out now, the morale has gone down. They look at us and say, "we'd obviously like to be able to fix the problem, but we need the resources to do that."

An administrator from San Diego County echoed,

It helped to be able to say "Yes we found this deficiency but look, here's the process, you can get help." With the money drying up, it makes it hard. They say, "you're going to write a lot of the same deficiencies you wrote last year, because we haven't been able to fix them."

Those on the receiving end of the inspections are placed in the impossible situation of being told they must make repairs they simply do not have the funds to make. A district administrator shared,

Part of the problem now that we have the Williams facility walkthrough is that they go through and point out the things that we know need to be in repair, but we just don't have the money for it... And I understand that the people going around are doing their portion of that job, but it's almost as if I don't have a choice. They point it out, it gets put down on record, and I must fix it, but I don't always have the money to turn around and do that. So it's kind of a catch-22, you're mandating that I fix that, yet we're still waiting for the money to get it fixed.

Lack of funding greatly inhibits *Williams*' capacity to effect positive change. Administrators and staff interviewed at all levels were adamant in their commitment to the standards and processes established by the Settlement Legislation, but without the money, even their best efforts are frustrated. If the State wants to avoid a reversion to pre-*Williams* facility conditions, ensuring school facilities maintenance must be a top priority.

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If we don't get the funding, these buildings are only going to get older and in worse shape. We just can't feasibly fix it all. We're worried about keeping enough employees on just so that we can maintain what we have. We need ERP money.

Kings County Office of Education



LOS ANGELES TIMES COLUMN REVEALS WORK ORDER BACKLOG

A 2013 *Los Angeles Times* column exposed what years of budget cuts have done to campuses in Los Angeles Unified School District:

In the last five years, the district has lost about 500 custodians and plant managers, along with about 650 carpenters, electricians and plumbers, according to chief facilities executive Mark Hovatter.

"What we used to do with \$220 million a year, we are now trying to do with \$86 million," said Hovatter.

So what does this mean? It means that many of the district's 763 schools, especially the oldest ones, are falling apart. It takes months and sometimes years for the district to respond to calls for repairs, and when I asked for specifics, I couldn't believe the numbers.

"We get a lot of work orders," said Hovatter. "About 1,100 a day."

Eleven hundred?

Yes, he said.

Many of those are quick fixes. But there's an enormous backlog of tougher cases. How enormous?

As of Monday, there were 35,442 unresolved calls for service and repairs, some of them going back several years.³⁴

REPORT HIGHLIGHTS IMPORTANCE OF ADDRESSING FACILITIES NEEDS

In 2012, the Center for Cities & Schools published a report titled *California's K-12 Educational Infrastructure Investments: Leveraging the State's Role for Quality Facilities in Sustainable Communities*. This report highlights the importance of addressing high levels of deferred maintenance and other facility deficiencies:

High levels of deferred maintenance and other facility deficiencies are a significant concern for California, most importantly because when a school has a significant amount of these deficiencies, teaching and learning are hindered and education, health, safety, and other state goals are not met. Through the ability to prioritize funding, award hardship grants, and other policy levers, the State of California plays an important role in assisting LEAs in building new schools and repairing and modernizing existing schools to best support student success and overcome the deeply entrenched achievement gap experienced by low-income, African American and Latino students.³⁵

■ California's Schools Face an Impending Crisis

County offices of education across California see a facilities crisis looming, and all are saying the same thing: we need help.

From San Joaquin County:

The Legislature needs to realize that these schools are old but have been well-maintained because of the people. Because of the principals and because of the custodial staff at those schools over the years. But if districts continue to get less and less funding, and funding is just not available for facilities, we're going to see, in my opinion, an epidemic of schools that are structurally just not safe.

From Kings County:

It's just not possible for us, with the current budgets, and trying to keep personnel and employees on to maintain what we have. We need help. We need the money to be able to devote for facilities.

From San Diego County:

Schools are deteriorating. The lack of funds, the lack of maintenance resources is really affecting the good repair of the schools and it's only going to get worse. It's a slow death.

From Mendocino County:

The State needs to catch up on its obligation for funding schools, and they need to restore the funding to the level it was, and they need to catch up with the cost of living, and then they need to look at what they really need to fund, because it never was enough. It's all about the money. It was about the money when the Williams lawsuit was filed in the first place. Nothing's changed. In fact, it's gotten worse, the State isn't even fulfilling its Williams agreement from the court. It's just a compounding error, a compounding problem right now.

In all too many districts, this is the story: People are committed. Standards are well-established. School, district, and county personnel are all working together, and *Williams* is making a difference. The only element missing is State support. One county administrator stressed, "The Legislature needs



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It's been very difficult to hold the line. We have emergency repair projects that have been approved, and for years we've been waiting for funding. If that doesn't come through, it could be disastrous.

Kings County Office of Education

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to find the funds to support this. In our county, it's truly working, it's making a difference. We need them to step up and find the funding so districts can improve their facilities. It's an issue of dollars." As greater discretion in funding decisions is being provided to districts, the State must examine how it can fulfill its constitutional obligation to ensure equal educational opportunity for all.

■ Looking Forward

Ensuring that the relative progress *Williams* has fostered even in the midst of the Great Recession is not simply the calm before the storm will be a significant challenge that requires state-level leadership.

THE STATE BOARD OF EDUCATION SHOULD DEVELOP AN LCAP TEMPLATE THAT PROVIDES ADEQUATE GUIDANCE TO DISTRICTS REGARDING "GOOD REPAIR."

In light of the budgetary discretion districts enjoy under the Local Control Funding Formula (LCFF) and how districts responded to categorical flexibility, it will be important for districts to receive clear guidance regarding how to plan for maintaining all schools in good repair. Under the LCFF, every district is required to develop a Local Control and Accountability Plan (LCAP) that is effective for three years and establishes annual goals within eight state priority areas, describes what specific actions will be taken to achieve these goals, and details how funds will be spent to implement these actions. The first state priority includes maintaining school facilities in good repair. Thus the LCAP presents an opportunity for districts to evaluate their facilities needs and set forward-looking goals to ensure they address deficiencies and maintain all schools in good repair.

The LCAP template can assist districts by including prompts and instructions for the following:

1. Annual maintenance and capital renewal goals to ensure all schools are maintained in good repair;
2. A three-year maintenance plan with specific actions based on the goals and priorities identified through an annual assessment of good repair and existing deficiencies, including revisions necessary based on annual assessments of progress;
3. Annual assessments of progress toward the goals and effectiveness of the actions taken; and
4. A listing and description of expenditures to implement the specific actions in the maintenance plan, with clarifying language to ensure maintenance, operations, and custodial expenditures are captured and delineated.

Though all schools are already required to conduct facilities assessments using the Facilities Inspection Tool established by the *Williams* Settlement Legislation, the FIT only provides a point-in-time evaluation and is not a goal- or outcome-planning instrument. A clear and comprehensive LCAP



LEGISLATIVE ANALYST'S OFFICE RECOMMENDS PAYING DOWN ERP OBLIGATION

The LAO's 2012-13 Fiscal Outlook Report highlighted the importance of funding the Emergency Repair Program:

Over the coming five years, we project that funding increases likely will be sufficient to retire all the state's outstanding one-time education obligations while simultaneously building up ongoing funding significantly... Paying down these obligations is important for constitutional, legal, and fiscal reasons. Paying outstanding mandate claims is a constitutional requirement, the Emergency Repair Program is a statutory commitment relating to a court approved settlement, and eliminating deferrals/ making state payments on time is good fiscal practice. Because of the one-time nature of these obligations, the Legislature could retire them even as it builds up ongoing base support.³⁶



template would give districts the guidance they need to create and execute well-developed plans to properly address their facilities needs.

THE STATE SHOULD FUND THE EMERGENCY REPAIR PROGRAM.

The state Legislature is five years and \$462 million behind its obligation to fund the Emergency Repair Program, and cannot afford to ignore this critical need any longer.

The governor's proposed budget for 2013-14 included a proposal to pay off the State's outstanding debt to the ERP by 2016-17.³⁷ The State needs to follow through on the Governor's proposal and fulfill its commitment not only to the *Williams* Settlement but also to the students waiting on these critical repairs.

THE STATE SHOULD DEVELOP A SCHOOL FACILITIES INVENTORY.

California must develop a system for tracking the status and condition of its school facilities. With districts under-investing in maintenance in the wake of historic state budget cuts, it is essential to prioritize repairs. But as the Center for Cities & Schools' 2012 report on the State's educational infrastructure investments notes, California lacks the information to guide strategic K-12 infrastructure spending. The report emphasizes,

To ensure that school facility policies and funding decisions are made in the best interest of California's children, education data, facility information, and established priorities should be the guide. Strategic decisions can only be made with good information that is available to decision makers and the public.³⁸

Accordingly, the report recommends that the State "[d]evelop an inventory and assessment tool that measures the conditions and qualities of all California public school facilities."³⁹ As it stands, the State does not even have a reliable estimate on the statewide school facility needs. A data system for tracking and prioritizing these needs is a necessary first step towards avoiding a crisis of quickly deteriorating schools and protecting state taxpayers' investment of billions of dollars in these buildings.

The report's proposed next steps for developing a statewide inventory of school facilities builds upon programs established by the *Williams* Settlement. The *Williams* Settlement Legislation established the School Facilities Needs Assessment Grant Program (SFNAGP), which provided funding to districts to conduct needs assessments of facilities at their decile 1-3 schools. Furthermore, the Facilities Inspection Tool provides a standardized system of evaluation that has been used by all of California's schools for the past six years. The State could learn from the SFNAGP experience, utilize existing data collected through the FIT to start aggregating some basic facility condition information at the state level, and begin developing a robust inventory system. This would enable California to make informed, strategic funding decisions and more accurately project the cost of addressing all schools' maintenance and modernization needs.

QUALIFIED TEACHERS

CHAPTER 5

Students' access to appropriately certificated and assigned teachers has improved significantly over the course of the past nine years of *Williams* implementation. The number of teachers identified as misassigned in decile 1-3 schools has decreased substantially, with particularly notable reductions in misassignments due to lack of the proper English learner (EL) authorizations. In fact, data provided by county superintendents indicate that decile 1-3 schools may have made even more progress than is apparent in California Commission on Teacher Credentialing (CTC) reports. Firsthand accounts confirm that these numbers are indicative of true improvement in districts across the state. Many county offices of education report that districts have changed their hiring practices as a direct result of *Williams* and have made EL authorization a pre-employment requirement. Though persistent challenges remain, it is clear that *Williams* is making a difference.

■ Background

The *Williams* Settlement Legislation established clear standards and created new accountability systems for “teacher misassignments” and “teacher vacancies.” A “misassignment” occurs when a teacher lacks subject matter, EL, or other required training or authorization. A “vacancy” occurs when a classroom has no single, designated full-time teacher but is instead staffed by a series of substitutes. The Uniform Complaint Process allows parents, students, teachers, and community members to hold schools accountable for properly assigning teachers in accordance with these definitions. Districts must also report misassignments and vacancies in their School Accountability Report Cards (SARCs) based on these standards.

The Settlement Legislation also built upon an existing monitoring system to provide additional oversight for decile 1-3 schools. Whereas the existing teacher assignment monitoring process required by California Education Code Section 44258.9 reviews any given school once every four years, decile 1-3 schools are monitored annually under *Williams*.⁴⁰ County superintendents submit the results of all assignment monitoring and reviews to the CTC and the California Department of Education (CDE). The Settlement Legislation also increased focus on EL misassignments, and requires counties to report whether teachers in decile 1-3 schools assigned to classes comprised

What is a teacher misassignment?

A teacher is misassigned, for example, if the teacher:

- ☞ Is teaching a subject for which the teacher is not appropriately credentialed (e.g., a teacher with an English credential teaching Algebra); or
- ☞ Is teaching a class with one or more English learner(s) and lacks the proper authorization and training to teach English learners.

What is a teacher vacancy?

A teacher vacancy occurs when a class has no single, designated full-time teacher, but is instead staffed by a series of substitutes.

of 20% or more pupils who are English learners have the appropriate authorization and/or training to teach these students. All teacher misassignments and vacancies identified must be reported to district superintendents for correction. The CTC is required to submit biennial reports to the state Legislature concerning teacher assignments and misassignments, including data from the county superintendent reports.

■ CTC Finds Significant Decreases in Misassignments

The CTC reports that the percentage of certificated staff identified as misassigned has significantly decreased since *Williams* implementation first began and has attributed this success to the “new focus” created by the *Williams* Settlement.⁴¹ In 2005-06, the CTC reported that 29% of all certificated staff were misassigned; by 2010-11, that proportion decreased to 13% (Table 3). It is unclear from the CTC data why the trend line for the intervening years is so irregular; nevertheless, it is apparent that students’ access to appropriately assigned teachers has improved.

TABLE 3

Staff Misassignments in Decile 1-3 Schools (CTC Data)

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Total Certificated Staff Monitored	100,868	101,315	99,503	93,891	85,873	92,267
Total Certificated Misassignments	29,230	11,867	18,026	12,962	16,450	12,218
Percentage of Certificated Staff Misassigned	29%	12%	18%	14%	19%	13%

Data from the California Commission on Teacher Credentialing

There has also been significant improvement in the number of teacher vacancies identified since the CTC began tracking vacancies in 2007-08 (Table 4).

TABLE 4

Teacher Vacancies in Decile 1-3 Schools (CTC Data)

	2007-08	2008-09	2009-10	2010-11
Vacancies	547	462	229	235

Data from the California Commission on Teacher Credentialing

■ THE LIMITATIONS OF CTC TEACHER MISASSIGNMENT DATA

The CTC's methodology for gathering misassignment data makes it impossible to accurately calculate the true percentage of teachers in decile 1-3 schools that are misassigned. The percentages reported by the CTC are actually approximations that necessarily *overestimate* the proportion of misassigned teachers.

The crux of the issue lies in how misassignments are counted. In short, the CTC does not track the number of teachers who are misassigned. They collect the number of "misassignments." Misassignments are defined by the CTC as:

The placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate, credential, permit, or waiver with an appropriate authorization for the assignment or is not authorized for the assignment under another section of the law.

There is not a one-to-one ratio between the number of teachers and the number of misassignments because a single teacher may generate more than one misassignment. The CTC offers the following clarifying example:

A teacher at a high school may hold a credential for teaching departmentalized Biological Sciences with no authorization for teaching English learners. During a five period day he or she is assigned 3 periods of Biology, 1 period of Health, and 1 period of Chemistry. All five classes have one or more students requiring English learner instructional services. This individual has a total of 3 unauthorized assignments (misassignments). The count would be one misassignment in Health, one in Chemistry, and one in Specially Designed Academic Instruction in English (SDAIE) for the instruction of the English learner students. The count would not include multiple instances of the same misassignment. The five periods requiring a SDAIE authorization count as one misassignment that requires only one authorization to resolve all unauthorized assignments in this area. The other two misassignments in Health and Chemistry are counted separately as they each require a separate authorization in order to correct both misassignments.⁴²

In order to calculate an accurate percentage of misassigned teachers in decile 1-3 schools statewide, the CTC would have to compare the total number of **teachers** and number of **teachers misassigned**. The problem is that the CTC only collects the total number of **teachers** (and other certificated staff) and the number of **misassignments**. Instead of comparing teachers to teachers, the CTC compares teachers to misassignments – which, because any one teacher can generate more than one misassignment, is not an accurate comparison. The resulting percentage inevitably overestimates the proportion of staff misassigned.

It should also be noted that the number of "certificated staff" refers to more than just teachers; included in this count are non-teaching personnel requiring certification, including counselors and librarians. However, the number of non-teaching personnel is far outweighed by the number of teachers.

The CTC has always collected and reported teacher misassignment data this way. Therefore it does offer a consistent measure for determining progress from year to year.

Nevertheless, the methodology gives an inaccurate portrayal of students' access to qualified, properly assigned teachers in California. A *California Watch* article highlighted this issue in February 2013: <http://californiawatch.org/k-12/state-s-calculation-teacher-misassignments-gives-skewed-rate-18816>.

A more accurate method for collecting and reporting teacher misassignment information would enable policy makers to better understand the scope of the problem and more effectively prescribe solutions to ensure all of California's students have properly assigned teachers.

■ Challenges in Deciphering the Data

It should be noted that there are limitations to the conclusions the CTC can draw from the teacher misassignment data it collects from county offices of education. Most significantly, as detailed on the previous page, the CTC's reported percentages of certificated staff misassigned are inevitably overestimated. Responses to survey questions, which directly asked county offices of education for the numbers of misassigned teachers they identified, indicate that students have even greater access to appropriately certificated and assigned teachers than the CTC data would suggest.

Each county office of education was asked to provide the number of teachers monitored, the number of teachers with at least one misassignment, and the number of teachers who were misassigned as a result of lacking the proper EL authorization. By gathering these data points, it is possible to generate an accurate percentage of teachers misassigned.⁴³

The results are significantly lower than the percentages reported by the CTC. Forty-three counties representing 97% of all the decile 1-3 schools in the state submitted teacher misassignment data. Their responses demonstrate that only 3.2% of teachers in these schools were identified as misassigned in 2010-11. That figure decreased even more in 2011-12, with just 2.6% of teachers identified as misassigned (Table 5). While we do not have representative teacher misassignment data from the survey for earlier years, the numbers reported by counties for 2010-11 and 2011-12 suggest that the CTC's reports likely substantially overestimate the prevalence of teacher misassignments in decile 1-3 schools.

Though the survey responses and the CTC reports generate divergent estimates of the percentage of teachers misassigned, a comparison of the component data points provides insight into how teacher misassignments tend to occur. The CTC reported that there were 12,218 misassignments identified at decile 1-3 schools in 2010-11. The survey responses show that there were 2,545 teachers with one or more misassignments in 2010-11. If these respective numbers reported by the CTC and the county offices of education are accurate, this means that each misassigned teacher had an average of four to five misassignments. Under the CTC's definition of what constitutes a misassignment, this would mean that each teacher lacked an average of four to five different credentials that would be required to properly teach all of his or her classes. This suggests that teachers are being assigned to teach multiple subjects they are unqualified to teach, perhaps because schools are struggling to operate without enough teachers. Therefore, though the percentage of teachers misassigned may be very low, the problem of misassigned teachers is likely complex and serious where it exists.

■ Progress By Any Measure

Both CTC data and survey responses show that there has been dramatic success in reducing the number of teachers misassigned due to lack of proper EL authorization in decile 1-3 schools. Survey data indicate that only 0.6% of all teachers monitored were misassigned due to EL in 2010-11, and only 0.3% in 2011-12 (Table 6). Unfortunately without reliable responses from previous years, survey data are unable to illustrate how much this percentage has decreased over time. Limitations notwithstanding, data from the CTC provide consistent longitudinal information that approximates teacher

TABLE 5

Teacher Misassignments in Decile 1-3 Schools (COE Data)

	2010-11	2011-12
Total Number of Teachers Monitored	79,811	77,736
Number of Teachers with One or More Misassignments	2,545	1,996
Percentage of Teachers Misassigned	3.2%	2.6%

Data from the ACLU Williams Implementation Survey of County Offices of Education (COEs)

misassignment trends across multiple years. These data demonstrate just how dramatic the decrease in the percentage of teachers with EL misassignments has been. In 2005-06, 22% of staff had EL misassignments; by 2010-11, this figure decreased to only 1.7% (Table 7).

TABLE 6

Teachers Misassigned Due to Lack of EL Authorization (COE Data)

	2010-11	2011-12
Total Number of Teachers Monitored	79,811	77,736
Number of Teachers with One or More EL Misassignments	467	225
Percentage of Teachers Misassigned due to lack of EL authorization	0.6%	0.3%

Data from the ACLU Williams Implementation Survey of County Offices of Education (COEs)

TABLE 7

Staff Misassigned Due to Lack of EL Authorization (CTC Data)

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Total Certificated Staff Monitored	100,868	101,315	99,503	93,891	85,873	92,267
Total EL Misassignments	22,207	7,563	8,835	6,466	3,211	1,575
Percentage of Certificated Staff Misassigned due to lack of EL authorization	22%	7.5%	8.9%	6.9%	3.8%	1.7%

Data from the California Commission on Teacher Credentialing

This trend is corroborated by data on the number of classes with a high concentration of EL students (i.e., comprised of 20% or more EL students) in decile 1-3 schools taught by teachers lacking the proper EL authorization. Collecting this data was a new responsibility placed upon the CTC by the *Williams* Settlement Legislation. Notably, the CTC's methodology here does not suffer from the same limitations that afflict the calculus of its other teacher misassignment percentages. Because the percentage of classes with a high concentration of EL students taught by a misassigned teacher is calculated by comparing classes to classes, the resulting figures should be accurate. When *Williams* was first implemented in 2004-05, nearly a third of classes with a high concentration of EL students were taught by misassigned teachers; by 2010-11, this figure had decreased to just 1.2% (Table 8).

me is Ted and I'm a middle school
to
Max, who is



TABLE 8**High-Concentration EL Classes Taught by a Misassigned Teacher (CTC Data)**

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Number of high-concentration EL classes	141,732	151,305	143,645	138,829	143,838	122,053	129,735
Number of high-concentration EL classes with teacher lacking EL authorization	40,960	20,297	9,545	4,495	2,544	1,589	1,563
Percentage of high-concentration EL classes with teacher lacking EL authorization	29%	13.4%	6.6%	3.2%	2.1%	1.3%	1.2%

Data from the California Commission on Teacher Credentialing

Moreover, EL misassignments have been accounting for an increasingly smaller proportion of all identified misassignments. In 2005-06, an astonishing 76% of all misassignments identified were due to teachers lacking the proper EL authorization; by 2010-11, that figure had decreased to 13% (Table 9).

TABLE 9**Percentage of Total Misassignments Due to Lack of EL Authorization (CTC Data)**

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Total Misassignments	29,230	11,867	18,026	12,962	16,450	12,218
EL Misassignments	22,207	7,563	8,835	6,466	3,211	1,575
Percentage of Misassignments due to EL	76%	65%	49%	50%	19.5%	13%

Data from the California Commission on Teacher Credentialing

County offices of education largely attribute the reduction in the incidence of EL misassignments directly to *Williams*, and the CTC states that “[t]he *Williams* settlement created a new focus in the review of English learner assignments resulting in better identification of teachers that lacked the authorization to provide instructional services to English learners.”⁴⁴ Other contributing factors should be noted as well. For example, SB 2042 credentialing reform required all teacher preparation programs to embed English learner authorization into the regular coursework. This meant that starting in 2002, prospective teachers would not have to



earn an additional authorization but rather that an EL authorization would already be included in their credentials.⁴⁵ Recently credentialed teachers, then, would not generate any EL misassignments unless they are assigned to a class for which a different EL authorization is required.

■ *Accounts from County Offices of Education Underscore Dramatic Improvements*

County office of education staff observations dovetail with the numbers. Officials in many counties noted substantial decreases in the number of teacher misassignments as being among the greatest successes of *Williams* implementation. For example, San Joaquin County Office of Education stated, “The biggest success has been in teacher misassignments and vacancies. We have seen a huge drop in those areas.” Others offered similar stories of improvement. Orange County Office of Education shared,

Since 2004–05, there has been a steady decline in the number of teacher misassignments. In 2004–05, 731 misassignments were identified, and in 2011–12, there were no misassignments identified.

Some counties remarked that, as a result of *Williams* monitoring, their decile 1–3 schools regularly have fewer misassignments than their higher-performing counterparts. The San Mateo County Office of Education shared,

Districts with schools monitored have experienced a dramatic drop in their misassignment rates. When the other, non-decile 1–3 schools within the same district are monitored on the 4-year cycle, their misassignment rates are much higher.

Counties have specifically praised the impact of *Williams* on reducing EL misassignments. Many report that districts are much more aggressive about ensuring that teachers possess the appropriate EL authorization; one county administrator remarked that “EL misassignments are becoming nonexistent.” The Madera County Office of Education shared an example:

When we first started these visits, there were many misassignments noted, especially for EL students. We have been seeing a steady decline in these numbers, so that this monitoring period we saw no EL misassignments at all!

■ *Districts Have Changed Their Teacher Hiring Practices as a Direct Result of Williams*

The *Williams* Settlement Legislation’s emphasis on EL monitoring has reportedly motivated districts to change their hiring practices. Many have made EL authorization a condition for employment. Districts in Alameda, Contra Costa, Imperial, Lassen, Los Angeles, Orange, San Bernardino, and Santa Cruz counties now require candidates to have EL authorizations and will refuse to hire teachers that fail to comply. An administrator from Los Angeles County described,

LAUSD has really aggressively pursued making sure that all of their teachers are EL compliant, and that's the biggest district. Definitely as a result of Williams, they've moved to make it a pre-employment requirement. Other districts are also, and some districts have contract language to that effect.

An administrator from Orange County also shared,

Absolutely, ever since Williams came through, there is more focus on EL authorizations. In the last two years we've had no misassignments when it comes to EL. At every district, it's a hiring point; they won't even look at a teacher unless they hold an EL authorization. So yes, it's been a tremendous outcome for us... I would say probably 99% of all teachers in Orange County have EL authorizations.



A Problem Resolved: Interns and English Learners

In 2012, Public Advocates, co-counsel to plaintiffs in *Williams*, helped identify and resolve violations of State laws governing student access to fully prepared teachers. Public Advocates and its fellow coalition members discovered that the California Commission on Teacher Credentialing had a policy of attaching an English learner or bilingual authorization to intern credentials, in violation of explicit Education Code requirements.

Since 2004, the CTC had attached EL authorizations to credentials issued to over 50,000 individuals who had only just begun their teacher training. This decision to grant an unconditional EL or bilingual authorization to interns who have not yet completed training in how to effectively deliver academic content to regular education students, much less English learner students, was not only a poor policy decision but also in violation of state law. Under state law, as strengthened and reinforced by the *Williams* Settlement, any teacher assigned to teach an EL student must have an authorization to teach ELs that is authorized by statute. Moreover, Education Code Sections 44253.3 and 44253.4 expressly prohibit the EL or bilingual authorization from being added on to an intern or other substandard credential.

Fortunately, as a result of the hard work of Public Advocates and its over two dozen coalition partners, including the ACLU of California, this intern credentialing problem has since been resolved. In April 2013, the CTC voted to adopt a number of policies to strengthen the supervision, support, and preservice training that intern teachers receive to teach English learners, and have begun the rulemaking process to write these policy changes into state regulations. In addition, the CTC voted to make the EL authorization that interns receive conditional upon meeting these new requirements for increased supervision and preservice training, and to report in a more transparent manner at the state and local levels where students are being taught by teachers who are still in training. As a result of the CTC's new policies, students who are currently learning English will soon have teachers-in-training with substantially improved preparation and support.

For more information on the CTC's new policies, see:

⇒ Public Advocates' blog post about the victory, accessible at <http://www.publicadvocates.org/2013-05-21/we-won-cctc-agrees-to-reform-el-training-for-intern-teachers>

⇒ The CTC's agenda item including proposed policies, accessible at <http://www.ctc.ca.gov/commission/agendas/2013-04/2013-04-3C.pdf>

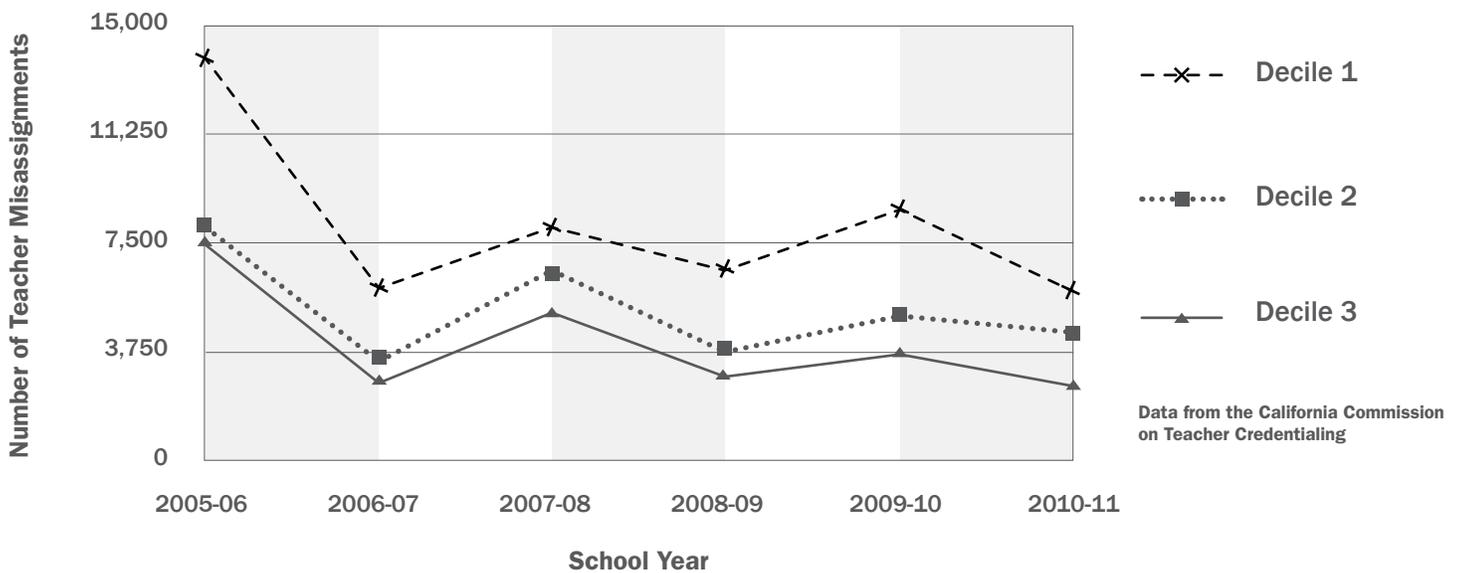


Los Angeles County and San Bernardino County also report that districts are using EL authorization as a “skipping criteria,” meaning that teachers possessing appropriate EL authorizations are given a measure of protection during layoffs. This incentivizes teachers to earn the appropriate certifications if they do not have them already, and teachers who fail to comply risk being cut. These new district-wide hiring policies have contributed substantially to the improvement of learning conditions for all EL students, not only those attending schools in deciles 1-3.

■ Challenges Remain

Though much progress has been made, data on persisting teacher misassignments indicate that significant challenges remain. Notably, the numbers consistently show that even in the lowest-performing schools, schools ranked lower on the Base Academic Performance Index experience more teacher misassignments.

Number of Teacher Misassignments Annually at Decile 1-3 Schools



This continuing trend suggests that appropriate teacher assignment and student achievement are closely related, underscoring the urgent need for legislative attention. Policymakers should build on the success of *Williams* assignment monitoring to help all schools attract and retain fully qualified teachers and assign them appropriately.

County office of education officials identified particular challenges that have kept this goal out of reach, including administrator turnover, hiring challenges in rural areas, and some resistance towards obtaining EL authorizations. When counties identified lack of knowledgeable credentials staff as an issue, they noted that this problem is exacerbated by turnover. One county administrator noted, “Districts with persistent assignment problems often lack knowledgeable and experienced credentials staff.” Another shared, “The most common cause of these persistent problems has been credential staff knowledge base loss, as a result of turnover.” It appears that departmentalized secondary school assignments, and specifically middle school core assignments, are the most difficult for credentials staff to understand. For example, the Butte County Office of Education shared,

Middle School core assignments are the most frustrating for districts to understand... Administrator turnover can also contribute to this because the new administrator doesn't have past experience and/or enough knowledge to know exactly how to use core assignments. This ultimately is resolved after the first discovery of misapplication and becomes a non-issue with continued guidance (provided that the administrator doesn't change).

Counties with schools in more rural areas also reported that an insufficient pool of qualified candidates presented an obstacle to providing students with properly assigned teachers. The Mendocino County Office of Education shared, “Persistent problems in teacher misassignments and/or vacancies tend to be seen more in those districts that are very small and rural. They tend to have a difficult time attracting appropriately qualified teachers.”

CALTIDES

In 2006, the Legislature passed SB 1614 requiring the CDE to contract for the development of a teacher data system called the California Longitudinal Teacher Integrated Data Education System (CALTIDES). The system would track teacher characteristics over time, linking teacher information to student data by assigning a unique, anonymous identifier to all K-12 public school educators. The aim of SB 1614 was to provide a means to evaluate the effectiveness of professional development and teacher preparation programs, and improve teacher assignment monitoring.⁴⁶ CALTIDES would provide data to inform policy decisions and would enable local education agencies to monitor teacher assignments on demand. Education Code sections 10600, 44230.5, and 60900 were enacted to permanently authorize the CALTIDES project in statute.⁴⁷

However, in 2011 Governor Jerry Brown vetoed funding for CALTIDES, calling it “a costly technology program that is not critical.”⁴⁸ California therefore remains without a robust teacher data system capable of delivering real-time data on teacher assignments, presenting a significant obstacle to ensuring that all students have access to qualified and appropriately assigned teachers.

In some counties, persistent EL misassignments were attributed to older, more experienced teachers who resist obtaining the proper authorizations. An administrator from Fresno County shared, “The largest number [of persistent teacher misassignments] are from teachers who have gained tenure but don’t have their EL authorization.” An administrator from San Joaquin County elaborated, “Generally, the issue of lacking English learner authorizations is found to be with the more seasoned teachers. Those teachers, either at or very near retirement, tend to be a bit more resistant to obtaining the English learner authorizations.”

These challenges need to be addressed if California is going to build on *Williams* and realize the promise of ensuring all students are taught by qualified and properly assigned teachers.

■ Looking Forward

THE STATE SHOULD SUPPORT IMPROVED DATA SYSTEMS FOR TEACHER ASSIGNMENT MONITORING.

Because local education agencies lack digital databases capable of providing real-time teacher assignment information, the current procedure for monitoring teacher assignments is done by hand. This makes the critical task of identifying teacher misassignments and vacancies a lengthy and inefficient process. The State should support the development of a digital system to improve the capacity of county offices of education to ensure that all students have qualified and appropriately assigned teachers. Such a data system is essential, particularly where staff has been significantly reduced and county offices of education are hard-pressed to annually monitor decile 1-3 schools.

THE CTC SHOULD AMEND ITS CURRENT METHOD OF COLLECTING TEACHER ASSIGNMENT DATA.

As detailed before, the CTC’s methodology for gathering data makes it impossible to accurately calculate the true percentage of staff that are misassigned. The percentages reported by the CTC are approximations that necessarily overestimate the proportion of misassigned teachers, and therefore misrepresent the nature of the problem. Though the consistency with which this data has been collected enables valuable year-over-year comparisons and roughly captures longitudinal trends, the data is ultimately misleading. A more accurate method for collecting and reporting teacher misassignment information would enable policy makers to better understand the problem and create more effective solutions to realize equal educational opportunity for all of California’s students.

THE STATE BOARD OF EDUCATION SHOULD REQUIRE SITE-LEVEL ACCOUNTABILITY AND TRANSPARENCY TO ENSURE STATE PRIORITIES ARE MET UNDER THE LCFF.

Under the Local Control Funding Formula (LCFF), every district is required to develop a Local Control and Accountability Plan (LCAP) that is effective for three years and establishes annual goals within eight state priority areas,



describes what specific actions will be taken to achieve these goals, and details how funds will be spent implement these actions. The district and school-level goals and actions under the first state priority, which includes the provision of qualified and properly assigned teachers, should provide parents with clear information about the teacher misassignments at each school and how the district is going to ensure all teachers are appropriately assigned.

Data provided by county offices of education make clear that there are disparities between schools with respect to teacher misassignments, even within the same district. Site-level transparency would allow districts to closely examine the needs at each school and tailor their solutions accordingly.

ACCOUNTABILITY MEASURES FOR ADDRESSING TEACHER VACANCIES MUST BE AUGMENTED.

Prior to *Williams*, there were no monitoring or accountability measures in place to address the issue of teacher vacancies. Data collected in response to standards established by the *Williams* Settlement Legislation show that teacher vacancies are decreasing, but little is done to track this improvement or follow up on vacancies that remain unresolved. This area thus remains a challenge, and will continue to present an obstacle towards ensuring that all students have access to qualified and properly assigned teachers unless more robust accountability measures are put in place.



Nartedi

$$5x^2 - (4x - 48) = 11$$

$$4x - 48 = (8x + 12) - 4x + 4$$

$$(8x + 12) - 4x + 4$$

Sub

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SCHOOL ACCOUNTABILITY REPORT CARDS

CHAPTER 6

Since November 1988, state law has required all public schools to generate and distribute School Accountability Report Cards (SARCs) to provide parents with data they can use to make meaningful comparisons between public schools. The *Williams* Settlement Legislation accordingly requires that each school's SARC provide accurate, specific, and current information regarding the availability of sufficient textbooks and instructional materials, the number of teacher misassignments and vacancies, and the condition of school facilities, including any needed maintenance to ensure good repair.

The Settlement Legislation established two mechanisms for verifying the accuracy of this information. The first modified the county superintendents' annual independent compliance audit procedures and applies to all schools. Starting with the 2004-2005 audits, county superintendents' review of audit exceptions must include exceptions related to information reported on the SARC. School districts are not eligible for reimbursement of SARC-related costs if the annual audit finds that the information in the SARC is inaccurate and the district does not correct the information by May 15th of that year.

The second form of verification involves the county superintendents' annual visits to decile 1-3 schools. As described in the sections above, county superintendents gather information on these annual visits regarding the availability of sufficient textbooks and instructional materials and the safety, cleanliness, and adequacy of school facilities, including good repair. The Settlement Legislation requires that the superintendents use this information to determine the accuracy of the data reported on decile 1-3 schools' SARCs.

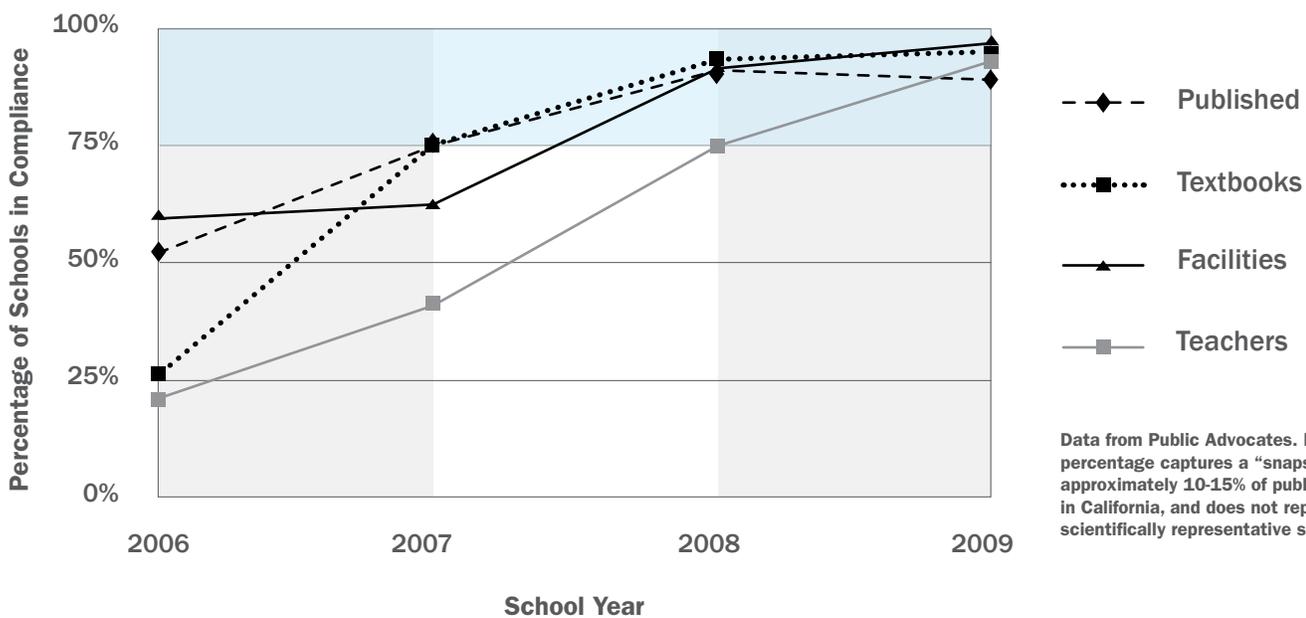
As part of its *Williams* implementation and general educational equity work, Public Advocates engaged in multiple efforts to ensure compliance with SARC requirements and to improve the report card's usefulness to parents and the public.⁴⁹ This work included several investigative reports that assessed whether schools fully and accurately reported statutorily required data elements and published their SARCs by the mandated deadline.

Each report examined a sample of approximately 10-15% of all public schools in California. Districts were selected not to provide a scientifically representative sample, but rather a "snapshot" of SARC compliance across the state immediately after the statutory deadline for publication. Public Advocates' first investigative report found that in 2006, a significant number of school districts were failing to comply with their SARC obligations. Only 53% of all schools assessed published their SARCs on time. The overwhelming majority — over 75% — failed to include textbook data and teacher misassignment data, and nearly 40% failed to disclose required information on needed facility maintenance to ensure that schools are in good repair.⁵⁰ After consecutive years of vigilant investigation however, Public Advocates began to see marked improvement, with particularly large gains observed in 2008.⁵¹ By 2009, the vast majority of all schools assessed were found to be in compliance in all the examined SARC reporting areas. The 2009 investigative report found that 87% of schools in the sample had published their SARCs in a timely manner, 91% provided accurate information on teacher misassignments and vacancies, 94% provided accurate information on textbook sufficiency, and 96% provided information on needed facilities maintenance.⁵²

Recent survey data support Public Advocates' findings. In 2011-12, county offices of education reported that only 0.1% of all decile 1-3 schools examined failed to publish their SARC on time.



Percentage of Schools in Compliance with SARC Reporting Obligations



Approximately 20% of SARC were found to contain inaccurate teacher, textbook, or facilities data, and 13% were found to be missing required data elements. In 2012-13, 0.5% of all decile 1-3 schools examined failed to publish their SARC on time. Approximately 12% were found to contain inaccurate teacher, textbook, or facilities data, and 11% were found to be missing required data elements. Anecdotally, several county offices of education shared that their schools' SARCs have become increasingly accurate. For example, Orange County Office of

Education reported, "we have noticed that SARCs are more accurate and detailed." San Bernardino County has "observed marked improvement in the accuracy of information provided on the School Accountability Report Cards." Riverside County notes that "most districts now use the State template for the SARC, which includes all of the elements included in the review." It is clear that monitoring efforts and the accountability systems established by the *Williams* Settlement Legislation have influenced schools to better fulfill their SARC obligations.

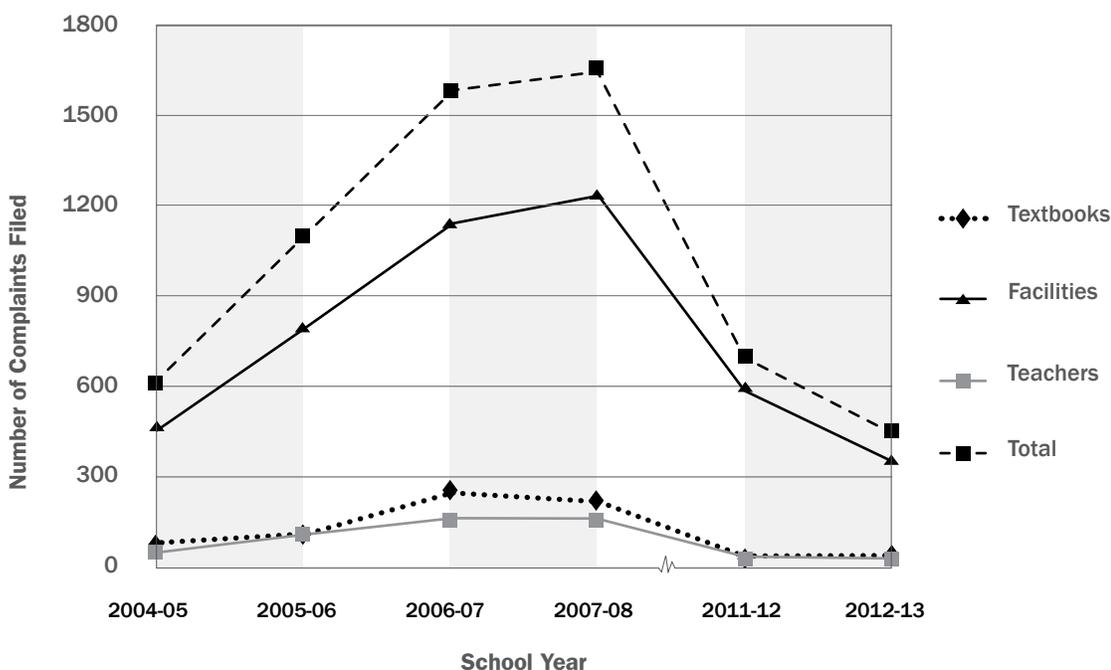
UNIFORM COMPLAINT PROCESS

CHAPTER 7

The Settlement Legislation established the *Williams* Uniform Complaint Process to empower students, parents, teachers, and community members to hold schools accountable for complying with the instructional materials, teacher, and facilities standards. The *Williams* Uniform Complaint Process requires schools and districts to remedy complaints about insufficient textbooks or instructional materials, teacher vacancies and misassignments, and unsafe or unhealthy facility conditions.⁵³ Once a complaint is filed, the principal or district official must make all reasonable efforts to investigate the problem and must provide a remedy within a reasonable time, not to exceed 30 working days. Complainants may file anonymously, but if they choose to provide their names and contact information, districts and schools must provide them with written responses within 45 working days. A complainant who is not satisfied with the response has a right to describe the problem to the governing board of the school district at a regularly scheduled meeting. A complainant may also appeal a decision regarding an unhealthy or unsafe facilities condition directly to the Superintendent of Public Instruction. Each school district 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, thereby providing public accounting for district responsiveness. By utilizing this process, vigilant students, parents, and community members can ensure that all districts are in full compliance with *Williams*.⁵⁴

Survey data from county offices of education indicate that the number of complaints filed has declined significantly in recent years. The number of complaints filed had been consistently increasing since the *Williams* Uniform Complaint Process was first implemented, rising from 596 in 2004-05 to a high of 1,637 complaints filed in 2007-08. No survey data were collected from 2008-09 through 2010-11; in 2011-12, only 637 complaints were filed. The number of complaints filed declined even further in 2012-13, though it must be noted that data for this year are incomplete as county offices of education had not received all four quarterly reports by the time survey responses were collected.

Number of Complaints Filed



Data from the ACLU Williams Implementation Survey



The Power of Student-Led Advocacy

In 2013, students in the Santa Clarita Valley chapters of the Human Rights Watch Student Task Force set out to ensure that schools in the William S. Hart Union High School District are providing the basic educational necessities required under the *Williams* Settlement. Their *Williams* Compliance Research Project examined whether students are receiving sufficient textbooks and instructional materials; clean, safe, and functional buildings and facilities; and the required notice about how to file a complaint through the Uniform Complaint Process if they do not have these necessities, or a permanent and qualified teacher.

As part of their investigation, students examined their campuses classroom by classroom to see whether notices about *Williams* and the Uniform Complaint Process were posted as required by the *Williams* Settlement Legislation. Students found that only 5 to 7 percent of classrooms at each school site had notices posted, and moreover that teachers who had been hired within the last 7 years were uninformed about the standards established by *Williams*.⁵⁵ Students also discovered facilities deficiencies and raised concerns about the condition of textbooks at their schools.

The students conducted their multi-phased investigation over three months, identifying important deficiencies that they then presented to the Administrative Council of the Hart District. The Student Task Force recommended that the council, at a minimum, educate students, teachers, and parents about the *Williams* standards and ensure notices are posted to improve awareness of the Uniform Complaint Process. District leaders expressed their appreciation to the students for bringing these critical issues to light and committed to taking immediate action.

The Student Task Force's achievements demonstrate the power of student-led advocacy and highlight how the standards and accountability measures established by *Williams* are helping to make a difference at California's public schools.



There is reason to believe that even the relatively low numbers of complaints reported for 2011-12 and 2012-13 represent a marked increase over the immediately preceding years. An administrator from Los Angeles County — which accounted for 80% of the complaints filed in 2011-12 — remarked that “there has definitely been a spike over the past two years, and districts are seeing a lot more facility complaints than any other.” From this and similar anecdotal evidence, it can be inferred that the number of complaints filed had begun to decrease even before 2011-12.

The cause for this significant decline is unclear. Improved conditions could be the answer. The notable progress that has been made with regard to textbooks, teachers, and facilities as detailed in this report likely contributed to fewer complaints being filed. It is also possible that awareness about the *Williams* Uniform Complaint Process has diminished over the years, despite the fact that schools are required to post information regarding the process in every classroom. Many counties noted that the Uniform Complaint Process continues to be well-publicized, with classroom and website postings and notices being sent home to parents at the beginning of each school year. But these postings and notices do not necessarily translate into

community awareness about the *Williams* standards and how the *Williams* complaint process may be utilized. Accordingly, more outreach and education should be done to ensure that students, parents, teachers, and community members remain informed about their rights.

Importantly, when complaints are filed, district-reported resolution rates consistently meet or exceed 80% (Table 10) and county offices of education report that the *Williams* Uniform Complaint Process continues to empower their communities and hold schools accountable to the standards established by the *Williams* Settlement Legislation. Staff from the Monterey County Office of Education stated that “the UCP is a great process and it really provides rights to students, parents, and teachers.” An administrator from Orange County similarly remarked, “with the Uniform Complaint Process, families have become more aware of their rights.” County administrators also note that “schools are taking the Uniform Complaint Process seriously” and observe marked improvement in the process of reporting complaints to county offices and local boards. Based on these reports, it appears that the *Williams* Uniform Complaint Process has been generally embraced and is helping to make a difference.

TABLE 10

Resolution Rate of *Williams* Complaints

	2004-05	2005-06	2006-07	2007-08	2011-12	2012-13
Percentage of Complaints Resolved	93%	87%	78%	93%	89%	90%

Data from the ACLU *Williams* Implementation Survey

CONCLUSION

As documented throughout this report, the *Williams* Settlement Legislation has substantively improved students' access to educational opportunity through the provision of textbooks and instructional materials; clean, safe school facilities; and appropriately credentialed and assigned teachers.

The numbers show unequivocal progress. *Williams* has placed hundreds of thousands of textbooks into the hands of students who otherwise would not have had access to sufficient instructional materials. The number of textbook insufficiencies has also decreased dramatically in recent years, indicating that schools are more diligent about ensuring that all students have sufficient materials by the start of the school year. Facilities in decile 1-3 schools are reportedly safer now, and more low performing schools are in better condition despite mounting challenges that make it increasingly difficult to maintain good repair. The percentage of teachers identified as misassigned has decreased significantly, and teacher vacancies have declined. Over the course of nine years of implementation, *Williams* has demonstrated the power of clear standards, strong accountability systems, and a focus on students' needs.

The impact of *Williams* extends even beyond these quantifiable measures. The standards and accountability systems established by the *Williams* Settlement Legislation have also motivated important cultural changes on the district and school levels. As articulated by the Los Angeles County Office of Education, *Williams* has brought about “an impressive change in the district and school culture to emphasize that teaching and learning began on the first day of school. This was not the belief system at the beginning of the *Williams* program.” Commitment to textbook sufficiency standards and adherence to good repair standards have become ingrained in the practices of schools in deciles 1-3. Schools have developed or improved systems for acquiring and distributing textbooks to students, and work proactively to keep facilities clean, safe, and functional. Districts now pay greater attention to teacher assignments, going so far as to change their hiring policies and contract language to ensure that teachers are appropriately credentialed and assigned. County offices of education from across the state also have lauded *Williams* for improving relationships between counties, districts, and schools, with many citing these strengthened relationships among the greatest successes of *Williams*. The oversight process has fostered an ethos of collaboration and cooperation; schools express appreciation for the county oversight, districts are conscientious about addressing the needs of the monitored schools, and everyone works together to better serve the needs of students.

Schools ranked outside the lowest three API deciles could benefit from the *Williams* oversight process as well. The *Williams* standards **apply to all of California's public schools**, and a number of county offices of education recommend expanding county oversight to ensure that all of California's students are receiving the basic educational necessities. For example, a county administrator from San Bernardino shared,

I think it would be wonderful if there were some sort of random selection process to engage more than just the decile 1-3 sites. There are complaints from parents; they call our office and say, “Are the Williams teams not looking for these things?” Since the other sites don't receive an inspection, issues aren't being brought to light as they would with the oversight process. That would be our biggest recommendation, to somehow include the other schools.

Other county offices of education agreed. Some recommend “random visits” or “spot checks” at higher performing schools while others assert that inspections ought to be required at all schools.

It is evident from the existing process that what gets monitored gets addressed.

County administrators note that districts prioritize the needs of decile 1-3 schools because of the additional oversight, and report that attention to textbook sufficiency, appropriate teacher assignment, and facility conditions is often superior at these schools than at their higher-performing counterparts. Strategically restructuring county monitoring could help ensure that all schools adhere to *Williams* and that all students receive access to the basic necessities for educational opportunity, consistent with the first state priority under the Local Control Funding Formula.

Schools in need of assistance could be identified more efficiently and effectively if existing monitoring systems and procedures were streamlined and modernized. At a time when the state will begin assessing students through computer adaptive tests, librarians and textbook staff still rely on paper trails and count books by hand to evaluate sufficiency. Local education agencies lack digital databases capable of providing real-time teacher assignment information, making the critical task of identifying teacher misassignments and vacancies a lengthy and inefficient process. California also desperately needs a system for tracking and prioritizing the prodigious maintenance needs of all its school facilities. When asked about the greatest challenges of *Williams* implementation, the majority of counties identified the amount of time consumed by the monitoring process and the difficulty of having to conduct many site visits with limited staff. More modern, efficient systems would accelerate the process and help county administrators make better use of their time and resources. Such systems could also generate a consistent body of data to inform whether the frequency of review might be adjusted to focus monitoring efforts where they are needed most.

The State of California took a critical and necessary step to build on the progress documented in this report by cementing the *Williams* standards into the foundation of the Local Control Funding Formula. Now, the State must fulfill its long-delayed obligation to fund the Emergency Repair Program and pursue the types of solutions proposed in the preceding sections to fully translate the promises of *Williams* into reality for all of our children.



- ¹ For more information on the survey instrument, see the Data and Methodology section on page 14.
- ² Correspondence from Tom Torlakson, State Superintendent of Public Instruction, and Michael W. Kirst, President of the California State Board of Education, “Local Control Funding Formula,” August 7, 2013. Accessible at <http://www.cde.ca.gov/nr/el/le/yr13ltr0807.asp>.
- ³ The Concept 6 calendar had 163 instructional days per year versus 180 days offered by schools following a traditional calendar or implementing other year-round structures.
- ⁴ Charter schools are exempt unless they choose to “opt-in” to *Williams*. Decile 1-3 charter schools that opt-in receive the benefits and must adhere to the new standards and accountability systems established by the *Williams* Settlement Legislation.
- ⁵ The 2012 list is accessible at <http://www.cde.ca.gov/eo/ce/wc/wmsschools.asp> (last visited August 29, 2013).
- ⁶ California State Board of Education September 2013 Agenda, “Proposals for Alternative Methods to the Decile Ranks as Required by Education Code Section 52052.9.” Accessible at <http://www.cde.ca.gov/be/ag/ag/yr13/documents/sep13item08.doc>.
- ⁷ In 2004-05, the county superintendents conducted visits to each school within 120 days of receipt of funds for this purpose.
- ⁸ The teacher assignment monitoring process required by California Education Code 44258.9 is separate from the county superintendents’ *Williams* site visits.
- ⁹ Appropriate authorization includes CLAD or BCLAD authorization, SB 1969 certificate, Certificate of Completion of Staff Development (through SB 395 training), or other authorization as authorized by statute. It is also important to note that the 20% standard is a data reporting requirement and not a threshold for determining a “misassignment.” See Correspondence from Jack O’Connell, State Superintendent of Public Instruction, “Change in Certificated Assignment Monitoring and Data Reporting in Education Code 44258.9 as a result of the *Williams* Lawsuit Settlement” (Number 05-0014), August 26, 2005. Accessible at <http://www.ctc.ca.gov/notices/coded/050014/050014.pdf>.
- ¹⁰ California Education Code Section 44258.9(d).
- ¹¹ To view report templates used by county superintendents and other information on county superintendent visits and reviews see <http://www.ccsesa.org/index/WilliamsTrainingMaterials.cfm> (last visited August 29, 2013).
- ¹² California Department of Education, “Survey: Concept 6 Programs,” October 2008.
- ¹³ Hector Villagra, “The Happy End to Concept 6 -- The Year-round Tracks at LA Unified Schools,” *Daily News*, May 13, 2013. Accessible at <http://www.dailynews.com/article/zz/20120829/NEWS/120829574> (last visited August 29, 2013).
- ¹⁴ Policy Analysis for California Education, *Policy Brief: New Schools, Overcrowding Relief, and Achievement Gains in Los Angeles — Strong Returns from a \$19.5 Billion Investment*, August 2012. Accessible at http://www.edpolicyinca.org/sites/default/files/policy_pb_08.pdf.
- ¹⁵ The 2012 list is accessible at <http://www.cde.ca.gov/eo/ce/wc/wmsschools.asp> (last visited August 29, 2013).

¹⁶ The survey distributed for the 2012-13 school year asked counties to provide teacher assignment data for the 2010-11 and 2011-12 school years, because these are the two most recent years for which such data were available at the time of the survey.

¹⁷ California Education Code Section 60119(c).

¹⁸ California Education Code Section 42605.

¹⁹ California Department of Education, “Instructional Materials FAQ,” accessible at <http://www.cde.ca.gov/ci/cr/cf/imfrpfaq1.asp> (last visited August 29, 2013).

²⁰ For more information, see <http://www.cde.ca.gov/ci/cr/cf/imfrpfaq1.asp> (last visited August 29, 2013)

²¹ Education Code Sections 42605, 1204(3). Senate Bill 509 of the 2011-12 Session (Chapter 629, Statutes of 2011) authorized LEAs to purchase instructional materials for their neediest schools, those with an Academic Performance Index rank of 1-3, without having to acquire new materials for the higher performing schools.

²² California Learning Resource Network, “Electronic Instructional Materials and the *Williams* Settlement’s Sufficiency Requirements,” <http://www.clrn.org/fdti/williams.cfm> (last visited August 29, 2013).

²³ John Fensterwald, “LAUSD Approves 50 Million in Bonds for Student Computers,” *Ed Source*, February 13, 2013. Accessible at <http://www.edsource.org/today/2013/lausd-approves-50-million-in-bonds-for-student-computers> (last visited August 29, 2013).

²⁴ Legislative Analyst’s Office, *Year-Three Survey: Update on School District Finance in California*, May 2, 2012 at page 23. Accessible at <http://www.lao.ca.gov/reports/2012/edu/year-three-survey/year-three-survey-050212.pdf>.

²⁵ *Id.* at page 24.

²⁶ Legislative Analyst’s Office, *The 2013-14 Budget: Restructuring the K-12 Funding System*, February 22, 2013, at page 21. Accessible at <http://www.lao.ca.gov/analysis/2013/education/restructuring-k12-funding/restructuring-k12-funding-022213.pdf>

²⁷ Senate Bill 50 of the 1997-98 Session (Chapter 407, Statutes of 1998) increased the Routine Restricted Maintenance Account contribution from 2% to 3% based on the recognition that 2% was inadequate to properly maintain school facilities. Senate Bill 4 of the 2009-10 Third Extraordinary Session (Chapter 12, Statutes of 2009) reduced the required contribution to 1%. See California Education Code Sections 17070.75 and 17070.766.

²⁸ California Education Code Section 17070.766.

²⁹ Steve Lopez, “L.A. Schools Falling Apart, Literally,” *Los Angeles Times*, March 12, 2013. Accessible at <http://articles.latimes.com/2013/mar/12/local/la-me-0313-lopez-disrepair-20130313> (last visited August 29, 2013).

³⁰ “Notice of Proposed Emergency Regulatory Action from the Department of General Services,” October 19, 2012. Accessible at http://www.documents.dgs.ca.gov/opsc/Regulations/SFP_Proposed/2012/09-2012/Notice_Emergency.pdf.

³¹ Senate Bill 6 of the 2003-04 Session (Chapter 899, Statutes of 2004).

³² Joanna Lin, “State Defunds Program to Fix ‘Slum’ Schools,” *California Watch*, July 17, 2012. Accessible at <http://californiawatch.org/k-12/state-defunds-program-fix-slum-schools-17122> (last visited August 29, 2013).

³³ Sarah Jo Szambelan and Kate Gordon, “Which CA Schools Need Energy Upgrades? Bond Finance Paints a Picture,” *The Next Generation Blog*, March 25, 2013. Accessible at <http://thenextgeneration.org/blog/post/prop39-school-bonds> (last visited August 29, 2013).

³⁴ Steve Lopez, *supra* note 29.

- ³⁵ Jeffrey M. Vincent, *California's K-12 Educational Infrastructure Investments: Leveraging the State's Role for Quality School Facilities in Sustainable Communities* (Berkeley: Center for Cities & Schools, University of California), 2012. Accessible at <http://citiesandschools.berkeley.edu/reports/CCS2012CAK12facilities.pdf>.
- ³⁶ Legislative Analyst's Office, *The 2013-14 Budget: California's Fiscal Outlook*, November 2012. Accessible at <http://www.lao.ca.gov/reports/2012/bud/fiscal-outlook/fiscal-outlook-2012.pdf>.
- ³⁷ Legislative Analysts' Office, "Proposition 98 Budget Overview," March 5, 2013. Accessible at http://www.lao.ca.gov/handouts/education/2013/Proposition_98_Budget_Overview_030213.pdf.
- ³⁸ Vincent, *supra* note 35, at 46.
- ³⁹ *Id.*, at 47.
- ⁴⁰ Schools that are likely to have problems with teacher misassignments and vacancies, based on past experience or other available information, are monitored annually regardless of decile rank. Also, if a decile 1-3 school is found to have no teacher misassignments or vacancies for two consecutive years, the next review of that school may be conducted on the traditional 4-year cycle. California Education Code Section 44258.9.
- ⁴¹ California Commission on Teacher Credentialing, *Assignment Monitoring of Certificated Employees in California by County Offices of Education 2003-2007, A Report to the Legislature*, August 2008. Accessible at <http://www.ctc.ca.gov/reports/AM-2003-2007.pdf>.
- ⁴² California Commission on Teacher Credentialing, *Assignment Monitoring of Certificated Employees in California by County Offices of Education 2007-2011, A Report to the Legislature*, September 2012, at 2. Accessible at www.ctc.ca.gov/commission/agendas/2012-09/2012-09-5B.pdf.
- ⁴³ The accuracy of this percentage is dependent upon the accuracy of the data reported by the county offices of education. A number of county offices of education stated that they did not track data in this manner because the CTC does not ask for it. Nevertheless, even counties that expressed this concern were able to produce data as the survey requested by assembling information from existing records.
- ⁴⁴ California Commission on Teacher Credentialing (2008), *supra* note 41.
- ⁴⁵ California Commission on Teacher Credentialing, *Report on the Pilot SB 2042 Preparation to Teach English Learners Study*, November 2007. Accessible at <http://www.ctc.ca.gov/commission/agendas/2007-11/2007-11-3F.pdf>.
- ⁴⁶ Senate Bill 1614 of the 2001-02 Session (Chapter 840 of the Statutes of 2006).
- ⁴⁷ See Memorandum from Jack O'Connell, State Superintendent of Public Instruction, "California Longitudinal Pupil Achievement Data System and California Teacher Integrated Data Education System Update," October 5, 2010. Accessible at <http://www.cde.ca.gov/be/pn/im/documents/infooct10item04.doc>.
- ⁴⁸ John Fensterwald, "Brown's Mystifying CALTIDES Veto," *Thoughts on Public Education*, August 15, 2011. Accessible at <http://toped.svefoundation.org/2011/08/15/browns-mystifying-caltides-veto> (last visited August 29, 2013).
- ⁴⁹ For more information, see <http://www.publicadvocates.org/school-accountability-report-cards-sarc> (last visited August 29, 2013).
- ⁵⁰ Public Advocates, *SARC Investigation Report*, August 17, 2006. Accessible at http://www.publicadvocates.org/sites/default/files/library/sarc_investigation_report_08-17-06_final.pdf.
- ⁵¹ Public Advocates, *School Accountability Report Card 2008 Investigative Report*, September 3, 2008. Accessible at http://www.publicadvocates.org/sites/default/files/library/2008_sarc_report_rev1_final.pdf.
- ⁵² Public Advocates, *School Accountability Report Card 2009 Investigative Report*, April 15, 2009. Accessible at <http://www.publicadvocates.org/sites/default/files/library/2009sarcreport042009revisednoappendices.pdf>.

⁵³ California Education Code Section 35186.

⁵⁴ For more information on the *Williams* complaint process, please visit http://www.decentschools.org/settlement_action.php (last visited August 29, 2013).

⁵⁵ The students' presentation is accessible at <http://www.hrwstf.org/wordpress/?p=1898> (last visited August 29, 2013).

For More Information

Visit: www.decentschools.org

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We have published three previous reports on implementation of the *Williams v. California* Settlement Legislation – The *Williams v. California* Settlement: The First Year of Implementation (2005), *Williams v. California: The Statewide Impact of Two Years of Implementation* (2007), and *Williams v. California: A Progress Update* (2009). All three reports are available at www.decentschools.org.

