

Williams v. California Legislative Update: 2009 Budget Bills

July 29, 2009

The Education Trailer Bills that accompanied the 2009-10 Budget enacted in February (Chapter 1 of the 2009–10 Third Extraordinary Session) and the subsequent budget revisions enacted yesterday (Chapter 1 of the 2009–10 Fourth Extraordinary Session) contain provisions related to the implementation of the *Williams v. California* settlement. The bills, **SBx3 4** (Chapter 12 of the 2009–10 Third Extraordinary Session) and **ABx4 2** (Chapter 2 of the 2009–10 Fourth Extraordinary Session) became effective on February 20th and July 28th, 2009, respectively. The *Williams*-related provisions are described below.

Emergency Repair Program

- The annual transfers from the Proposition 98 Reversion Account to the School Facilities Emergency Repair Account are suspended for one year in 2009-10. (SBx3 4, § 8; Education Code section (“EC”) 17592.71.) The statutory commitment to providing \$800 million dollars through the Emergency Repair Program remains intact.

Good Repair Standard

- For fiscal years 2008–09, 2009–10, 2010–11, 2011–12, and 2012–13, if a district maintains its facilities in good repair, as defined in Education Code Section 17002 (i.e., as determined pursuant to the Facility Inspection Tool), it does not have to deposit at least 1% of its total general fund expenditures into its restricted routine maintenance account. (ABx4 2, § 9; EC 17070.766.)

Textbooks and Instructional Materials

- Local education agencies (LEAs) must continue to provide all students with “sufficient textbooks or instructional materials,” hold annual public hearings regarding instructional materials sufficiency, and adopt sufficiency resolutions in conjunction with the hearings. (SBx3 4, § 18; EC 60119.) These requirements are not contingent on increases in base revenue limits and apply even if a LEA elects to use state instructional materials funds for another educational purpose pursuant to Education Code Section 42605. (ABx4 2, § 15; EC 42605.)
- Notably, the Education Code section that requires LEAs to comply with Education Code Section 60119 notwithstanding the new flexibility provisions also adds a new element to the definition of “sufficiency.” Education Code Section 42605(e)(2)(B) states:

For purposes of this section, “sufficiency” means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119, and that all pupils within the

local education agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3. (ABx4 2, § 15. Emphasis added.)

When this “identical textbooks” provision was added by SBx3 4 in February, it caused some confusion, particularly with respect to how it would apply to intervention materials. Education Code Section 1240.3 was subsequently revised in an attempt to clarify the intent and meaning of the provision. Section 1240.3 now states, in relevant part:

It is the intent of the Legislature that each local educational agency provide each pupil with standards-aligned textbooks or instructional materials from the same adoption, consistent with Sections 60119 and 60422. This section does not require a local educational agency to purchase all of the instructional materials included in an adoption if the materials that are purchased are made available to all the pupils for whom they are intended in all of the schools within the local educational agency. (ABx4 2, § 1.)

County Superintendent Visits

- County superintendents must continue to “conduct at least one site visit to each of the required schoolsites pursuant to Section 1240” and “fulfill all of the duties set forth in Sections 1240 and 44258.9” even though the funds for *Williams* oversight are essentially unrestricted per Education Code Section 42605 (ABx4 2, § 15; EC 42605(e)(4).) Accordingly, while county superintendents must continue to fulfill all of their *Williams* oversight responsibilities with respect to schools ranked in deciles 1-3, they may use any remaining *Williams* oversight funds for another “educational purpose” subject to the conditions in Education Code Section 42605. (ABx4 2, § 15; EC 42605.)
- The scope of county superintendents’ visits and reviews to ensure all students attending schools ranked in deciles 1-3 have sufficient textbooks and instructional materials remains unchanged, but whereas reviewers have been noting Instructional Materials Funding Realignment Program (IMFRP) compliance issues for district officials, they will recognize that materials adopted prior to July 1, 2008, are acceptable through 2012-13 unless the district purchased or arranged to purchase textbooks or instructional materials adopted by the state board after July 1, 2008. (ABx4 2, § 1; EC 1240.3.)

Note: the IMFRP requirement that students in kindergarten through grade eight be provided with the new state-adopted instructional materials by the start of the school term that commences no later than 24 months from the date of adoption is suspended through 2012-13. (ABx4 2, § 29; EC 60422.1.) The k-8 Instructional Materials Adoption Schedule is frozen until 2013-14. (ABx4 2, § 28; EC 60200.7.)

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