

Williams v. California Legislative Update: AB 831

July 26, 2005

AB 831 is one of two omnibus education clean-up bills this year that contain amendments to the statutes that implement the *Williams v. California* settlement.¹ SB 512 is the other. AB 831 was signed by the Governor yesterday and became effective immediately because it was an urgency bill. SB 512 is still being considered by the State Legislature. This document describes how AB 831 affects *Williams* implementation.

County Superintendent Visits and Reviews

AB 831 . . .

- Clarifies that County Superintendent visits shall be conducted during the school day when students and staff are present and acknowledges that a certain minimal amount of disruption is unavoidable because County Superintendents must question students and staff to determine whether sufficient instructional materials are available and the school facilities are in good repair. (AB 831, § 2; Education Code section (“EC”) 1240(D)(i) (replacing “Not disrupt” with “Minimize disruption”).)
- Affirms that County Superintendents must complete their instructional materials reviews by the fourth week of the school year. (AB 831, § 2; EC 1240(i)(3)(A).)
- Clarifies that County Superintendents shall enforce the use of standards-aligned instructional materials that have been adopted by the state or by the districts in accordance with EC 51050. (AB 831, § 2; EC 1240(i)(1) (adding a cross-reference to local adoption requirements in EC 51050²).) *Please note* the related amendments to EC 60119(c)(1) and EC 60119(a)(1)(A), discussed below under “Local Board Resolutions on Sufficiency of Instructional Materials.”
- Affirms that with respect to school district certificated employee assignment practices, County Superintendents must annually monitor and review schools ranked in deciles one to three, inclusive, of the 2003 base Academic Performance Index (“API”) (as defined in EC 17592.70(b)), if those schools are not currently under review through a state or federal intervention program. (AB 831, § 9; EC 44258.9(b)(1)(B).)

County Superintendents must also annually monitor and review schools and school districts “that are likely to have problems with teacher misassignments and teacher vacancies . . . based on past experience or other available information.” (AB 831, § 9; EC 44258.9(b)(1)(A).) Available information might include

¹ A third bill may be used to address last minute items.

² EC 51050 states: “The governing board of every school district shall enforce in its schools the courses of study and the use of textbooks and other instructional materials prescribed and adopted by the proper authority.”

information on teacher misassignments and vacancies furnished pursuant to EC 33126 (School Accountability Report Cards (“SARCs”)), a complaint filed pursuant to EC 35186 (Uniform Complaint Process), and audit information pursuant to EC 41020.

NOTE: AB 831 also provides that if a County Superintendent finds that one of the decile 1, 2, or 3 schools has no teacher misassignments or vacancies, the next review of that school may be conducted on the typical four-year schedule unless the school is likely to have problems with misassignments and vacancies based on past experience or other available information. (AB 831, § 9; EC 44258.9(b)(1)(B).) This provision, however, is still under discussion by the parties to the Williams case and may be amended by SB 512.

- Clarifies that a “teacher misassignment” exists when a teacher has at least one student in his or her class who is an English Language Learner (“ELL”) in need of ELL services and the teacher has not received the requisite ELL authorization. (AB 831, § 9; EC 44258.9(b)(1)(A) and EC 44258.9(g)(2) (cross-referencing the definitions of teacher vacancy and teacher misassignment in EC 33126(b)(5)(A) and EC 33126(b)(5)(B), respectively³); EC 44258.9(c)(4)(B) (clarifying that the 20% standard is a data reporting requirement, not a threshold for establishing a “misassignment”).)
- Adds a provision that permits, starting in 2005-06, a County Superintendent of a county with 200 or more schools ranked in deciles one to three, inclusive, on the 2003 base API, as defined in EC 17592.70(b), to use a combination of visits and teacher surveys to determine the sufficiency of instructional materials in these schools within the first four weeks of the school year. If a County Superintendent exercises this option, County Superintendent staff shall visit each surveyed school later in the academic year to verify the survey results. (AB 831, § 2; EC 1240(i)(3).)

List of Schools Ranked in Deciles 1-3 (2003 base API)

AB 831 . . .

- Clarifies the list of schools ranked in deciles one to three, inclusive, on the 2003 base API that is compiled by the California Department of Education (CDE)

³ EC 33126(b)(5)(A) states: “For purposes of this paragraph, ‘vacant teacher position’ means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.”

EC 33126(b)(5)(B) states: “For purposes of this paragraph, ‘misassignment’ means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.”

pursuant to EC 17592.70(b). (AB 831, § 3; EC 17592.70(b).) The substantive effect of the amendments is that county-operated special education programs will be formally removed from the list on CDE’s website. Due to cross-references, the list of schools affects EC 1240 (County Superintendent visits and duties), EC 17592.71 and EC 17592.72 (Emergency Repair Program), EC 44258.9 (County Superintendent reviews of teacher assignments), and EC 17592.70 (School Facilities Needs Assessment Grant Program). *NOTE: SB 512 may include additional technical amendments to EC 17592.70(b).*

The \$138 million in New Instructional Materials Funds

AB 831 . . .

- Affirms that the \$138 million allocated to districts in 2004-2005 based on enrollment in schools in deciles 1 and 2 (2003 base API) “shall only be used to purchase instructional materials for schools in decile 1 or 2 that are aligned to the content standards adopted pursuant to [Education Code] Section 60605.” (Subparagraph (B) of paragraph (3) of subdivision (a) of Section 22 of Chapter 900 of the Statutes of 2004, as amended by Section 17 of AB 831.)

Local Board Resolutions on Sufficiency of Instructional Materials

AB 831 . . .

- Clarifies that the governing board shall determine whether every student in the district has sufficient textbooks or instructional materials, or both, “that are aligned to the content standards adopted pursuant to [Education Code] Section 60605” in the four core subjects. (AB 831, § 15; EC 60119(a)(1)(A).) Due to a cross-reference, this amendment also affects EC 1240(i)(4) (County Superintendent review of instructional materials).
- Adds a provision that requires, when the governing board determines there are insufficient books or materials, or both, that the board provide for each school in which an insufficiency exists, “the percentage of pupils who lack sufficient standards-aligned textbooks or instructional materials in each subject area.” (AB 831, § 15; EC 60119(a)(2)(A).)
- Clarifies the definition of “sufficient textbooks or instructional materials” by adding the adjective “standards-aligned” and removing the phrase “to complete required homework assignments.” Accordingly, the revised definition is “that each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home.” (AB 831, § 15; EC 60119(c)(1).) This definition should eliminate any suggestion that, for example, a “class set” of 30 Algebra books could be “sufficient” for six classes of 30 students if a “no homework” policy was adopted.

Due to cross-references, the revised definition of “sufficient textbooks or instructional materials” affects EC 1240 (County Superintendent reviews of

instructional materials), EC 14501 (Financial and Compliance Audits), EC 33126(b)(6)(B) and EC 33126.1(b) (School Accountability Report Cards), and EC 52055.640(a)(3) (High Priority Schools Grant Program).

Uniform Complaint Process and Classroom Notices

AB 831 . . .

- Clarifies one of the issues the Uniform Complaint Process (“UCP”) is intended to address --- a student’s lack of access to instructional materials to use at home or after school. AB 831 removes the phrase “in order to complete required homework assignments” from the end of EC 35186(e)(1)(B). The statute now describes one of the valid reasons for a complaint as: “A pupil does not have access to instructional materials to use at home or after school.” (AB 831, § 5; EC 35186(e)(1)(B).)
- Revises the contents of the UCP notice that must be posted in all public school classrooms. EC 35186(f) previously stated:

“[A] notice shall be posted in each classroom . . . notifying parents and guardians of the following: (1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials [sic] each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home *to complete required homework*.” (Emphasis added.)

AB 831 removed the phrase “to complete required homework” from the end of this sentence. (AB 831, § 5; EC 35186(f)(1).) Classroom notices must be revised to reflect this change.

Classroom notices must also be revised to include a statement informing parents and guardians that there should be no teacher vacancies or misassignments, as defined in EC 35186(h)(2) and EC 35186(h)(3). (AB 831, § 5; EC 35186(f)(3).) Such a statement might read: “There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential and subject matter training to teach the class, including training to teach English Learners if present.”

NOTE: SB 512 may further amend the required contents of the notice.

- Clarifies that a teacher vacancy is not remedied by the assignment of a certificated substitute teacher. (AB 831, § 5; EC 35186(e)(2)(A) (replacing old vacancy definition with “a teacher vacancy exists”); see EC 35186(h)(3) (setting forth the definition of “teacher vacancy” for purposes of EC 35186).)