

## ***WILLIAMS ET AL. V. STATE OF CALIFORNIA ET AL.*** **(SUPERIOR COURT, SAN FRANCISCO)**

*Williams v. State of California*, as noted earlier, is a statewide class action lawsuit. It was filed by a coalition of civil rights and pro bono lawyers and could potentially have a profound impact on public education in California. The following description of the case has been included in this Study Guide to help readers better understand not only the issues raised, but also the opposing sides and the fundamental rationale for their disagreement. At the time this study kit was finalized, the case had just been settled in the plaintiff’s favor, as noted earlier, but no court ruling or finding has yet been published. A statement from Superintendent of Public Instruction Jack O’Connell has been included and gives his perspective on the settlement.

Catherine Lohman, an ACLU attorney of record with the case, submitted the following overview from the plaintiff’s perspective of why the case was filed for inclusion in this study guide: “*Williams v. State of California* is a statewide class action lawsuit concerning substandard conditions that violate students’ fundamental right to equal educational opportunity, guaranteed by the California Constitution. As required by the California Constitution, the state has ultimate responsibility for education. In particular, students at some schools throughout California have inadequate textbooks and other instructional materials, under-qualified teachers, and overcrowded, unsafe facilities that are poorly maintained; some students attend school on a modified calendar that provides fewer instructional days. Without educational essentials, students are denied education. The goal of the *Williams* suit is to ensure that all California public school students have access at least to minimally required essentials for learning.”

The suit was filed on May 17, 2000—the 46th anniversary of *Brown v. Board of Education* (which outlawed racial segregation in schools)—on behalf of California’s public school children. It was filed against the State of California, the State Superintendent of Public Instruction, the State Department of Education and the State Board of Education.

*Williams v. State of California* seeks to remedy the following school conditions:

**1. Lack of instructional materials and basic resources**

- Not enough textbooks for each student to have his/her own to use in class and to take home
- Outdated or defaced textbooks
- No or not enough other necessary curricular materials or basic school supplies
- Required fees (or fee waivers) to take certain courses and extracurricular offerings

**2. Inadequate instruction**

- High percentages of teachers without full, non-emergency credentials
- English Language Learners (ELL) taught by teachers who are not specially qualified to teach them
- Overuse of long-term substitute teachers / Chronically unfilled teacher vacancies

**3. Massive overcrowding**

- Classes without enough seats and desks for every student / Cramped, makeshift classrooms
- Multi-track schedules that curtail the calendar length of courses
- Multi-track schedules that force students to take key exams before completing the full course of study
- Busing of students excessive distances from their homes to less crowded schools

**4. Inadequate, unsafe, and unhealthful facilities**

- Extremely hot/cold classrooms / Toilets that don’t flush and are filthy with urine, excrement, blood
- Bathrooms that are locked or that lack toilet paper, paper towels, and soap
- Unrepaired, hazardous facilities, including broken windows, walls and ceilings
- Vermin infestations / Leaky roofs, mold / Classrooms too noisy for teachers to teach, students to learn

## **Basic Questions Asked about the Case**

**A question often asked is why the plaintiffs are suing the State and not the individual school districts.** The answer given is that the “State of California bears the ultimate responsibility for providing all children with a basic and equal education under the state constitution. Therefore, plaintiffs brought this case against the State of California, the State Department of Education, the State Board of Education, and the State Superintendent of Public Instruction, and did not sue any individual schools or school districts. Although the State can delegate certain responsibilities to local school districts, the State has ultimate responsibility for ensuring that every public school child receives the bare minimum necessities for an education. As a result, the State and the relevant state agencies—not the local school districts—were named as defendants in this case.” (See the Q&A at [www.decentschools.org](http://www.decentschools.org).)

After the case was filed, then Governor Davis, on behalf of the State, decided to sue each of the 18 school districts where plaintiffs attend school. A Cross-Complaint for Specific Relief and Injunction was filed, using the firm of O’Melveny and Myers LLP. After Governor Davis was recalled in October of 2003, incoming governor, Arnold Schwarzenegger, indicated his desire to work for a settlement of the case. In December of 2003, the case was stayed in order to allow the new governor time to evaluate the state’s position and to possibly begin settlement discussions. With a “stay,” all proceedings, such as depositions and motions, were halted. A settlement was reached in late August 2004.

**Another question frequently asked is “What do plaintiffs hope to get out of the case?”** The answer is as follows and has also been excerpted from the Q&A posting on the [decentschools.org](http://www.decentschools.org) Web site previously cited:

Through this lawsuit, plaintiffs seek to compel the State to develop an effective system of oversight and management over the public schools to ensure that every student in California is provided basic educational necessities, such as trained teachers, adequate textbooks, and minimally habitable facilities. Such a system will require the State to regularly determine whether public school students have the basic necessities for an education and, if not, take steps to correct the deficiencies promptly.

The State has admitted that it currently has no meaningful system for determining, for example, how many textbooks are lacking in schools or how many facilities are infested with rats. Plaintiffs are demanding that the State create a system of monitoring and accountability through which the State will discover the existence of serious problems in the public schools and ensure that those problems are corrected swiftly and permanently. Plaintiffs are not asking for money damages to be given to any particular student, school, or district. Plaintiffs seek an end to the deplorable conditions that exist in far too many California public schools.

The remedy plaintiffs seek in this case—namely, an effective system of monitoring and accountability—will address the conditions alleged in the complaint at every public school throughout the state, even those that are not specifically named.

According to the California School Boards Association (CSBA) “the importance of this case cannot be overstated—this litigation has the potential to profoundly affect public education as we know it.” The description of the case that can be found on the CSBA Web site at [www.csba.org](http://www.csba.org) states the following:

Over three years ago, the American Civil Liberties Union, and other public interest advocates, sued the State of California claiming that the state system of education is unconstitutional because it does not ensure all students equal access to basic educational opportunities. Plaintiffs have alleged that students, particularly those of color and from low-income families, face intolerable conditions resulting from overcrowding, lack of textbooks, absence of fully qualified teachers, and decaying school facilities. They have asked the court to create a statewide system of standards, oversight and enforcement. The State (i.e. Governor) hired a large, prestigious law firm to defend its position—if such conditions exist, it’s the fault of local school districts, not the state.

CSBA is an intervening party in this case. CSBA intervened in the lawsuit to represent the interests of school districts. Among other things, we believed it was important for the court to understand that establishing state standards without providing districts with the resources to implement those standards is at best meaningless (and likely to be far worse, since such standards might subject districts to enforcement action through courts or state agencies).

**The Constitutional Basis for *Williams v. State of California* . . . . . The Plaintiffs**  
(The following comments are direct excerpts from the *First Amended Complaint for Injunctive and Declaratory Relief*. They have been included both as background information and because they bring together a number of basic strands that run through discussions of education reform.)

**(Page 10, B.14)**

The California Constitution recognizes that “[a] general diffusion of knowledge and intelligence [is] ... essential to the preservation of the rights and liberties of the people . . . .” Cal. Const., art. IX, §1. Because of this principle, “California has assumed specific responsibility for a statewide public education system open on equal terms to all.” *Butt.* 4 Cal. 4<sup>th</sup> at 680. That right to an equal education is fundamental in California. Our Supreme Court has recognized that education remains “the bright hope for entry of the poor and oppressed into the mainstream of American society.” *Serrano v. Priest*, 5 Cal. 3d 584, 609 (1971). These constitutional provisions impose on Defendants a nondelegable duty to provide to each student plaintiff and each member of the plaintiff class and subclass the opportunity to obtain a basic education.

**(Page 11, B.15)**

The staggering range of disparities in public education in this State offends the core constitutional principle of equality. The equal protection clauses of the California Constitution, Cal. Const. art. I, § 7(a); art. IV, § 16 (a), bar the State from maintaining the public school system in a manner that denies some students the basic educational necessities provided to other students. Students who suffer the educational conditions herein alleged are deprived of their right to the equal protection of the laws of this State.

**(Page 11, B.16)**

The range of differences in education offered in California also offends the constitutional principle that public education must be free and provided in common schools that are kept up. According to article IX, section 5 of the California Constitution, access to public education is a right enjoyed by all, not a privilege available for purchase. By failing to establish and enforce effective baseline educational standards for what constitute minimally required learning tools and conditions and then by consigning students to try to learn without provision of some or any basic essentials, the State denies these children their right to free education in common schools.

**(Page 11, B.17)**

The shocking scope of substandard educational conditions that so many of California's public school children experience also offends fundamental principles of due process guaranteed in article I, sections 7(a) and 15 of the California Constitution. California compels all children to attend schools but provides the plaintiff children with schools in unsafe and unsanitary conditions and schools without the basic textbooks, teachers, and facilities needed to achieve the standards the State itself has mandated as essential for all to graduate from each grade and to satisfy the requirements for a high school diploma. By placing these children in harm's way, by arbitrarily denying them the benefits of their schooling, and by substantially impinging on their fundamental interest in a public education, Defendants violate these children's due process rights.

**(Pages 11-12, B.18)**

Through this lawsuit, plaintiffs seek to compel defendants' compliance with their constitutional duties, by the means of their choice, to (1) ensure that every child in California has an opportunity to obtain a basic education and (2) ensure that no child is compelled to attend a fundamentally unequal school that lacks those requirements of a basic education that are provided to most children.

### **Summary of Plaintiff's Argument (the Constitutional Basis for the Complaint)**

The First Cause of Action as stated in the complaint (All Plaintiffs Against all Defendants for Violation of the Equal Protection Clauses of the California Constitution, Article I, section 7(a) & Article IV, Section 16(a)) states that the students' (plaintiffs) right to receive equal protection of the laws has been violated and that the state has failed to provide them with basic educational opportunities equal to those that children in other schools receive.

The Second Cause of Action (All Plaintiffs Against All Defendants for Violation of Article IX, Sections 1 and 5 of the California Constitution) states that the State (defendant) has and continues to violate the students' right to learn in a "system of common schools" that are "kept up and supported" such that children may learn and receive the "diffusion of knowledge and intelligence essential to the preservation of the[ir] rights and liberties." The Complaint goes on to assert that "These constitutional provisions impose on the defendants . . . the nondelegable duty to provide to each Plaintiff and each member of the Plaintiff class and subclass the opportunity to obtain a basic education . . . ."

The Third Cause of Action (All Plaintiffs Against All Defendants for Violation of the Due Process Clauses of the California Constitution, article I, Sections 7(a) & 15) states that the defendants (the State) claim that compulsory education laws requiring students to attend school full-time between the ages of six and 18 violate the right to due process "by requiring Plaintiffs and members of the Plaintiff class and subclass to attend public schools that are dangerous (to their) . . . health and safety and impede basic educational success."

### **Plaintiff's Argument Asserting Violation of Title VI of the Civil Rights Act of 1964**

On page 10 of the First Amended Complaint, the Plaintiffs state that "Schools with the substandard learning conditions cataloged herein are concentrated in neighborhoods and cities populated primarily by low-income and nonwhite families, many of whom are still learning the English language. Other more privileged public school children in California enjoy learning tools and learning conditions that are basic and essential, but absent for the Plaintiff schoolchildren."

The Fourth Cause of Action (All Plaintiffs Against All Defendants for Maintaining Schools in a Manner that has a Racially Discriminatory Impact in Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and 34 C.F.R. 100.3(b)(2)) states that Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” This regulation prohibits any recipient of federal financial assistance from using “criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.”

### **Cross-Complaint: Basic Counter Arguments . . . . . The Defendant (the State of California)**

The Defendants disagree with the Plaintiffs’ interpretation of what should be done to resolve the conditions in California public schools. In their Cross-Complaint, they state that if the plaintiffs are correct that conditions exist in the schools and districts listed in the Complaint filed by the ACLU, and “if they are also correct that such conditions result in depriving students ... of a basic education, or of basic educational opportunities equal to those received by children in other schools” then the Districts where the students attend school have violated their “duties and obligations under applicable statutes and regulations, including without limitation California Code of Education sections 17366, 17565, 17576, 17593, 38118, 60045, 60119, 60411, and 60500, and Title 5 of the California Code of Laws and under the Constitution of California.”

The State further asserts that the Districts are the agents of the State of California “for purposes of providing a public school education to children within [their] jurisdiction, to the extent defined by the Supreme Court of California in Butt v. State of California, Cal. 4<sup>th</sup> 668 (1992), and similar cases.” The State also notes that it has a direct interest in ensuring that the named school districts comply with their duties and obligations, since, under the Butt ruling, “the State may be required in certain circumstances to act where the [school district] has failed.”

In *Williams*, the State argues, the plaintiffs are seeking to impose such an obligation on the State and that the State, therefore, has “a direct financial and governmental interest in making sure that the [school districts have] properly carried out the duties and obligations imposed upon [them] by the Legislature and the Constitution.”

Caroline M. Hoxby, Professor of Economics at Harvard University, in a statement dated April 16, 2003, titled *Achievement, Efficiency, and Centralization in California Public Schools* and submitted as part of her testimony as an expert witness on behalf of the State of California, states that the policies advocated by the plaintiffs and their experts “should be recognized as representing only one of several alternative approaches to improving educational performance that are hotly contested among policy makers, analysts, advocacy groups and parents.”

According to court documents, Professor Hoxby “rebutts the plaintiffs’ expert reports by, among other things, describing the empirical benefits of local control; explaining that California’s current program, which focuses on student outcomes while leaving management of inputs to local authorities, strikes a sensible balance between state and local power; and arguing that plaintiffs’ proposals would eliminate local control and have potentially disastrous effects on schools and students.”

## **State versus Local Control**

As with other elements of public education, whether they be school reform in general, school finance or governance in particular, assessment and accountability, or school district organization, there is disagreement between proponents and opponents (plaintiffs and defendants) as to what should be the appropriate or optimal balance between state and local control to assure all students both the access and the opportunity to succeed.

Ms. Hoxby, in her statement of April 16, 2003, notes that the National Commission on Governing America's Schools in 1999 contrasted two competing images of the future of education. The first alternative is a "system of publicly authorized, publicly funded and publicly operated schools." The second alternative is "a system of publicly authorized, publicly funded and independently operated schools." (National Commission on Governing America's Schools. 1999. Denver: Education Commission of the States.) The plaintiffs and their experts, she says "are advocates of the first alternative. But the second alternative, which shifts substantial discretion downward to local communities and families, has strong advocates and is making progress on several fronts." She cites the 428 charter schools operating in California in the fall of 2002 as an initiative which exemplifies the downward shift.

**Just as this study guide was being prepared for submission to the editors, a settlement in the case was announced. The following are 1) a statement from the Superintendent of Public Instruction, Jack O'Connell, and 2) a listing of some of the highlights of the settlement.**

### **Statement of State Schools Chief O'Connell on the Settlement of the *Williams* Case**

(received by email, August 14, 2004)

"I am pleased that after more than four years, the *Williams v. State of California* lawsuit has been settled. There is no question that settling this case is much better for our schools than continued litigation.

"The agreement takes some positive steps toward assisting our students, but leaves me with some concerns. This settlement relies heavily on bureaucratic solutions and detailing resources government should put into schools, rather than focusing on desired results—increased student achievement. While it is important to give the public a clearer idea of how resources are distributed, surely more important is actually providing the resources to ensure that our children are receiving a world-class education.

"I continue to believe a more comprehensive approach is needed. There is no doubt that we can do a better job of funding education in California. What is really needed is a comprehensive evaluation of what it takes to achieve the desired 'output' of proficiency for all our students.

"It was for this purpose that the Legislature created the Quality Education Commission, whose charge is to define adequacy in our schools and develop a roadmap for achieving it. Unfortunately, in order for this commission to begin its critical work, the Governor must appoint its remaining members. I once again call upon the Governor to make these appointments as soon as possible so we can get this important process underway."

## **Highlights of the Settlement (Public Advocates, August 17, 2004)**

### New Standards:

- State's commitment to meet the federal No Child Left Behind Act standard of a "highly qualified" teacher in every core class by 2006
- Requirement that every student, including English Language Learners ("ELLs"), be provided with textbooks for class and homework
- Requirement that the State Architect develop health and safety standards to ensure clean, safe, and well-maintained school facilities

### Additional Resources:

- \$800 million to emergency facilities repairs over the next four years through a new grant program
- \$138.7 million for textbooks for the lowest performing schools
- \$50 million to implement the settlement in 2004-05, including \$20 million for a first-time, statewide facilities inventory of the lowest performing schools
- Continuing the High Priority Schools Grant Program with funding of \$200-plus million annually by replacing schools whose grants expire with other low-performing schools
- Improving teacher supply by streamlining requirements for out-of-state credentialed teachers to earn California credentials

### Greater Accountability:

- Increased capacity of county superintendents to ensure the lowest performing schools meet new facilities and textbooks standards and ELLs have appropriately trained teachers
- Development of a facilities inspection program for each district
- Uniform complaint process regarding teacher vacancies and misassignments, inadequate instructional materials and poor facilities
- Posting of instructional materials and facilities standards in all classrooms

### State Intervention:

- Empowering county superintendents to request the State to purchase books for students when districts have not satisfied the new textbook standards
- Providing for appeals to the State Superintendent of Public Instruction if complaints regarding facilities under the new uniform complaint process are not satisfied at the district level
- Empowering county superintendents to assign teams to review and make recommendations to be followed regarding district hiring practices when districts fall short of qualified teachers

### ***For More Information on Williams v. State of California***

More information regarding *Williams v. State of California* can be found at [www.decentschools.org](http://www.decentschools.org). Legal arguments of both the Plaintiffs and the Defendants are posted on this Web site, along with expert witness testimony for both sides, published/posted articles, Q&A, and links to other related Web sites.

