

**OUTLINE AND TALKING POINTS FOR APPEAL TO WCCUSD RE: WILLIAMS  
COMPLAINT AT [REDACTED] ELEMENTARY SCHOOL**

**I. OPENING REMARKS**

- Good evening ladies and gentleman and members of the board. Thank you for allowing me to present this Williams appeal to the Board.
- [Introduce Self] My law firm and I are working with the Lawyers Committee for Civil Rights to ensure that Bay Area public schools are providing students with the fundamental elements of educational opportunity guaranteed by the *Williams* Settlement Legislation. To this end, we are helping students, parents, teachers, and community members utilize the new Uniform Complaint Process created by the Settlement Legislation.
- I am here today because we believe that there is a serious facilities-related issue at [REDACTED] that deserves the Board's attention. Specifically, teachers and parents of the school have been complaining since at least 2001 about water that collects under three portable classrooms that are set on a drainage path.

**II. BACKGROUND OF WILLIAMS V. CALIFORNIA**

- I would like to begin by reminding the Board of the *Williams* case, and the District's obligations under the Uniform Complaint Process that was enacted into law as a result of *Williams*.
- The *Williams* Settlement Legislation creates both
  1. Minimum standards regarding teachers, school facilities, and textbooks, and;
  2. The Uniform Complaint Process, an accountability tool to enforce the minimum standards.

**III. THE UNIFORM COMPLAINT PROCESS**

- *Williams* requires resolution of the problem within a reasonable period or 30 working days. If the Principal refers the complaint to the District because it is beyond scope of his or her authority, as in this case, the district then has 10 additional working days to resolve the issue.
- Thus, the complaint must be resolved, at the latest, 40 working days from the receipt of the complaint. And, within 45 working days, the school or district must provide a written response to the complainant.
- If the complainant is unsatisfied with the school's or district's response, the complainant may appeal directly to the State Superintendent of Public Instruction if the complaint is related to the condition of a school facility that poses an emergency or urgent threat to the health or safety of pupils or staff. The state then can compel a response from the District.
- With this particular complaint, therefore, we could have appealed directly to the State Superintendent, but thought it was an important issue such that we wanted to bring it to the

district's attention first and see if we could resolve it at the district level.

#### IV. THE [REDACTED] PROBLEM

- At [REDACTED] there are three portable classrooms that appear to have been placed atop a drainage path. If you look at pictures 3, 4 and 13, you can see the white, sloped trench, which is a drainage pathway.
- The portable classrooms also appear to be downgradient from the rest of the school buildings. You can see this in pictures 5, 6. The portables are surrounded by hilltop properties and a newly installed soccer field that abuts the portable classrooms. See picture 16.
- Since at least 2001, teachers and parents have been complaining that during the rainy season, from Nov-April, water collects underneath the portable units, filling up the basement level of the units and collecting under the ramps, and along the drainage path. The principal of [REDACTED] informed the district in December of 2001 that there was a standing water problem at the portable units. See email of 12/20/01.

##### A. Health Dangers

- The water is dirty and does not drain. It stays stagnant from Nov. through at least May or June. So, for 8 months out of the year, during the school season, dirty water pools underneath the classrooms.
- The children play in the dirty water, including making paper boats and watching them float down the drainage path.
- The water attracts rodents. Skunks have crawled underneath the units and died, causing odors that is smelled by the children and teachers. See picture 12.
- The water attracts insects. Standing water can attract bugs, mosquitoes and other insects.
- Water filling up underneath the units can cause mold and mildew.

##### B. Conventional drainage systems have not worked

- Problem has been pending since at least 2001.
- District has tried installing vents, a sump pump, and a french drain to divert the water but it has not worked.

##### C. This is a facilities problem that is similar to other issues that the State has found to be a deficiency.

- For example, roof leaks in common areas and classrooms have been determined by State to be a facilities deficiency.

- Mold detected on walls of storage area next to classroom also found to be a deficiency.
- References to these deficiencies can be found in the *Williams* Second Year Implementation Report, of which I have a copy that I can leave with the Board for reference.

**V. INSUFFICIENCY OF DISTRICT'S RESPONSE**

- We are here today because the District's response to this Williams Complaint was untimely and insufficient.
- We sent complaint to principal, [REDACTED] on June 5, 2007.
- Under Education Code section 35186, the District, at the latest, had until **August 8, 2007**-- 45 working days, more than two months -- to resolve the issue and respond to the complainant in writing.
- We did not receive any response from the District within the time allowed.
- Instead, on August 9, 2007, I phoned the district to follow up on the complaint.
- On August 10, 2007, I received a response from [REDACTED]
- The District's respond was insufficient because it stated that there are two waters sources. One has been identified and abated and that the other water source occurs during the rainy season and that an engineering review is in progress.
- No additional information was provided and no timeline was scheduled for the abatement of the second source. The need for information, clarity and resolution is particularly significant in this case because this has been an issue that the District has known about for at least 6 years.

**A. Abatement of Source #1**

- We thank the school and the district for their response and for abating the first of the two water sources.
- However, we would like a more specific explanation of what the water source is and what exactly has been done to ensure that the source is abated.
- Since the district has made similar efforts in the past that have been unsuccessful, we need to be sure that this abatement is, in fact, sufficient.

**B. Abatement of Source #2**

- As for the second water source, the district has not provided a timeline for resolution of the problem. This is unacceptable because under the statute, should have been resolved within 40 working days of the complaint. We are now passed the 90 day mark.
- We are here because we believe, and the Education Code requires, that the elementary school children in these three portables do not endure another rainy season in classrooms that pose a

threat to their health and safety.

- Also, the location of the portables is obviously problematic because problem has persisted since 2001 despite efforts to resolve it.

## **VI. WE ARE ASKING DISTRICT TO TAKE ACTION**

- District needs to come within compliance of the Williams Uniform Complaint Process.
- District must provide a timeline for the repairs and resolve the issue before it reoccurs.
- District has the resources, funding, and expertise to fix the problem.
- While the ultimate solution is up to the district, it has been suggested that moving the portables up to a higher and flatter gradient could be a possibility. Moving portables off the drainage path also seems like an obvious solution.
- District should also provide more information about the water sources and what has been and is being done.
- Bottom line is that we are now **35 days** past the statutory deadline for resolution.
- We would like this complaint to be put on the District's next meeting agenda as an action item.

## **VII. QUESTIONS AND CONCLUSION**

- That concludes my presentation. Thank you for your time.
- I'm happy to answer any questions you may have.