

# OPSC and CDE

## Williams Workshop Agenda

### *Office of Public School Construction*

- School Facilities Needs Assessment Grant Program Regulations
- Demo of On-line Applications
- Emergency Repair Program Regulations
- Interim Evaluation Instrument

### *California Department of Education*

- School Accountability Report Card
- Uniform Complaint Process



# **Williams Settlement Legislation**

**Office of Public School  
Construction**

Presented by  
Elizabeth Dearstyne  
and  
Lindsay Ross

# **Settlement and Legislation**

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**On September 29, 2004, several bills were enacted as part of the settlement agreement in the case of *Williams v. State of California*.**

# **Settlement and Legislation**

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Intent was to ensure all students have equal access to:

- **Instructional Material**
- **Qualified Teachers**
- **Safe, Clean and Adequate Facilities**

# Settlement and Legislation

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Today's discussion will focus on the parts impacting the SAB/OPSC:

- *School Facilities Needs Assessment Grant Program (SFNAGP), Senate Bill 6*
- *Emergency Repair Program (ERP), Senate Bill 6*
- *Interim Evaluation Instrument (IEI), Senate Bill 550*

# Local Educational Agency

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For purposes of the School Facilities Needs Assessment Grant Program and Emergency Repair Program:

- Local Educational Agency (LEA) is defined as a school district or county office of education
- Funding will be provided to the LEA with jurisdiction over the eligible school site
- Participating charter schools must work with the appropriate LEA to meet reporting requirements and to apply for funding

# SB 6: School Facilities Needs Assessment Grant Program (SFNAGP)

- School Site Eligibility
- Program Basics and Deadlines
- Calculation of Apportionment
- Worksheets and Forms
- Qualifications of the Inspector
- Use of Funds
- Supplement, Not Supplant



# Program Basics

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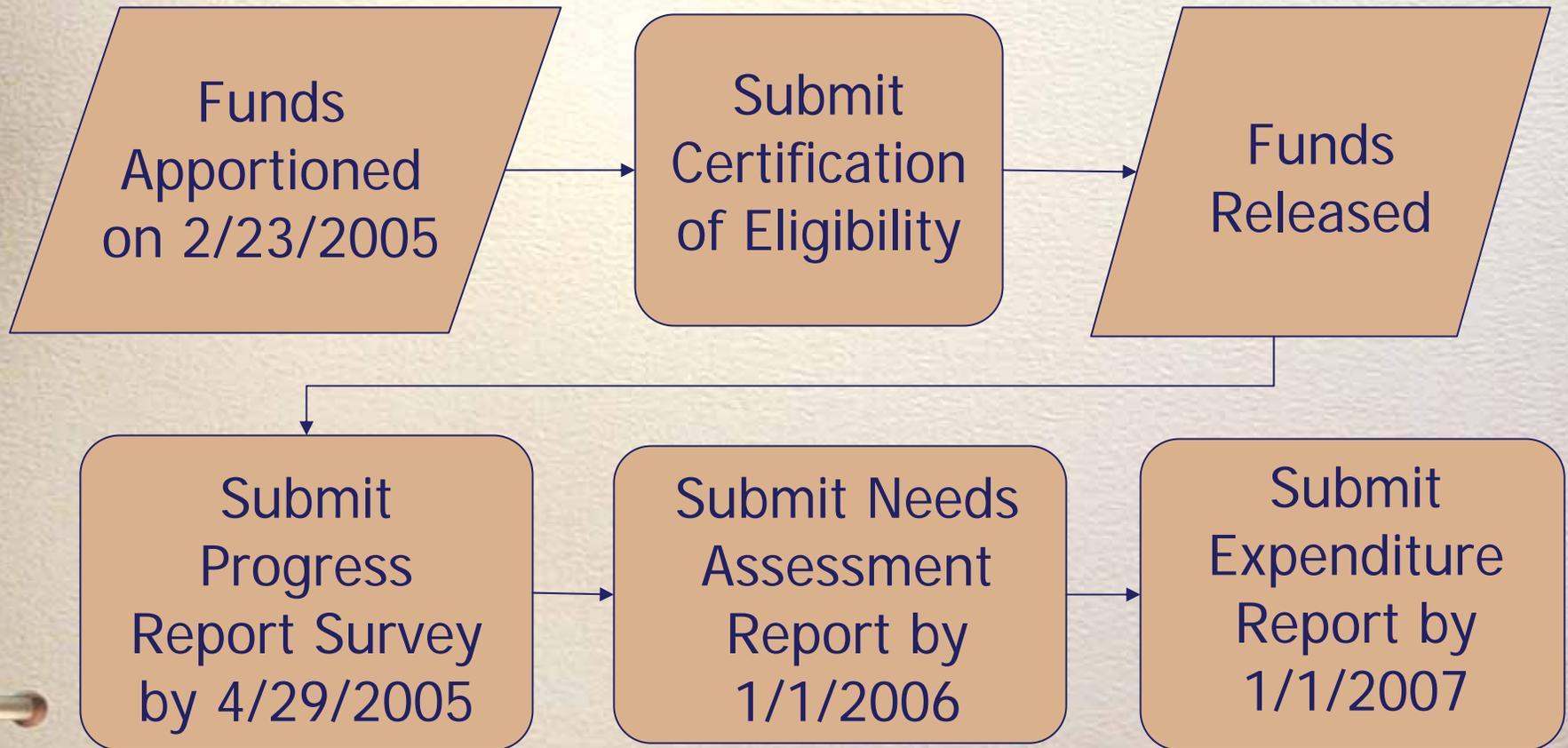
- \$25 million was provided in Legislation for SFNAGP; any remaining funds will go to the ERP
- For each eligible school, LEAs will receive \$10 per pupil, according to the 2003 CBEDS Report. Each eligible school will receive a minimum of \$7,500
- These funds are to hire a qualified individual to perform a one-time comprehensive assessment, which will provide a “snap-shot” of the conditions of school facilities in deciles 1-3

# School Site Eligibility

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- Schools must meet both criteria:
  - Identified by the California Department of Education (CDE) as ranked in deciles 1 – 3, inclusive, on the 2003 Academic Performance Index (API)
  - Newly built prior to January 1, 2000
- The list of 2,137 schools meeting the API criteria is available on the CDE website at [www.cde.ca.gov/eo/ce/wc](http://www.cde.ca.gov/eo/ce/wc)
- A school is considered newly built if the Notice of Completion for the original structure(s) on the site was filed with the county recorder prior to January 1, 2000

# Important Deadlines



# Calculation of Apportionment

*Example: XYZ Unified School District*

School Site/ Year Built	2003 API Decile	Pupils (2003 CBEDS)	Grant Amount
K Street Elementary <i>Year Built: 1976</i>	2	401	\$ 7,500.00
River Middle <i>Year Built: 1986</i>	1	842	\$ 8,420.00
Capitol High <i>Year Built: 1999</i>	3	2022	\$ 20,220.00
<b>Total Apportionment for LEA</b>			<b>\$ 36,140.00</b>

# Certification of Eligibility

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- The Certification of Eligibility is a worksheet to be completed by LEAs to certify whether each site meeting the decile 1-3 criteria was built before January 1, 2000
- This form is available as part of the Online School Facilities Needs Assessment Submittal Program
- Funds will be released once the Certification of Eligibility has been completed and OPSC has received the signed certification page

# Progress Report Survey

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The survey contains four statements to be completed:

1. How many required assessments have been completed and submitted to OPSC?
2. For how many of the remaining school sites has the LEA selected an individual to perform the assessment?
3. How many of those assessments have been initiated?
4. What date does the LEA anticipate all required assessments will be completed and submitted to OPSC?

# Needs Assessment Report

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- The data must be submitted to OPSC by January 1, 2006 via the Online School Facilities Needs Assessment Submittal Program
- A Needs Assessment Report Worksheet has been developed to assist inspectors with determining what facilities systems and components to assess
- Some of the information requested may be provided by employees of the LEA. However, the LEA must obtain the services of qualified individuals to complete three sections of the Form SAB 61-01:
  - Part III: Useful Life of Major Building Systems
  - Part IV: Five-Year Costs to Maintain Functionality
  - Part V: Necessary Repairs

# Qualifications of the Inspector

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## **The persons completing Parts III – V of the Needs Assessment Report must:**

- Have, or be supervised by individuals with, general knowledge of school facilities construction, operation, and maintenance and either of the following:
  - A minimum of three years of experience with cost estimation and building systems life cycle analysis; or
  - An Architect, Engineer, or General Contractor license under California law
- Personally conduct the assessment on the school sites
- Be independent third parties and may not be employees of the LEA

# Use of Funds

School Site	Grant Amount	Cost to Perform Needs Assessment	Remaining Funds
K Street Elementary	\$ 7,500.00	\$ 5,500.00	\$ 2,000.00
River Middle	\$ 8,420.00	\$ 8,100.00	\$ 320.00
Capitol High	\$ 20,220.00	\$15,300.00	\$ 4,920.00
<b>Total</b>	<b>\$ 36,140.00</b>	<b>\$ 28,900.00</b>	<b>\$ 7,240.00</b>

The LEA has \$7,240 dollars remaining to be used at any of the eligible sites to make the necessary repairs identified in the needs assessment (Part V of the Form SAB 61-01).

# Use of Funds

<b>Remaining Funds</b>	<b>7,240.00</b>	
<b>School Site</b>	<b>Expenditures</b>	<b>Description</b>
River Middle	-\$ 1,000.00	Replace missing ceiling tiles
River Middle	-\$ 1,000.00	Replace broken door handles/alarm levers
Capitol High	-\$ 5,240.00	Replace broken toilets
<b>Unused Funds</b>	<b>\$ 0.00</b>	

# Eligible Expenditures

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- SFNAGP funds may be used only for the following:
  - Third party or unbudgeted administrative costs incurred as a result of performing the Needs Assessment
  - Repairs identified in Part V (Necessary Repairs) of the Needs Assessment
- An Expenditure Report (Form SAB 61-02) accounting for the use of funds must be submitted to the OPSC by January 1, 2007.

# Supplement, Not Supplant Deposit Requirements

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In order to use remaining funds on necessary repairs, the district must comply with the following in the 2005/2006 fiscal year:

- a) Make the required Routine Restricted Maintenance Account deposit (if participating in SFP)
- b) Make a deposit in the Deferred Maintenance Account equal to the state's matching share (if participating in DMP)
- c) If either of (a) or (b) is not applicable, the LEA's maintenance budget must be equal to the average amount budgeted for the previous three years

# Supplement, Not Supplant Expenditure Requirements

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- Expend, encumber or dedicate all funds available for maintenance for the 2005/2006 fiscal year to correct problems identified in the facilities inspection system or on the Interim Evaluation Instrument

*Dedicate* means the LEA has developed a plan for the use of all unexpended, unencumbered funds on specific projects to demonstrate that those funds are needed for projects other than the proposed repairs. This plan may change.

# SB 6: Emergency Repair Program

- School Site Eligibility
- Program Basics
- Project Eligibility
- Ineligible Costs
- Access Compliance
- Filing Periods and Funding
- Application Process
- Substantiation of Health and Safety Hazards
- Replacement Projects
- Insufficient Funding
- Financial Hardship Districts
- Supplement, Not Supplant
- Audit Information
- Things to Keep In Mind



# **School Site Eligibility**

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This program is open to the same schools that are eligible for the School Facilities Needs Assessment Grant Program.

# Program Basics

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- Minimum of \$100 million per year will be allocated in the Budget Act until \$800 million has been allocated for the ERP
- Funds will be provided to reimburse LEAs for costs of repairs at eligible school sites to mitigate health and safety hazards as permitted (refer to Regulation Sections 1859.323, 1859.323.1, and 1859.323.2)

# Program Basics

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- Health and safety hazards are conditions that prevent the school from functioning as it was intended, and that renders a facility unusable or subjects pupils and staff to dangerous or unhealthful conditions. These are repairs that districts would consider necessary regardless of available funds
- Submit an *Application for Reimbursement and Expenditure Report* (Form SAB 61-03)

# Project Eligibility

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**SB 6 specifically identifies repairs related to the following conditions as eligible for ERP funding:**

- ✓ Gas Leaks
- ✓ Non-functioning heating, ventilation, fire sprinklers or air-conditioning systems
- ✓ Electrical power failure
- ✓ Major sewer line stoppage
- ✓ Major pest or vermin infestation
- ✓ Broken windows or exterior doors or gates that will not lock and pose a security risk
- ✓ Abatement of previously undiscovered hazardous materials that pose an immediate threat
- ✓ Structural damage creating a hazardous or uninhabitable conditions (unless eligible for SFP Facility Hardship or Rehab.)

# Ineligible Costs

(Regulation Section 1859.323.2)

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- ✘ New square footage, components, or building systems that did not previously exist
- ✘ Nonessential Repairs
- ✘ Cosmetic Repairs
- ✘ Land Acquisition
- ✘ Furniture and Equipment
- ✘ LEA Employee salaries (force account permitted if in compliance with PCC)
- ✘ Costs covered under warranty or by insurance
- ✘ Costs normally borne by others (such as public utility company or building management company)
- ✘ Repairs eligible under SFP Facility Hardship or Rehabilitation

# Access Compliance

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- Nonessential Repairs means work that is not directly related to the mitigation of a health and safety hazard, and these costs are not reimbursable
- This includes access compliance upgrades and building code compliance requirements that may be incidental to the emergency repairs
- The Division of the State Architect prepared a report (attached) that was presented at the February 23, 2005, State Allocation Board meeting, which provides important information regarding accessibility requirements

# Filing Periods and Funding

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- Applications will be accepted on a continual basis once the regulations have become effective
- Apportionments will be made on a monthly basis
- Funds will be released automatically by OPSC
- Funds must be used to reimburse the original source of funding
- Unfunded approvals will be given if funds for the fiscal year have been exhausted
- If a project is eligible under more than one program, it is up to the district to determine which program best suits their needs

# Application Process

**File a separate *Application for Reimbursement and Expenditure Report* (Form SAB 61-03) for each component or system, per school site, and include the following with the application:**

- ✓ Sufficient documentation to substantiate that a health and safety hazard was present
- ✓ A cost comparison prepared pursuant to Regulation Section 1859.323.1, if the building system or structural component was replaced
- ✓ Division of the State Architect approved plans and specification clearly identifying ERP work (if applicable)
- ✓ Copy of all construction contracts and schedules of values
- ✓ Copy of all change orders (if applicable)
- ✓ Copy of all purchase orders or purchase agreements (if applicable)
- ✓ Copy of architect agreement and schedule of fees

# Substantiation of a Health and Safety Threat

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- Photos showing the condition of the project prior to the repair work being performed
- Signed copy of the completed Interim Evaluation Instrument identifying the health and safety threat
- Copy of complaints made by parents, students, or staff identifying the problem
- Copy of inspection reports by qualified individuals or firms identifying the problem

# Replacement Projects and Cost Comparisons

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(Regulation Section 1859.323.1)

- Statute provides for full reimbursement of like-kind replacement projects only if the replacement is deemed cost effective
- A like-kind replacement is cost effective if the estimated cost of repair is at least 75% of the estimated cost of replacement
- LEAs must prepare of cost comparison consisting of two estimates - one for repair, one for like-kind replacement - for all like-kind replacement projects to determine if it is cost effective
- The estimates must be prepared by qualified individuals or firms but are not required to be prepared by same person(s)

# Replacement Projects

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## *Example #1, Non-functioning HVAC system*

Estimated cost of repair = \$8,000

Estimated cost of replacement = \$10,000

$$\mathbf{\$8,000 \div \$10,000 = .80 \times 100 = 80\%}$$

Estimated repair cost exceeds 75% of estimated replacement cost, therefore:

**100% of all eligible replacement costs shall be reimbursed**

# Replacement Projects

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## *Example #2, Non-functioning HVAC system*

Estimated cost of repair = \$6,000

Estimated cost of replacement = \$10,000

$$\text{\$6,000} \div \text{\$10,000} = .60 \times 100 = 60\%$$

Estimated repair cost is less than 75% of estimated replacement cost, therefore:

**(1) 100% of eligible Repair costs will be reimbursed**

**OR**

**(2) 60% of all eligible Replacement costs will be reimbursed up to \$6,000**

# Insufficient Funding

In any month, when the amount of funds available is not sufficient to fully fund all projects the SAB apportionment may be prorated.

If the prorate is:	Then:
<b>at least 25%</b>	<ul style="list-style-type: none"><li>•all projects will receive a prorated apportionment</li><li>• balance placed on an unfunded list until additional funds are made available for the program</li></ul>
<b>less than 25%</b>	<ul style="list-style-type: none"><li>•the SAB will apportion as many applications in full as possible according to date of receipt</li><li>•the remaining applications partially or fully unfunded will be placed on the unfunded list until additional funds are made available for the program</li></ul>

# **SFP Financial Hardship Districts**

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- Advance funding is not available for financial hardship districts
- SFP Regulation Section 1859.81 have been modified so that funds received through the SFNAGP and ERP are not considered available contribution for SFP projects

# Supplement, Not Supplant Deposit Requirements

In order to be eligible for ERP funding, the district must comply with the following at the time of application submittal:

- a) Make the required Routine Restricted Maintenance Account deposit for the current fiscal year (if participating in SFP)
- b) For applications submitted prior to 1/1/06, make the a deposit in the Deferred Maintenance Account equal to the state's matching share for the most recent determination (if participating in DMP)
- c) For application submitted on or after 1/1/06, make a deposit in the Deferred Maintenance Account equal to the maximum basic grant for the most recent determination (if participating in DMP)
- d) Deposits made according to (b) or (c) in excess of the State's match may not be withdrawn or reduced
- e) If either (a) or (b)/(c) are not applicable, the LEA's maintenance budget must be equal to the average amount budgeted for the previous three years

# Supplement, Not Supplant Expenditure Requirements

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- Expend, encumber or dedicate all funds available for maintenance in the fiscal year of the application to correct problems identified in the facilities inspection system or on the Interim Evaluation Instrument

*Dedicate* means the LEA has developed a plan for the use of all unexpended, unencumbered funds on specific projects to demonstrate that those funds are needed for projects other than the proposed repair. This plan may change.

# Audit Information

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The audit process will include verification of at least the following:

- Any contract signed or expenditure made as part of the project must have occurred on or after September 29, 2004
- Compliance with Public Contract Code
- Compliance with Supplement, Not Supplant, Requirements

# Things to Keep In Mind

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- ERP is a reimbursement program
- The list of health and safety hazards specified in EC Section 17592.72(c)(1) is not exhaustive
- Projects will typically be maintenance issues that must be taken care of in an urgent manner because the condition poses a health and safety hazard
- Sufficient documentation of the presence of a health and safety hazard must be provided to OPSC
- Replacement of systems or components is permitted in accordance with Regulation Section 1859.323.1.  
*Replacement Projects*

# Things to Keep In Mind

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- ERP project must be clearly identified on the plans if the plans also contain non-eligible work
- Reimbursement funds must be deposited into the special reserve account, if financial hardship, and returned to the original source of funds
- ERP funds must supplement, not supplant, funds already available for facility maintenance as stipulated by Regulation Section 1859.328
- The SAB may deny future ERP funding if the board determines there is a failure to exercise due diligence in the maintenance of facilities or supplantation has occurred.

# Senate Bill 550

- Interim Evaluation Instrument
- Facilities Inspection System
- Next Steps
- Contact Information



# Interim Evaluation Instrument

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- Senate Bill 550 required OPSC to develop an interim tool to evaluate whether a school is kept in “good repair”, meaning that the facility is maintained in a manner that ensures that it is clean, safe, and functional
- 13 components of a school are rated; some examples are:
  - Windows/Doors/Gates
  - Drinking Fountains
  - Interior Surfaces
- Goal is to have all “Yes, ” which means the facility is in good repair

# Use of the IEI

Entity	Use
School Districts	<ul style="list-style-type: none"><li>• Completing SARC (<u>all</u> schools)</li><li>• Facility Inspection System</li></ul>
County Offices of Education	<ul style="list-style-type: none"><li>• Completing SARC (<u>all</u> schools)</li><li>• Facility Inspection System</li><li>• Oversight responsibilities at decile 1-3 schools</li></ul>

The IEI will be retained by the district or COE, not returned to the OPSC

# Facilities Inspection System

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- Beginning July 1, 2005, each district or COE participating in the School Facility Program or the Deferred Maintenance Program must develop a facilities inspection system to ensure schools are maintained in good repair
- Certification has been added to SFP Forms 50-04, 50-07, and 50-09, and DMP Five Year Plan Form SAB 40-20
- The facilities inspection system is not defined in law and is to be designed at the local level
- For schools meeting the eligibility criteria of SB 6, the needs assessment is the baseline of the facility inspection system

# Next Steps

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- OPSC is to report to the Governor and Legislature by December 31, 2005 on options for state standards
- The Governor and Legislature are charged with adopting in statute the state standard definition of good repair by September 1, 2006

# Contact Information

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For questions regarding the information discussed today, contact:

Your OPSC Project Manager

or

**Elizabeth Dearstyne**

916.323.0073 or [edearsty@dgs.ca.gov](mailto:edearsty@dgs.ca.gov)

**Lindsay Ross**

916.323.7938 or [lross@dgs.ca.gov](mailto:lross@dgs.ca.gov)

**Melissa Ley**

916.323.7936 or [mley@dgs.ca.gov](mailto:mley@dgs.ca.gov)



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# Latest *Williams* Settlement Regulations and Requirements by the Department of Education

*School Facilities Planning Division*



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State Superintendent  
of Public Instruction

# Topics

- School Accountability Report Card (SARC)
- Facilities Complaint Appeals Process



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State Superintendent  
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# School Accountability Report Card (SARC)

The SARC is intended to: "...provide data by which parents can make meaningful comparisons between public schools..."

California *Education Code* Section 33126.1

All schools must prepare a SARC annually.

Information on 26 areas such as:

- Quality of instruction
- Enrollment
- Safety, cleanliness, and adequacy of facilities



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# SARC

- Senate Bill 550 (Vasconcellos) amends California *Education Code* sections 33126 and 33126.1 and requires:
  - Expanded information on the condition of a school's facilities, teachers and textbooks
  - Examples of acceptable and unacceptable statements on facilities



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# SARC

- District to provide a statement on the:  
  
"Safety, cleanliness, and adequacy of facilities, including any needed maintenance to ensure good repair."  
  
"Good repair" means the facility is maintained in a manner that assures that it is clean, safe, and functional as determined pursuant to an interim evaluation instrument developed by...the Office of Public School Construction.



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# SARC

- For SARCs published during the 2004-05 school year (reflecting 2003-04 school year conditions) the description should include a report on the eight emergency facilities needs specified in California *Education Code* Section 17592.72(c)(1)



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# "Emergency Facilities Needs"

- gas leaks
- nonfunctioning heating, air-conditioning, ventilation, fire sprinklers
- electrical power failure
- major sewer line stoppage
- major pest or vermin infestation
- broken windows, exterior doors, gates
- abatement of hazardous materials previously undiscovered
- structural damage that poses a safety threat



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# SARC Facility Statements

- Acceptable and Unacceptable facility statements
  - Acceptable statements provide specific information for a school
  - Unacceptable statements are broad and non-specific or district-wide summaries



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# SARC

## Acceptable Statement

### Age of School Buildings

This school has 20 classrooms, a multipurpose room, a library, and an administration building. The main campus was built in 1965. Additions were constructed in 1968 and 1972. Two portable classrooms were constructed in 1997 for class size reduction.



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# SARC

## Acceptable Statement

### Cleaning Process and Schedule

The district governing board has adopted cleaning standards for all schools in the district. A summary of these standards is available at the school office, at the district office, or on the Internet at [Web site address]. The principal works daily with the custodial staff to develop cleaning schedules to ensure a clean and safe school.



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# SARC

## Acceptable Statement

### **Maintenance and Repair**

District maintenance staff ensures that the repairs necessary to keep the school in good repair and working order are completed in a timely manner. A work order process is used to ensure efficient service and that emergency repairs are given the highest priority.



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# SARC

## Unacceptable Statement

The district has ensured that this school has facilities that are safe, clean, and adequate, and that any needed maintenance to ensure good repair has been or will soon be completed.

For more information about the condition of this school's facilities, contact the school principal.



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# SARC

- May 2005 State Board of Education changes
- SARCs are not evaluated by the California Department of Education



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# SARC Contact

**(916) 319-0421**

**sarc@cde.ca.gov**

*<http://www.cde.ca.gov/ta/ac/sa/>*

**State Board of Education Action**

*<http://www.cde.ca.gov/be/ag/ag/yr05/supplement0105.asp>*

**Template**

*<http://www.cde.ca.gov/ta/ac/sa/templates.asp>*

**Data Definitions**

*<http://www.cde.ca.gov/ta/ac/sa/definitions04.asp>*



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# Facilities Complaint Appeals Process

- **Senate Bill 6 (Alpert)**  
**California *Education Code* Section 17592.72**
  - defines "emergency facilities needs" for appeals
- **Senate Bill 550 (Vasconcellos)**  
**California *Education Code* Section 35186**
  - expands the Uniform Complaint Procedures (UCP) to include urgent facility needs
  - allows "emergency facilities needs" appeals to be filed with the Superintendent of Public Instruction
  - requires classroom notice



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of Public Instruction

# Facilities Complaint Appeals Process

- **California Code of Regulations, Title 5**
  - establishes UCP and appeals process
  - State Board of Education to consider changes prepared by the Department



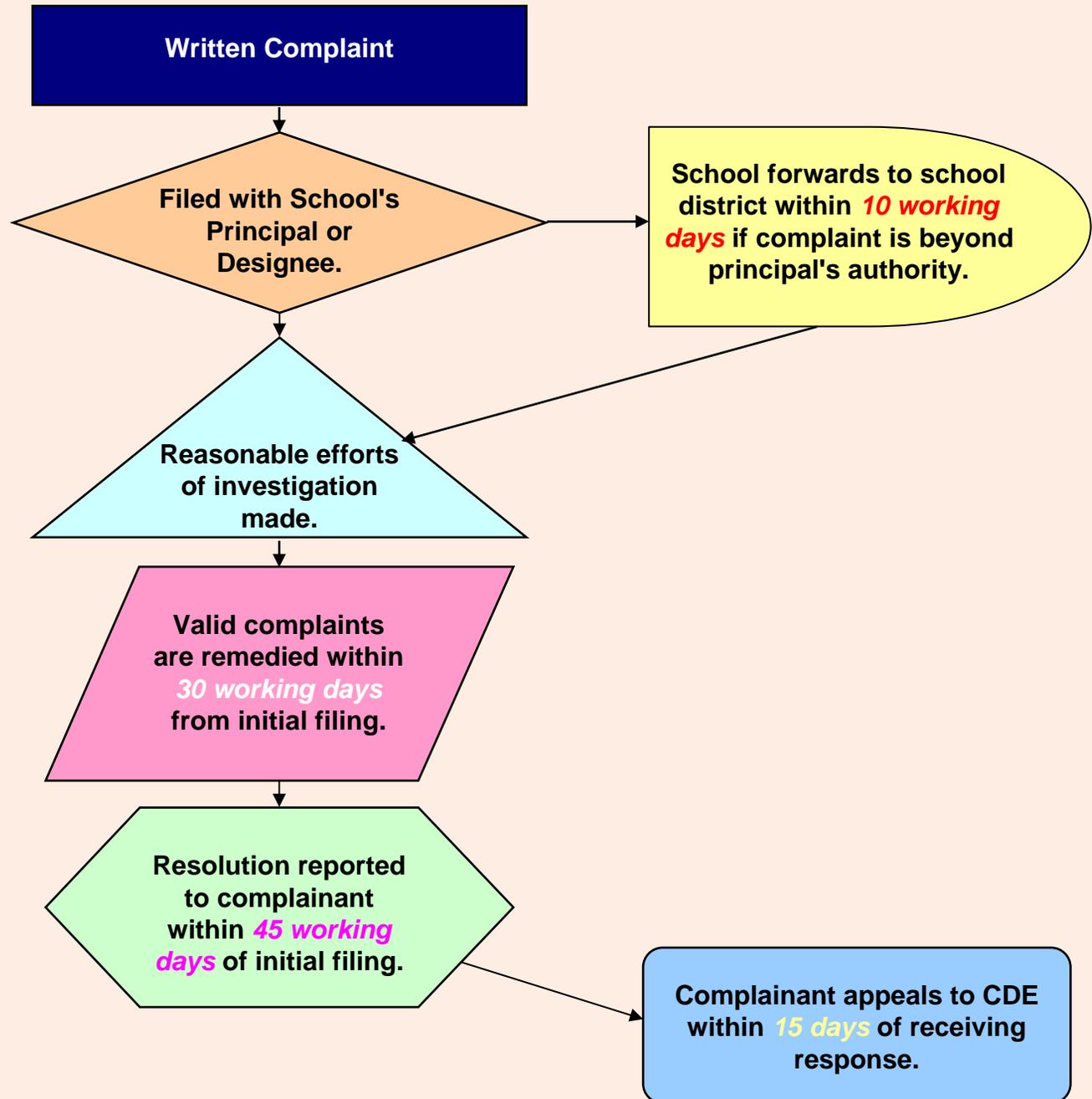
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# Complaint Process

1. Filed with school principal
  - forwarded to school district within 10 days if beyond principal's authority
2. Reasonable efforts of investigation made
3. Remedied within 30 working days from date complaint was filed
4. Resolution reported to complainant within 45 working days from date complaint was filed



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# Appeals Process

- Complainant submits to the California Department of Education within 15 calendar days of receiving local agency's resolution
- Appeal must include:
  - Basis for appeal
  - Explanation of how condition poses a health and safety threat
  - Copy of filed complaint
  - Copy of local agency's resolution



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# Department Role

- Determine if substantial evidence exists
  - review complainant and local agency documents
  - contact parties
  - research state and federal law and regulation
- Propose Remedy
- Notify complainant and local agency of decision
- Report to State Board of Education



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# UCP Status

- State Board of Education approved changes at March meeting
- Final Adoption proposed in May



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# Appeals Contact

Diane Waters

(916) 327-2884

*dwaters@cde.ca.gov*

School Facilities Planning Division

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Sacramento, CA 95814