



## SAN FRANCISCO UNIFIED SCHOOL DISTRICT

### WILLIAMS COMPLAINT FORM

**Instructions:** California Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? **XX** Yes

**Contact information:** (if response is requested)

Name: Shilpa Ram

Address: [use email please]

Phone number: Day: 559-825-2733 Evening: N/A

E-mail address, if any:  
sram@publicadvocates.org

**Date(s) problem was observed:** 2022-23 School year to date

**School Information** (location of the problem that is the subject of this complaint):

School name/address: Marina Middle School

Course title/grade level and teacher name: Multiple/see attachment

Room number/name of room/location of facility: Multiple/see attachment

**Williams Issues:** Only the following issues may be the subject of the Williams complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)

- A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
- A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.

- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

XX A semester begins and a teacher vacancy exists. A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

XX A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

XX A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5; 5 CCR 4683)

- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning 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 that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.
- A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.
- For a school that serves students in any of grades 6-12 with 40 percent or more of its students from low-income families, as defined, the school has not stocked at least half of its restrooms with menstrual products at all times and made those products available to students at no cost.
- The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

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See attached description of Williams issues.

Please file this complaint with the **School Principal** or the **Office of Equity** (555 Franklin Street, Room 306, San Francisco, CA 94102, T: (415) 355-7334, Email: equity@sfusd.edu)





## Description of *Williams* Issues at Marina Middle School

### Introduction

[Marina Middle School](#) is a middle school in San Francisco Unified School District (SFUSD). As of the 2021-22 school year, 684 students were enrolled at the school, [65 percent of whom are low-income](#) and over 50 percent of whom identify as Asian.<sup>1</sup> 145 of the enrolled students identified as English learners, or multilingual learners, many of whom are newcomers and [88% of whom spoke the following languages: Cantonese, Spanish, Toishanese, Arabic and Mandarin](#).

Per [California Education Code Section 35186](#), *Williams* complaints may be filed in response to concerns about instructional materials, clean and school safe facilities or teacher vacancies or misassignments. Public Advocates is filing this *Williams* complaint in response to serious concerns regarding teacher vacancies and misassignments that we have learned about at Marina Middle School. Per [California Education Code Section 35186](#), a semester has begun and there are vacant certificated positions and, separately, there is at least one other position where the teacher assigned lacks the required training and certification to teach the English Learners in that classroom.

Complainant Public Advocates is deeply troubled by the myriad vacancies and misassignments on campus that members of the Marina Middle School community have brought to our attention, as well as the deleterious effect of these teacher vacancies and misassignments on the school community. Public Advocates was the lead counsel on teacher quality issues in the *Williams v. California* lawsuit that, among other things, led to the establishment of the *Williams* complaint process in California. As such, we are familiar with the conditions that led to that seminal case and the remedies established to address them. The staffing instability and chaos currently being experienced at Marina Middle School are some of the worst we have seen since *Williams* was filed in 2000. Members of the school community have expressed concern about the lack of stability on campus and the numbers of students, particularly multilingual learners and students with Individualized Education Program (IEPs) and Section 504 plans, whose academic and social-emotional needs are being ignored because of the number of teacher vacancies and misassignments, as well as school leaders' failure to maintain a cohesive and healthy school culture and take prompt and responsive action to fill the vacancies and correct the misassignments. Recent concerns expressed about school culture, climate, and safety are directly related to the lack of stable staffing and a district and school plan to fill positions with permanent, fully qualified personnel.

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<sup>1</sup> In the 2021-21 school year, 53.4% of students at Marina Middle School identified as Asian, 19.6% of students identified as Latino/a, 9.2% identified as white, 6.7% identified as Black, 5.3% identified as 2 or more races, 2.9% identified as Filipino, and 2.5% did not report their race.

### **The Complainant**

Public Advocates is a civil rights non-profit law firm dedicated to challenging the systemic causes of poverty and racial discrimination by strengthening community voices in public policy and using the law as a tool to advance housing, transportation, climate, and education justice. In 2004 the landmark *Williams v. California* case litigated by Public Advocates established students' rights to the following building blocks of a quality education:

- (1) Well-prepared teachers, particularly for English learners
- (2) Instructional materials aligned to state standards to use in school and at home, including materials appropriate for English learners
- (3) Clean and safe school facilities

### **Teacher Vacancies and Misassignments**

Members of the school community have shared the following concerns with us:

- Both daily substitute teachers and long-term substitute teachers are regularly called upon to cover classes, along with Marina Middle School's certificated teachers themselves, who are asked to give up their prep periods to provide class coverage.
- There has been also a practice (which we learned was subsequently discontinued following complaints by the union) of combining multiple classes in the auditorium and screening the Pixar film *Finding Nemo* rather than providing instruction to students.
- There have also been repeated requests by school leadership to paraprofessionals, student teachers and even security personnel to cover classes without permanent designated teachers.
- Conversations have also been initiated by school leadership to split up classes of students that do not have permanent designated teachers and send them to other classes, which is deeply disruptive both for the individual students and for the school community as a whole, and which places an additional burden on the Marina Middle School teaching staff to provide comprehensive instruction to students with whom staff are unfamiliar and who may only be in their classrooms on an interim basis.

We have learned of the following teacher vacancies and misassignments that we demand be immediately corrected:

- **6<sup>th</sup> and 7<sup>th</sup> grade English teacher vacancy**: The permanent teacher designated to cover these classes was placed on administrative leave and retired during the fall semester of the 2022-23 school year. Since the time that teacher was placed on leave and their status as the teacher of record was placed in limbo, and certainly since the teacher retired, this class has had no single designated certificated employee assigned to teach the class and an unlawful vacancy has existed; now a new semester has begun, and the vacancy remains. For all of this time, in the absence of a single designated certificated employee, the district has had the class taught by a combination of long-term substitutes, daily substitutes and fill-in Marina Middle School teachers. We are not aware of any efforts by the district to fill this vacancy and hire a permanent teacher. As a consequence, the situation has been very challenging for staff and students alike. Staff have also expressed consternation about the lack of

communication from school and district leadership as to why there has been such a delay in filling this vacancy and creating a more stable learning environment for students.

- **English/history/Mandarin teacher vacancy and misassignment:** The permanent teacher designated to cover these classes has been on leave since the beginning of the 2022-23 school year. While the regular teacher remains on leave indefinitely, there is, in effect, a vacancy in this position as no actual single designated certificated employee is assigned to teach the class. It is incumbent on the district to ensure that a single designated teacher who is qualified teaches the class. That has not happened. We understand that the Mandarin class is a dual-immersion class in which at least 50% of the content needs to be delivered in Mandarin. All the students, including the Mandarin-speaking English Learners (whom we believe constitute greater than 20% of the class), rely on the instructor to be able to convey academic content in Mandarin for significant portions of the instructional week. Accordingly, the teacher assigned to teach such a class must be fully or, at least, provisionally certified to teach a bilingual Mandarin middle school history/English class. See Calif. Educ. Code Sec. 35186(e)(2)(B) (establishing a *Williams* violation when “A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20-percent English learner pupils in the class.”); *see also id.* at Sec. 35186(e)(2)(C) (assigned teacher lacks subject matter competency). As such, we are deeply concerned that the teacher, Ms. Fox, who is covering these classes, does not have the requisite bilingual authorization or subject matter competency to provide students with appropriate instruction – particularly in Mandarin. This situation is adversely impacting student learning and achievement and is likely to prompt at least some students to transfer out of the program in the coming year. We are also deeply concerned that school and district leadership have failed to provide adequate support and curricular resources, including in languages other than English, to support the school’s burgeoning newcomer student population. Staff have shared that these students have experienced profound harm due to Marina Middle School’s vacancies and misassignments, particularly those who received primary-language support in Chinese from the teacher who taught Mandarin prior to going on leave.
- **1.0 FTE Special Education Teacher and 0.5 FTE Special Education Teacher vacancies:** The two permanent special education teachers assigned to fill these positions, both of whom had caseloads of students with mild-to-moderate disabilities, left Marina Middle School during the same week in the fall semester of the 2022-23 school year. These two teacher vacancies have since gone unfilled. We have not heard of any coverage plan in place for the scores of students with Individualized Education Programs (IEPs) who were previously served by the two teachers who departed. Nor are we aware of any efforts by the district to fill the vacancies with permanent personnel. As such, the remaining special education staff are being overwhelmed, and it does not appear that: (1) the IEPs of the students previously served by the departed teachers are still being implemented, (2) those students are being re-evaluated, as appropriate, to determine eligibility for different or additional services, (3) IEP meetings for these students are being held in a timely fashion and (4) the district is meeting its obligations under the Individuals with Disabilities Education Act (IDEA) to provide them with a Free Appropriate Public Education (FAPE).

- **No school nurse, head counselor or school social worker:** We are also deeply concerned that Marina Middle School has not filled its part-time nurse position and that both its head counselor and school social worker positions have been vacant since the latter half of the fall semester. This is particularly troubling since [the pandemic has adversely affected the mental health of many students across the country](#). Moreover, as school social workers are typically tasked with serving the needs of students with Section 504 plans, we have serious concerns as to whether (1) these students' needs are being met, (2) they are being re-evaluated, as appropriate, to determine eligibility for different or additional services and (3) the district is meeting its obligations under Section 504 of the Rehabilitation Act of 1973 (Section 504) to provide these students with a FAPE. Moreover, given the significant population of multilingual learners on campus, we are concerned that some students with Section 504 plans and IEPs may be dual-identified students who are experiencing additional denials of access to school educational programs and activities because neither their language-assistance nor their disability-related services are currently being provided.

### **Inaction by School Administrators**

We have also heard many concerns about inaction on campus by school leadership and a systematic failure to ensure that students are provided with comprehensive instruction. These concerns include:

- An absence nearly the entire year of an assigned Principal and the presence of two relatively inexperienced assistant principals.
- A failure to develop a comprehensive hiring and assignment plan across campus to ensure that all classes are covered by a single designated certificated teacher with the requisite subject matter competence and legal authorization to provide instruction to the students in the class.
- A failure to communicate with staff in a timely manner about efforts to post vacancies on hiring platforms, such as EDJOIN, and fill them promptly.
- Continued requests to current certificated teachers to cover classes during their prep periods, which contributes to stress, burnout and inadequate preparation among those teachers, and can disproportionately impact newer teachers who may feel additional pressure to accede to such requests.
- A failure to provide comprehensive training and institutional support to the long-term substitutes who are currently covering classes on campus.
- A failure to exercise concrete steps to support the school community during this time of staff turnover and upheaval, such as additional counseling services, curricular resources, and/or other social-emotional support.

### **Remedies Sought**

We seek the following remedies. That the district and school:

- Fill the vacant positions within a reasonable period of time, not to exceed 30 (thirty) working days (Cal. Educ. Code Sec. 35186(b)), and hopefully sooner, to avoid further disruption to the affected students' education and adverse impacts on school climate.

- Correct the misassignment within a reasonable period of time, not to exceed 30 (thirty) working days (*id.*), of the teacher who is currently covering the Mandarin class by assigning a single designated teacher for the class who has the proper authorizations, including as to providing Mandarin bilingual instruction.
- Ensure that all students with IEPs whose case carriers departed during the Fall semester of the 2022-23 school year and all students with Section 504 plans are receiving the special education and/or related services to which they are entitled and provided with a Free Appropriate Public Education.

We look forward to the prompt resolution of this complaint. If you have any questions, please contact Shilpa Ram at [sram@publicadvocates.org](mailto:sram@publicadvocates.org).

Date: January 23, 2023

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