

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 33126, 35256, 35256.1, 35258, 41409 and 41409.3 as added by Chapter 918, Statutes of 1997, et al.

And filed on December 31, 1997;

By Bakersfield City School District and Sweetwater Union High School District, Co-Claimants.

NO. 97-TC-21

*School Accountability Report Cards*

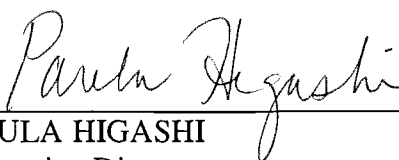
STATEMENT OF DECISION  
PURSUANT TO GOVERNMENT  
CODE SECTION 17500 ET SEQ.;  
TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7.

Adopted on April 23, 1998

**STATEMENT OF DECISION**

The attached Statement of Decision is hereby adopted by the Commission on State Mandates on April 23, 1998.

Date: May 26, 1998

  
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PAULA HIGASHI  
Executive Director

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**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) on April 23, 1998, heard this test claim during a regularly scheduled hearing. Mr. Wayne Stapley and Dr. Dale Russell appeared for the Bakersfield City School District, Mr. Lawrence Hendee appeared for Sweetwater Union High School District, Mr. James A. Cunningham appeared for San Diego Unified School District, Dr. Carol Berg appeared for Education Mandated Cost Network, and Mr. James Apps appeared for the Department of Finance.

At the hearing, evidence both oral and documentary was introduced, the test claim was submitted, and the vote was taken.

The law applicable to the Commission's determination of a test claim is Government Code section 17500 et seq. and section 6, article XIII B of the California Constitution and related case law.

The Commission, by a vote of 7-0 approved this test claim.

**Issue**

Do the provisions of the test claim legislation on school accountability report cards, impose a new program or higher level of service upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514?

### **Prior Law**

School accountability report cards were added to the Education Code on November 8, 1988, when California voters approved Proposition 98. Among other things, Proposition 98 added sections 33126 and 35256 to the Education Code. Section 33126 sets forth the following requirements:

- the Superintendent of Public Instruction is to prepare a model school accountability report card to be adopted by the Board of Education as the statewide model by March 1, 1989; and
- the model shall include, but is not limited to, assessment of thirteen school elements.

Section 35256 sets forth the following requirements:

- the school accountability report card shall include, but is not limited to, the conditions listed in section 33126;
- the governing board of each school district shall, triennially, compare the school district's card to the model; and
- the school district shall prepare and issue school accountability report cards for each school in the school district.

### **Test Claim Legislation**

Chapter 1463, Statutes of 1989, added sections 35256.1 and 41409.3 to the Education Code. Together, these sections require school districts to add information on salaries paid to teachers, school site principals, and school district superintendents to the district's school accountability report card. In addition, these sections require school districts to include information pertaining to certain statewide salary averages and percentages of salaries to total school budget in the district's report card.

Chapter 759, Statutes of 1992, amended Education Code section 41409 to require the Superintendent of Public Instruction to report the statewide salary information based upon a comparison of total expenditures rather than total school budget. This information is to be provided by the Superintendent of Public Instruction to school districts for inclusion in their school accountability report cards.

Chapter 1031, Statutes of 1993, added subsection (14) to Education Code section 33126. Subsection (14) requires school districts to report "the degree to which pupils are prepared to enter the work force."

Chapter 824, Statutes of 1994, added subsections (15) and (16) to Education Code section 33216. Subsection (15) requires school districts to report "[t]he total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per year required by state law, separately stated for each grade level." Subsection (16) requires school districts to report "[t]he total number of minimum days, . . . , in the school year."

Chapter 912, Statutes of 1997, made numerous amendments to Education Code section 33126. Under Chapter 912, Statutes of 1997, school districts are now required to include the following information in their school accountability report cards:

- results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period, including pupil achievement by grade level as measured by the statewide assessment (§ 33126, subd. (b)(1));
- for schools with high school seniors, the average verbal and math Scholastic Assessment Test scores to the extent such scores are provided to the school and the average percentage of high school seniors taking the exam for the most recent three-year period (§ 33126, subd. (b)(1));
- the one-year dropout rate for the schoolsite over the most recent three-year period (§ 33126, subd. (b)(2));
- the distribution of class sizes at the schoolsite by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1-3, inclusive, participating in the Class Size Reduction Program for the most recent three-year period (§ 33126, subd. (b)(4));
- the total number of the school's credentialed teachers, the number of teachers relying on emergency credentials, and the number of teachers working without credentials for the most recent three-year period (§ 33126, subd. (b)(5));
- any assignment of teachers outside of their subject area of competence for the first two years of the most recent three-year period (§ 33126, subd. (b)(5));
- the annual number of schooldays dedicated to staff development for the most recent three-year period (§ 33126, subd. (b)(10)); and
- the suspension and expulsion rates for the most recent three-year period (§ 33126, subd. (b)(11)).

Chapter 918, Statutes of 1997, added section 35258 to the Education Code. Section 35258 requires those school districts that are connected to the Internet to make their school accountability report card available on the Internet and to update the information annually.

### **Commission Findings**

In order for a statute, which is the subject of a test claim, to impose a reimbursable state mandated program, the statutory language (1) must direct or obligate an activity or task upon local governmental entities, and (2) the required activity or task must be new or it must create an increased or higher level of service over the former required level of service. To determine if a required activity is new or imposes a higher level of service, a comparison must be undertaken between the test claim legislation and the legal requirements in effect immediately prior to the enactment of the test claim legislation.<sup>1</sup> Finally, the newly required activity or increased level of service must be state mandated.<sup>2</sup>

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<sup>1</sup> Mr. James A. Cunningham testified that the Claimant disagrees with this interpretation of the *Lucia Mar* holding. Mr. Cunningham stated that although the same conclusion can be reached, the Claimant does not agree with the analysis or interpretation of the case law in this decision.

<sup>2</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

The Commission found that the thirteen elements that are found in Proposition 98 are not reimbursable, because those activities fell under the exception in Government Code section 17556, subdivision (f).<sup>3</sup>

The Commission found that Chapter 1463, Statutes of 1989, added sections 35256.1 and 41409.3 to the Education Code requiring school districts to add information on salaries paid to teachers, school site principals, and school district superintendents to the district's school accountability report card. In addition, the Commission found these sections require school districts to include information on certain statewide salary averages and percentages of salaries to total school budget in the district's report card.

The Commission found that Chapter 759, Statutes of 1992, amended Education Code section 41409 to require school districts to include statewide salary information which is provided to school districts by the Superintendent of Public Instruction for inclusion in their school accountability report cards.

The Commission found that Chapter 1031, Statutes of 1993, added subsection (14) to Education Code section 33126 which requires school districts to report "the degree to which pupils are prepared to enter the work force."

The Commission found that Chapter 824, Statutes of 1994, added subsections (15) and (16) to Education Code section 33216. Subsection (15) requires school districts to report "[t]he total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per year required by state law, separately stated for each grade level." Subsection (16) requires school districts to report "[t]he total number of minimum days, . . . , in the school year."

The Commission found that Chapter 912, Statutes of 1997, amended Education Code section 33126 to require school districts to include the following information in their school accountability report cards:

- results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period, including pupil achievement by grade level as measured by the statewide assessment (§ 33126, subd. (b)(1));<sup>4</sup>
- for schools with high school seniors, the average verbal and math Scholastic Assessment Test scores to the extent such scores are provided to the school and the average percentage of high school seniors taking the exam for the most recent three-year period (§ 33126, subd. (b)(1));
- the one-year dropout rate for the schoolsite over the most recent three-year period (§ 33126, subd. (b)(2));

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<sup>3</sup> Government Code section 17756. Findings. reads, "The commission shall not find costs mandated by the state, . . . , in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that: . . . (f) The statute or executive order imposed duties that were expressly included in a ballot measure approved by the voters in a statewide election."

<sup>4</sup> All section references are to the Education Code unless otherwise stated.

- the distribution of class sizes at the schoolsite by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1-3, inclusive, participating in the Class Size Reduction Program for the most recent three-year period (§ 33126 subd. (b)(4));
- the total number of the school's credentialed teachers, the number of teachers relying on emergency credentials, and the number of teachers working without credentials for the most recent three-year period (§ 33126, subd. (b)(5));
- any assignment of teachers outside of their subject area of competence for the first two years of the most recent three-year period (§ 33126, subd. (b)(5));
- the annual number of schooldays dedicated to staff development for the most recent three-year period (§ 33126, subd. (b)(10)); and
- the suspension and expulsion rates for the most recent three-year period (§ 33126, subd. (b)(11)).

The Commission found that Chapter 918, Statutes of 1997, added section 35258 to the Education Code requiring those school districts that are connected to the Internet to make their school accountability report card available on the Internet and to update the information annually.

The Commission found costs incurred by a school district before the operative date of a statute are not reimbursable. The Commission found that the operative date for the 1997 statutes is January 1, 1998, not October 12, 1997, the date the legislation was signed by the Governor.<sup>5</sup> Therefore, the Commission found reimbursement for the 1997 statutes begins on January 1, 1998.<sup>6</sup>

### **Conclusion**

The Commission concludes that Chapter 1463, Statutes of 1989 (adding Education Code sections 35256.1 and 41409.3), Chapter 759, Statutes of 1992 (amending Education Code section 41409), Chapter 1031, Statutes of 1993 (adding subsection 14 to Education Code section 33126), Chapter 824, Statutes of 1994 (adding subsections 15 and 16 to Education Code section 33126), Chapter 912, Statutes of 1997 (amending Education Code section 33126), and Chapter 918, Statutes of 1997 (adding Education Code section 35258), impose a new program or higher level of service upon local school districts and therefore are reimbursable under section 6, article XIII B of the California Constitution and Government Code section 17514.

The Commission finds the following to be state mandated activities and therefore, reimbursable under section 6, article XIII B of the California Constitution and Government Code section

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<sup>5</sup> The Commission found Government Code section 17565 applies to the present test claim. Government Code section 17565 states "If a local agency or a school district, at its option has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."

<sup>6</sup> The claimants did not agree with this finding. Mr. Lawrence Hendee and Mr. James A. Cunningham testified that the reimbursement period for these items should begin on October 12, 1997, the date the Governor signed the bill into law. Claimants contended that school districts implemented these activities upon signing of the bill by the Governor and therefore, should be reimbursed from that date.

17514. Reimbursement would include direct and indirect costs to compile, analyze, and report the specific information listed below in a school accountability report card.

The Commission concludes that reimbursement for inclusion of the following information in the school accountability report card begins on July 1, 1996:

- Salaries paid to schoolteachers, school site principals, and school district superintendents.
- Statewide salary averages and percentages of salaries to total expenditures in the district's school accountability report card.
- "The degree to which pupils are prepared to enter the work force."
- "The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per year required by state law, separately stated for each grade level."
- "The total number of minimum days, . . . , in the school year."
- Salary information provided by the Superintendent of Public Instruction.

The Commission concludes that reimbursement for inclusion of the following information in a school accountability report card begins on January 1, 1998:

- Results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period, including pupil achievement by grade level as measured by the statewide assessment.
- The average verbal and math Scholastic Assessment Test (SAT) scores for schools with high school seniors to the extent such scores are provided to the school and the average percentage of high school seniors taking the exam for the most recent three-year period.
- The one-year dropout rate for the schoolsite over the most recent three-year period.
- The distribution of class sizes at the schoolsite by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1-3, inclusive, participating in the Class Size Reduction Program for the most recent three-year period.
- The total number of the school's credentialed teachers, the number of teachers relying on emergency credentials, and the number of teachers working without credentials for the most recent three-year period.
- Any assignment of teachers outside of their subject area of competence for the first two years of the most recent three-year period.
- The annual number of schooldays dedicated to staff development for the most recent three-year period.
- The suspension and expulsion rates for the most recent three-year period.

The Commission concludes that reimbursement for posting and annually updating school accountability report cards on the Internet, if a school district is connected to the Internet, begins on January 1, 1998.

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