

**ITEM 9
TEST CLAIM
FINAL STAFF ANALYSIS**

Education Code Sections 33126, 33126.1 and 41409

Statutes 1997, Chapter 912
Statutes 2000, Chapter 996
Statutes 2001, Chapters 159 and 734
Statutes 2002, Chapter 1168

School Accountability Report Cards II and III (00-TC-09/00-TC-13; 02-TC-32)

Empire Union School District, Claimant, and
Bakersfield City School District and Sweetwater Union High School District, Co-claimants

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EXECUTIVE SUMMARY

Background

The California voters approved Proposition 98, effective November 9, 1988. The proposition amended article XVI, section 8 of the California Constitution, including adding subdivision (e), as follows:

Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

The proposition also added Education Code sections 33126 and 35256 concerning School Accountability Report Cards. *School Accountability Report Cards* (97-TC-21), was a previous test claim heard and approved by the Commission, covering amendments made by the Legislature following the adoption of Proposition 98.

Bakersfield City School District and Sweetwater Union High School District's test claim, *School Accountability Report Cards III*, alleges new reimbursable activities are required by amendments to Education Code section 33126 by Statutes 2000, chapter 996 and Statutes 2002, chapter 1168, for calculating, determining and including new components in the School Accountability Report Card. In addition, claimant alleges Statutes 2000, chapter 996, amending Education Code section 33126.1 will result in costs of training school personnel to either use the School Accountability Report Card template developed by the California Department of Education (CDE), or for training school personnel who do not use the template regarding "standard definitions" to be used when preparing the School Accountability Report Card.

Claimant Empire Union School District made substantially similar test claim allegations in *School Accountability Report Cards II* regarding the amendments to Education Code sections 33126 and 33126.1 by Statutes 2000, chapter 996. Empire Union also included allegations

regarding “new” activities from Statutes 1997, chapter 912; that statute was part of the original *School Accountability Report Cards* test claim decision.

Staff finds that to the extent that the claimed amendments to the Education Code are a restatement of what was required by the voters in enacting Proposition 98, no program, or new program or higher level of service, can be found.

Staff finds that the only alleged new element of the School Accountability Report Card that does not fall within one of the original 13 reporting categories is the requirement that the report card include “Contact information pertaining to any organized opportunities for parental involvement.” (Ed. Code, § 33126, subd. (b)(22).) However, the addition of this minimal information does not rise to the level of a reimbursable “higher level of service” within the meaning discerned by the courts.

Every increase in cost that results from a new state directive does not automatically result in a valid subvention claim where, as here, the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement. Thus, while there may be a mandate, there are no increased costs mandated by [the test claim legislation]. (*County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1195.)

Likewise here, by requiring the addition of a few lines to the existing school accountability report card, the state has not shifted from itself to schools “the burdens of state government” (*id.* at p. 1194) when “the directive can be complied with by a minimal reallocation of resources.” Therefore, staff finds no new program or higher level of service was imposed.

Assuming, for purposes of analysis, that the claimants did meet their burden of proving a new program or higher level of service for all new information required to be included in the School Accountability Report Card, staff finds they have not met their burden of proving costs mandated by the state. Claimants have not demonstrated that the state funds received through article XVI, sections 8 and 8.5, or any other sources beyond property tax revenue, are unavailable for the claimed additional costs of issuing School Accountability Report Cards. (*Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 746-747; *Redevelopment Agency v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.) In the absence of that showing, staff finds the test claim legislation did not impose costs mandated by the state.

Conclusion

Staff concludes that Education Code sections 33126, 33126.1, and 41409, as added or amended by Statutes 2000, chapter 996, Statutes 2001, chapters 159 and 734, and Statutes 2002, Chapter 1168, do not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, and do not impose costs mandated by the state pursuant to Government Code section 17514. In the case of the test claim for costs under Education Code section 33126, as amended by Statutes 1997, chapter 912, the Commission does not have jurisdiction to hear a new claim for reimbursable costs mandated by the state.

Staff Recommendation

Staff recommends that the Commission adopt the final staff analysis, which denies this consolidated test claim.

STAFF ANALYSIS

Claimants

Empire Union School District, Bakersfield City School District and Sweetwater Union High School District

Chronology

- 03/16/01 Claimant, Empire Union School District [hereafter Empire Union], files test claim, *School Accountability Report Cards II* (00-TC-09)¹
- 03/21/01 Commission staff determines test claim is complete and requests comments
- 04/14/01 Department of Finance (DOF) requests an extension of time to file comments
- 04/26/01 Commission grants an extension of time for state agency comments
- 05/10/01 Empire Union files amendment, alleging additional activities (00-TC-13)
- 05/21/01 Commission staff determines amendment is complete and requests comments
- 06/04/01 DOF files response to original test claim allegations
- 06/29/01 DOF files response to amended test claim allegations
- 03/08/02 Empire Union files rebuttal to DOF response
- 06/23/03 Co-claimants, Bakersfield City School District and Sweetwater Union High School District [hereafter Sweetwater], file test claim, *School Accountability Report Cards III* (02-TC-32)²
- 07/03/03 Commission staff determines test claim 02-TC-32 is incomplete and requests additional documents
- 07/14/03 Sweetwater submits requested documents
- 08/07/03 Commission staff issues completeness letter and requests comments; also issues letter consolidating *School Accountability Report Cards II* and *III*
- 09/08/03 Letter received from Paul Minney of Spector, Middleton, Young and Minney, withdrawing as claimant representative for Empire Union
- 09/10/03 Letter received from MCS/*ed* regarding intention to seek authorization to act as claimant representative for Empire Union
- 09/29/03 Commission sends notice advising that until signed statements from the test claimant authorizing MCS/*ed* to represent them are received, MCS/*ed* has no authority to act on their behalf before the Commission
- 09/29/03 DOF files response to Sweetwater's test claim allegations

¹ The potential reimbursement period for this claim begins no earlier than July 1, 1999. (Gov. Code, § 17557, subd. (c).)

² The potential reimbursement period for this claim begins no earlier than July 1, 2001. (Gov. Code, § 17557, subd. (c).)

- 10/07/03 Commission staff issues draft staff analysis
- 10/13/03 Fax received authorizing Steve Smith of MCS Education Services, or his designee, as Empire Union's claimant representative
- 10/29/03 Claimant, Empire Union, files comments on draft staff analysis, and requests Schools Mandate Group, Joint Powers Agency, to be named as co-claimant and lead claimant
- 10/29/03 DOF request for extension of time for comments received
- 11/07/03 Commission grants DOF an extension of time for comments on the draft staff analysis and postpones the December 2003 hearing to January 29, 2004
- 11/17/03 Sweetwater files comments on the draft staff analysis
- 12/22/03 January 29, 2004 hearing postponed to March 25, 2004
- 02/13/04 DOF requests additional extension of time for comments
- 02/19/04 Commission denies DOF's extension request, noting that any comments received prior to the March 25, 2004 hearing will be provided to the Commissioners
- 03/04/04 Commission denies Empire Union's request for Schools Mandate Group to be named as co-claimant and lead claimant

Background

The California voters approved Proposition 98, effective November 9, 1988. The proposition amended article XVI, section 8 of the California Constitution, including adding subdivision (e), as follows:

Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

The proposition also added Education Code sections 33126 and 35256 concerning School Accountability Report Cards.

Prior Decision: School Accountability Report Cards

School Accountability Report Cards (97-TC-21), was a previous test claim heard and approved by the Commission. The claim, filed on December 31, 1997, by Bakersfield City School District and Sweetwater Union High School District, alleged a reimbursable state mandate for Education Code sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3, as added or amended by Statutes 1989, chapter 1463; Statutes 1992, chapter 759; Statutes 1993, chapter 1031; Statutes 1994, chapter 824; and Statutes 1997, chapters 912 and 918.

The following findings were made by the Commission in the *School Accountability Report Cards* Statement of Decision, adopted April 23, 1998:

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 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, 1998.³

The parameters and guidelines were discussed at the July 23, 1998 hearing, and the item was continued. The Commission adopted parameters and guidelines for *School Accountability Report Cards* at the August 20, 1998 hearing.

Claimants' Positions

Claimant Sweetwater's test claim alleges new reimbursable activities are required by amendments to Education Code section 33126 by Statutes 2000, chapter 996 and Statutes 2002, chapter 1168, for calculating, determining and including new components in the School Accountability Report Card. In addition, claimant alleges Statutes 2000, chapter 996, amending Education Code section 33126.1 will result in costs of training school personnel to either use the School Accountability Report Card template developed by the California Department of Education (CDE), or for training school personnel who do not use the template regarding "standard definitions" to be used when preparing the School Accountability Report Card.

Claimant Empire Union made substantially similar test claim allegations regarding the amendments to Education Code sections 33126 and 33126.1 by Statutes 2000, chapter 996.

³ To the extent the test claim analysis for *School Accountability Report Cards II and III* differs from the decision in the original claim, prior Commission decisions are not controlling. The failure of a quasi-judicial agency to consider prior decisions is *not* a violation of due process and does not constitute an arbitrary action by the agency. (*Weiss v. State Board of Equalization* (1953) 40 Cal.2d 772.) In *Weiss*, the plaintiffs brought mandamus proceedings to review the refusal of the State Board of Equalization to issue them an off-sale beer and wine license at their premises. Plaintiffs contended that the action of the board was arbitrary and unreasonable because the board granted similar licenses to other businesses in the past. The California Supreme Court disagreed with the plaintiffs' contention and found that the board did *not* act arbitrarily. The Court stated, in pertinent part, the following:

[P]laintiffs argument comes down to the contention that because the board may have erroneously granted licenses to be used near the school in the past it must continue its error and grant plaintiffs' application. That problem has been discussed: Not only does due process permit omission of reasoned administrative opinions but it probably also permits substantial deviation from the principle of stare decisis. Like courts, agencies may overrule prior decisions or practices and may initiate new policy or law through adjudication. (*Id.* at p. 776.)

Thus, the Commission is not bound by its prior decisions. Rather, the merits of a test claim must be analyzed individually. Commission decisions under article XIII B, section 6 are not arbitrary or unreasonable as long as the decision strictly construes the Constitution and the statutory language of the test claim statute, and does not apply section 6 as an equitable remedy. (*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280-1281.) The analysis in this test claim complies with these principles.

Claimant also included allegations regarding “new” activities from Statutes 1997, chapter 912; that statute was part of the original *School Accountability Report Cards* test claim decision.

Claimants Empire Union and Sweetwater each filed rebuttal comments disagreeing with the draft staff analysis; see Exhibits L and M, respectively.

State Agency’s Position

DOF’s June 29, 2000 response to Empire Union’s original and amended test claim allegations states “concerns regarding the activities listed by the claimant[] as reimbursable state-mandated costs,” specifically that much of the information required to be included on the School Accountability Report Card is provided by the state or is already compiled by the school district. Regarding the assertion that training is required for use of the state template pursuant to Education Code section 33126.1, DOF asserts that the statute “does not require such training, and the use of the state-adopted template is voluntary.” DOF’s response to Sweetwater’s test claim allegations, dated September 24, 2003, reiterates: “the incremental costs of including that information in an accountability report card should be minimal.”

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁴ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”⁶ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁷ In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.⁸

⁴ Article XIII B, section 6 provides: “Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

⁵ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735.

⁶ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

⁷ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174. In *Department of Finance v. Commission on State Mandates*, *supra*, 30 Cal.4th at page 742, the court agreed that “activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement of funds - even if the local entity is obligated to incur costs as a result of its discretionary decision to participate in a particular program or practice.” The court left open the question of whether non-

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁹ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.¹⁰ Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹¹

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹² In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹³

Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

Education Code Section 33126, As Amended by Statutes 1997, Chapter 912:

As a preliminary issue, Empire Union’s claim includes allegations of costs for “activities associated with ensuring that all parents receive a copy of the SARC [School Accountability Report Card] and making administrators and teachers available to answer any questions regarding the SARC.” These activities are identified as being imposed by the amendment of Education Code section 33126 by Statutes 1997, chapter 912. The issue of whether this legislation imposed a reimbursable state mandate was already heard and decided by the Commission in *School Accountability Report Cards*, (97-TC-21). Claimant Sweetwater, in comments dated November 15, 2003, offers the following support for Empire Union’s current claim:

After reviewing the original SARC test claim, submitted on or about December 30, 1997, the Commission’s Statement of Decision, issued on or about

legal compulsion could result in a reimbursable state mandate, such as in a case where failure to participate in a program results in severe penalties or “draconian” consequences. (*Id.*, at p. 754.)

⁸ *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836.

⁹ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

¹⁰ *Lucia Mar, supra*, 44 Cal.3d 830, 835.

¹¹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹² *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹³ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817; *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280.

April 23, 1998, and as a co-claimant on the original test claim, I am convinced that the issues of (1) ensuring that all parents receive a copy of the SARC and (2) making administrators and teachers available to answer any questions regarding the SARC were overlooked and not included in the original submission and therefore were neither approved or denied by the commission.

Under Government Code section 17521, “test claim’ means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that *a particular statute* or executive order imposes costs mandated by the state.” [Emphasis added.] Empire Union asserts in the amended test claim filing: “However, section 17521 does not preclude a claimant from filing a test claim alleging that a statute or executive order that was included in a prior test claim imposes activities not previously claimed.” Staff finds that claimant misapprehends the statutory meaning of Government Code section 17521.

A claimant has the opportunity upon filing a test claim to identify and allege *all* activities imposed by a particular statute or executive order.¹⁴ Comment periods are available to all members of the public, including interested parties.¹⁵ Comments, additional filings, and/or hearing testimony identifying other reimbursable activities are permitted during the test claim phase.¹⁶ In addition, every Commission hearing is subject to the notice and agenda requirements of the Bagley-Keene Open Meetings Act, pursuant to Government Code section 11120 et seq. Thus, the test claim proceedings provide adequate due process to the entire claimant community.

“[D]ue process is the opportunity to be heard at a meaningful time and in a meaningful manner.” (*Los Angeles Police Protective League v. City of Los Angeles* (2002) 102 Cal.App.4th 85, 91.) Despite this clear statement of the law, claimant Empire Union’s comments, dated October 27, 2003, argue: “In reality, the test claim process provides adequate due process for the claimants currently represented before the Commission – a number on average, that is hardly significant to ensure all districts are informed and their interests protected.” Staff asserts that the choice of many potential claimants to not get involved in the test claim process prior to the reimbursement phase is immaterial to due process considerations. The test claim process is open and available to all parties and interested parties who seek to participate.

In *Kinlaw v. State of California*, *supra*, 54 Cal.3d at page 333, the California Supreme Court declared that the applicable Government Code sections “create an administrative forum for resolution of state mandate claims, and establishes procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created.” In this case, the claim that Education Code section 33126, as amended by Statutes 1997, chapter 912, imposed a reimbursable state mandate was already filed and heard, and the Commission adopted a final Statement of Decision on April 23, 1998. Other than the reconsideration and writ of mandate provisions of Government Code section 17559, no further issues on the merits may be raised before the Commission following the adoption of a statement of decision on a particular statute or executive order.

¹⁴ California Code of Regulations, title 2, section 1183, subdivision (d).

¹⁵ California Code of Regulations, title 2, sections 1182.2, subdivision (b) and 1183.02.

¹⁶ Government Code section 17555; California Code of Regulations, title 2, sections 1183, 1183.07 and 1187.6.

Therefore, Empire Union's claim for reimbursement of costs for "activities associated with ensuring that all parents receive a copy of the SARC and making administrators and teachers available to answer any questions regarding the SARC" pursuant to Education Code section 33126, as amended by Statutes 1997, chapter 912, is denied based upon the plain meaning of Government Code section 17521, and the doctrine of estoppel,¹⁷ and is not included in the following analysis as part of the "test claim legislation."

Education Code Sections 33126, 33126.1 and 41409 As Amended By Statutes 2000, Chapter 996; Statutes 2001, Chapters 159 and 734; and Statutes 2002, Chapter 1168:

In order for the remaining test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." In *County of Los Angeles v. State of California*, the California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.¹⁸ The court has held that only one of these findings is necessary.¹⁹

Staff finds that providing a School Accountability Report Card imposes a program within the meaning of article XIII B, section 6 of the California Constitution under both tests. First, it constitutes a program that carries out the governmental function of providing a service to the public because it requires school districts to make a document available to the public that is designed to "promote a model statewide standard of instructional accountability and conditions for teaching and learning."²⁰ The courts have held that education is a peculiarly governmental function administered by local agencies as a service to the public.²¹

The test claim legislation also satisfies the second test that triggers article XIII B, section 6, because the test claim legislation requires school districts to engage in administrative activities solely applicable to public school administration. The test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Accordingly, staff finds that providing a School Accountability Report Card constitutes a "program" and, thus, is subject to article XIII B, section 6 of the California Constitution.

However, pursuant to article XIII B, section 6, of the California Constitution, and Government Code section 17556, subdivision (f), ballot measures adopted by the voters in a statewide election do not impose reimbursable state mandates. As discussed below, to the extent that the

¹⁷ "The doctrine of collateral estoppel bars the relitigating of issues which were previously resolved in an administrative hearing by an agency acting in a judicial capacity. (*People v. Sims* (1982) 32 Cal.3d 468, 478-479.)" *Knickerbocker v. City of Stockton* (1988) 199 Cal.App.3d 235, 242.

¹⁸ *County of Los Angeles, supra*, 43 Cal.3d at page 56.

¹⁹ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

²⁰ Education Code section 33126, as added to the Education Code by Proposition 98.

²¹ *Long Beach Unified School Dist., supra*, 225 Cal.App.3d at page 172 states "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function ... administered by local agencies to provide service to the public."

claimed amendments to the Education Code are a restatement of what was required by the voters in enacting Proposition 98, no program, or new program or higher level of service, can be found.

Issue 2: Does the test claim legislation impose a new program or higher level of service within an existing program within the meaning of the California Constitution, article XIII B, section 6, and impose costs mandated by the state pursuant to Government Code section 17514?

Amendments to Education Code sections 33126, 33126.1, and 41409, as asserted by the claimants, are analyzed below for the imposition of a new program or higher level of service on school districts within the meaning of article XIII B, section 6.

Education Code Section 33126.

Section 33126 was added to the Education Code by Proposition 98, approved by the electors, effective November 9, 1988:

In order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the Superintendent of Public Instruction shall by March 1, 1989, develop and present to the Board of Education for adoption a statewide model School Accountability Report Card.

(a) The model School Accountability Report Card shall include, but is not limited to, assessment of the following school conditions:

- (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals.
- (2) Progress toward reducing drop-out rates.
- (3) Estimated expenditures per student, and types of services funded.
- (4) Progress toward reducing class sizes and teaching loads.
- (5) Any assignment of teachers outside their subject areas of competence.
- (6) Quality and currency of textbooks and other instructional materials.
- (7) The availability of qualified personnel to provide counseling and other student support services.
- (8) Availability of qualified substitute teachers.
- (9) Safety, cleanliness, and adequacy of school facilities.
- (10) Adequacy of teacher evaluations and opportunities for professional improvement.
- (11) Classroom discipline and climate for learning.
- (12) Teacher and staff training, and curriculum improvement programs.
- (13) Quality of school instruction and leadership.

(b) In developing the statewide model School Accountability Report, the Superintendent of Public Instruction shall consult with a Task Force on Instructional Improvement, to be appointed by the Superintendent, composed of practicing classroom teachers, school administrators, parents, school board

members, classified employees, and educational research specialists, provided that the majority of the task force shall consist of practicing classroom teachers.

Proposition 98 also added Education Code section 35256, as follows:

The governing board of each school district maintaining an elementary or secondary school shall by September 30, 1989, or the beginning of the school year develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Accountability Report Card shall include, but is not limited to, the conditions listed in Education Code Section 33126.

(b) Not less than triennially, the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education. Variances among school districts shall be permitted where necessary to account for local needs.

(c) The Governing Board of each school district shall annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request.

Pursuant to article XIII B, section 6, of the California Constitution, and Government Code section 17556, subdivision (f), ballot measures adopted by the voters in a statewide election do not impose reimbursable state mandates. Education Code section 33126, as amended by Statutes 1993, chapter 1031, Statutes 1994, chapter 824, and Statutes 1997, chapter 912, was already heard and decided as part of the *School Accountability Report Cards (97-TC-21)* test claim. The pertinent portions of Education Code section 33126, as amended by Statutes 2000, chapter 996, effective September 30, 2000, are indicated with underline below. In addition, Statutes 2002, chapter 1168, effective September 30, 2002, amended the section by adding subdivision (b)(26).

(a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1)(A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

[¶]...[¶]

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

[¶]...[¶]

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(26) When available from the State Department of Education, the claiming rate of pupils who earned a Governor's scholarship award pursuant to subdivision (a) of Section 69997 for the most recent two year period. This paragraph applies only to schools that enroll pupils in grades nine, ten or eleven.²²

Claimants allege a reimbursable state-mandated program for calculating, determining and including all amended components in the School Accountability Report Card. DOF responds that much of the information is available through the CDE website or is already accumulated by school districts for other purposes; consequently, DOF argues any additional work "should be minimal."

The claimants contend that amendments to Education Code section 33126 imposed additional activities on school districts, which constitute a higher level of service. In 1987, the California Supreme Court in *County of Los Angeles v. State of California* expressly stated that the term "higher level of service" must be read in conjunction with the phrase "new program." Both are directed at state-mandated increases in the services provided by local agencies.²³

In 1990, the Second District Court of Appeal decided the *Long Beach Unified School District* case, which challenged a test claim filed with the Board of Control on executive orders issued by the Department of Education to alleviate racial and ethnic segregation in schools.²⁴ The court determined that the executive orders did not constitute a "new program" since schools had an existing constitutional obligation to alleviate racial segregation.²⁵ However, the court found that the executive orders constituted a "higher level of service" because the requirements imposed by the state went beyond constitutional and case law requirements. The court stated in relevant part the following:

The phrase "higher level of service" is not defined in article XIII B or in the ballot materials. [Citation omitted.] A mere increase in the cost of providing a service which is the result of a requirement mandated by the state is not tantamount to a higher level of service. [Citation omitted.] However, a review of the Executive Order and guidelines shows that a higher level of service is mandated because the requirements go beyond constitutional and case law requirements. . . . While these steps fit within the "reasonably feasible" description of [case law], the point is that these steps are no longer merely being suggested as options which the local school district may wish to consider but are required acts. These requirements constitute a higher level of service. We are supported in our conclusion by the report of the Board to the Legislature regarding its decision that the Claim is reimbursable: "Only those costs that are above and beyond the regular level of service for like pupils in the district are reimbursable."²⁶

²² Subdivision (b)(26) was added by Statutes 2002, chapter 1168; all other indicated amendments were made by Statutes 2000, chapter 996. There is no subdivision (b)(25).

²³ *County of Los Angeles, supra*, 43 Cal.3d at 56.

²⁴ *Long Beach Unified School District, supra*, 225 Cal.App.4th 155.

²⁵ *Id.* at page 173.

²⁶ *Ibid.*

Thus, in order for the amendments to the School Accountability Report Card legislation to impose a higher level of service, the Commission must find that the state is imposing new required acts or activities on school districts beyond those already required by law.

The California voters approved Proposition 98, effective November 9, 1988, providing a state-funding guarantee for schools. Proposition 98 amended article XVI, section 8 of the California Constitution, including adding subdivision (e), requiring all elementary and secondary school districts to develop and prepare an annual audit of such funds and a School Accountability Report Card for every school. The voters also required the state to develop a model report card and, pursuant to Education Code section 35256, required schools to periodically compare their School Accountability Report Card with the statewide model.²⁷ This requirement recognizes that the precise details of the model report card are subject to change as education programs change, and that schools are required to make modifications as necessary.

In comments dated October 27, 2003, Empire Union argues that the statutory amendments to the School Accountability Report Cards legislation automatically represent a higher level of service, stating: "why would the Legislature go to such lengths to specifically delineate over a dozen new pieces of information that must be in a SARC if this information was somehow already required to be reported?" However, intent to *change* the law may not always be presumed by an amendment, as suggested by the claimant. The court has recognized that changes in statutory language can be intended to clarify the law, rather than change it.

We assume the Legislature amends a statute for a purpose, but that purpose need not necessarily be to change the law. [Citation.] Our consideration of the surrounding circumstances can indicate that the Legislature made ... changes in statutory language in an effort only to clarify a statute's true meaning. [Citations omitted.]²⁸

Thus, the Commission must determine whether the "new pieces of information" identified by the claimant are actually new, or rather a clarification of existing law previously expressed in more general terms.

Education Code section 33126, as added by Proposition 98, required that "The model School Accountability Report Card shall include, *but is not limited to*, assessment of the following school conditions: (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals," and "(13) Quality of school instruction and leadership." These requirements subsume the requirements that school districts report, on "Pupil achievement by grade level, as measured by the standardized testing and reporting programs (STAR)," pursuant to subdivision (b)(1)(A); the number of advanced placement courses offered, pursuant

²⁷ Empire Union's comments dispute that the Proposition 98 funding guarantee is an available state-funding source for providing the School Accountability Report Card. On the contrary, there must be a presumed close link between the two, due to the California Constitutional single-subject rule. (Art. II, § 8, subd. (d): "An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.")

²⁸ *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243.

to subdivision (b)(17); Academic Performance Index (API)²⁹ rankings, pursuant to subdivision (b)(18); whether the school qualifies for the Governor's Performance Award Program based upon API rankings, pursuant to subdivision (b)(20); High School Exit Exam passage rates, when available, pursuant to subdivision (b)(21); the percentage of high school graduates who passed course requirements for entrance to the University of California and the California State University, pursuant to subdivision (b)(23); whether the school offers a college admission test preparation course, pursuant to subdivision (b)(24); and the rate of pupils who earned a Governor's scholarship award,³⁰ pursuant to subdivision (b)(26). All of these specific reporting requirements quantify student achievement and demonstrate progress towards meeting academic goals, and/or indicate the quality of school instruction.

The requirement of subdivision (b)(2) to include statewide dropout rates, as provided by the CDE, fulfills the purpose of the Proposition 98 requirement that the report card include "(2) Progress toward reducing drop-out rates." The inclusion of statewide drop-out rates to compare to the individual school's drop-out rates "promote[s] a model statewide standard of instructional accountability," as required by Proposition 98.

The new specificity of subdivision (b)(6), that the report card is to provide information on whether the textbooks used by the schools meet state or district standards and the year the textbooks were adopted is within the Proposition 98 requirement to report on the "(6) Quality and currency of textbooks and other instructional materials." The requirement to provide the ratio of textbooks per pupil is within the Proposition 98 requirements to report on the "adequacy of school facilities," the "climate for learning," as well as on the "[q]uality of school instruction."

The requirement that districts report on the "ratio of academic counselors per pupil," pursuant to subdivision (b)(7) is within the Proposition 98 requirement to report on the "(7) The availability of qualified personnel to provide counseling and other student support services."

Subdivision (b)(19) requires districts to report whether a school qualified for the Immediate Intervention/Underperforming Schools Program, "and whether the school applied for, and received a grant pursuant to, that program." Education Code section 52053 provides planning grant funds for under-performing schools, as indicated by API scores. Qualification for the Immediate Intervention/Underperforming Schools Program demonstrates that a school's API scores fall below the 50th percentile. This is within the Proposition 98 requirements to report on student achievement, the quality of student instruction, and on "(13)... curriculum improvement programs." Staff finds that none of the above information elements required for the School Accountability Report Card impose a new program or higher level of service upon school districts.

²⁹ According to the CDE, "The purpose of the API is to measure the academic performance and growth of schools. It is a numeric index (or scale) that ranges from a low of 200 to a high of 1000. A school's score or placement on the API is an indicator of a school's performance level." March 1, 2004: < <http://www.cde.ca.gov/psaa/api/apidescription.htm>>.

³⁰ Education Code section 69997 provides the Governor's Scholars Program to grant a scholarship to every public high school student demonstrating high academic achievement through the STAR program.

In fact, the only alleged new element of the School Accountability Report Card that does not fall within one of the original 13 reporting categories is the requirement that the report card include "Contact information pertaining to any organized opportunities for parental involvement." (Ed. Code, § 33126, subd. (b)(22).) However, as described below, the addition of this minimal information³¹ does not rise to the level of a reimbursable "higher level of service" within the meaning discerned by the courts.

In a recent appellate decision, *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1193-1194, the County sought to vacate a Commission decision that denied a test claim for costs associated with a statute requiring local law enforcement officers to participate in two hours of domestic violence training. The court upheld the Commission's decision that the test claim legislation did not mandate any increased costs and thus no reimbursement was required. Thus, the court concluded:

Based upon the principles discernable from the cases discussed, we find that in the instant case, the legislation does not mandate a "higher level of service." In the case of an existing program, an increase in existing costs does not result in a reimbursement requirement. Indeed, "costs" for purposes of Constitution article XIII B, section 6, does not equal every increase in a locality's budget resulting from compliance with a new state directive. Rather, the state must be attempting to divest itself of its responsibility to provide fiscal support for a program, or forcing a new program on a locality for which it is ill-equipped to allocate funding.

[¶]...[¶]

[M]erely by adding a course requirement to POST's certification, the state has not shifted from itself to the County the burdens of state government. Rather, it has directed local law enforcement agencies to reallocate their training resources in a certain manner by mandating the inclusion of domestic violence training.

Finally, the court concluded (*id.*, at p. 1195):

Every increase in cost that results from a new state directive does not automatically result in a valid subvention claim where, as here, the directive can be complied with by a minimal reallocation of resources within the entity seeking reimbursement. Thus, while there may be a mandate, there are no increased costs mandated by [the test claim legislation].

Likewise here, by requiring the addition of a few lines to the existing school accountability report card, the state has not shifted from itself to schools "the burdens of state government," when "the directive can be complied with by a minimal reallocation of resources." Therefore, staff finds no new program or higher level of service was imposed. In addition, the state has not required the expenditure of local property tax funds in order for schools to comply with any revised directives regarding the annual issuance of the School Accountability Report Card.

³¹ The state model School Accountability Report Card for School Year 2000-2001 has a header: "Opportunities for Parental Involvement," followed by a box showing "Contact Person Name" and "Contact Person Phone Number."

Assuming, for purposes of analysis, that the claimants did meet their burden of proving a new program or higher level of service for all new information required to be included in the School Accountability Report Card, they have not met their burden of proving costs mandated by the state. The claimants have provided no evidence that the amendments alleged require the expenditure of local tax revenues, rather than the expenditure of school funding provided by the state, or funds available from other sources.³² A CDE document entitled "2000-01 K-12 Education Financial Data"³³ demonstrates that only 21.27% of public school funding comes from property tax revenues. A full 56.67% is from state sources,³⁴ and the remainder of the funding comes from federal and other sources, including lottery revenue. "[I]t is the expenditure of tax revenues of local governments that is the appropriate focus of section 6." (*County of Sonoma v. Commission on State Mandates*, supra, 84 Cal.App.4th at p. 1283, citing *County of Fresno v. State of California*, supra, 53 Cal.3d at p. 487.) "No state duty of subvention is triggered where the local agency is not required to expend its proceeds of taxes." (*Redevelopment Agency v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.)

In enacting Proposition 98, The Classroom Instructional Improvement and Accountability Act, the voters provided public schools with state funding guarantees by amending the California Constitution, article XVI, section 8, School Funding Priority, and adding section 8.5, Allocation to Schools. In exchange for this constitutional guarantee of funding, the voters also required schools to undergo an annual audit and to issue an annual School Accountability Report Card. As recently decided by the California Supreme Court, the availability of state program funds precludes a finding of a reimbursable state mandate.

We need not, and do not, determine whether claimants have been legally compelled to participate in the Chacon-Moscone Bilingual Bicultural Education program, or to maintain a related advisory committee. Even if we assume for purposes of analysis that claimants have been legally compelled to participate in the ... program, we nevertheless conclude that under the circumstances here presented, *the costs necessarily incurred in complying with the notice and agenda requirements under that funded program do not entitle claimants to obtain reimbursement under article XIII B, section 6, because the state, in providing program funds to claimants, already has provided funds that may be used to cover the necessary notice and agenda related expenses.* [Emphasis added.]

(*Department of Finance v. Commission on State Mandates*, supra, 30 Cal.4th at pp. 746-747.)

³² Empire Union's October 27, 2003 rebuttal comments state "that all un-funded mandates have a direct impact on property tax revenue as reallocation of resources is always required." Similarly, Sweetwater's comments dated November 15, 2003, state: "The imposition of a mandate upon an entity will always create a lack of funding simply because entities do not have personnel sitting around waiting for mandates to be imposed."

³³ At <<http://www.cde.ca.gov/fiscal/financial/FingertipFacts01.html>> [as of Mar. 1, 2004.] The CDE is the department statutorily charged with receiving school district and county office of education budget, audit, apportionment, and other financial status reports, pursuant to Education Code section 42129.

³⁴ Approximately \$31.4 billion for fiscal year 2000-2001.

Claimants have not demonstrated that the state funds received through article XVI, sections 8 and 8.5, or any other sources beyond property tax revenue, are unavailable for the claimed additional costs of issuing School Accountability Report Cards. In the absence of that showing, staff finds the test claim legislation did not impose costs mandated by the state.

Thus, staff finds that Education Code section 33126, as amended by Statutes 2000, chapter 996, and Statutes 2002, chapter 1168 does not impose a new program or higher level of service on school districts, and does not impose costs mandated by the state.

Education Code Section 33126.1.

Education Code section 33126.1 primarily gives direction to the CDE to develop a standardized template for the School Accountability Report Card, for optional use by school districts. The code section, as added by Statutes 2000, chapter 996, effective September 30, 2000; amended by Statutes 2001, chapter 159, effective January 1, 2002, and Statutes 2002, chapter 1168, effective September 30, 2002, follows, in pertinent part:

(a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

[¶]...[¶]

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that

may be used by school districts secured access only for those school officials authorized to make modifications.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

[¶]...[¶]

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

Claimants allege this statute will result in costs of training school personnel to either use the School Accountability Report Card template developed by the CDE, or for training school personnel who do not use the template regarding "standard definitions" to be used when preparing the School Accountability Report Card.

Staff finds that none of the claimed training activities are expressly required by Education Code section 33126.1.³⁵ In addition, the plain language of Proposition 98 requires the State to "adopt[] a statewide model School Accountability Report Card." The standardized template described by Education Code section 33126.1 meets this requirement. Further, in adopting Education Code section 35256, Proposition 98 required that "the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education," and shall "annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request."

These requirements are not substantively different from the law of Education Code section 33126.1, which was designed to "to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public," within the requirements of the original law adopted by the voters when passing Proposition 98. The specific new requirements of Education Code section 33126.1 are directed to the CDE, not to local school districts. Thus, staff finds Education Code section 33126.1 does not impose a new program or higher level of service on school districts, and does not impose costs mandated by the state.

³⁵ Sweetwater's November 15, 2003 comments state: "Claimant agrees that training is not specifically referred to in the legislation, however, the California Safe School Assessment process is a reasonable example of what happens when definitions developed by others are distributed without training, and those who did not receive any training are then left to determine what the definitions are going to be."

Education Code Section 41409.

Education Code section 41409 was added by Statutes 1989, chapter 1463 and amended by Statutes 1992, chapter 759. Further amended by Statutes 2001, chapter 734 (A.B. 804), effective October 11, 2001. Sweetwater alleges a reimbursable state-mandated program as to the amendment by Statutes 2001, chapter 734. The statute requires the state Superintendent of Public Instruction to “determine the statewide average percentage of school district expenditures that are allocated to the salaries of administrative personnel, ... [and] also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers.” Subdivision (c) provides:

The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card.

This statute, as amended by Statutes 1992, chapter 759, was the subject of the original *School Accountability Report Cards* test claim, and was found in the Commission’s April 23, 1998 Statement of Decision to impose a mandate for the inclusion of information on “salaries paid to schoolteachers, school site principals, and school district superintendents.” Claimant acknowledges in the test claim filing that Education Code section 41409 was amended by Statutes 2001, chapter 734, but that it “made *non-substantive* changes.” [Emphasis added.] No new activities were alleged by the claimant, therefore staff finds that Education Code section 41409, as amended by Statutes 2001, chapter 734, does not impose a new program or higher level of service beyond that which was recognized in the prior test claim determination, and does not impose costs mandated by the state.

CONCLUSION

Staff concludes that Education Code sections 33126, 33126.1, and 41409, as added or amended by Statutes 2000, chapter 996, Statutes 2001, chapters 159 and 734, and Statutes 2002, Chapter 1168, do not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, and do not impose costs mandated by the state pursuant to Government Code section 17514. In the case of the test claim for costs under Education Code section 33126, as amended by Statutes 1997, chapter 912, the Commission does not have jurisdiction to hear a new claim for reimbursable costs mandated by the state.

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SWEETWATER UNION HIGH SCHOOL DISTRICT

MANDATED COSTS
 1130 FIFTH AVENUE
 CHULA VISTA, CA 91911-2896
 (619) 585-4450

November 15, 2003

Paula Higashi, Executive Director
 Commission on State Mandates
 980 Ninth Street Suite 300
 Sacramento CA 95814

RECEIVED

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**COMMISSION ON
STATE MANDATES**

Dear Ms. Higashi,

**RE: Test Claim of Sweetwater Union High School District and Bakersfield City School District Statutes 1997, Chapter 912, Statutes 2000, Chapter 996, Statutes 2001, Chapters 159 & 734, and Statutes of 1977, Chapter 1168
School Accountability Report Cards II and III, 00-TC-09, 00-TC-13, and 02-TC-32**

On October 7, 2003, the staff analysis for this test claim was issued. Due to the San Diego County Firestorm, I was unable to complete and submit the responses to the staff analysis in a timely manner. I did request, however, in a Fax dated October 26, 2003, an extension of time to file. Your staff responded that because my request was not a formal request, an extension could not be granted. They explained that if my responses were received prior to the completion of the final analysis the responses would be included, and that the commission would receive the responses regardless of whether or not they were included in the final analysis.

The Sweetwater Union High School District, a co-claimant, disagrees with the conclusions reached by the Commission staff.

After reviewing the original SARC Test Claim, submitted on or about December 30, 1997, the Commission's Statement of Decision, issued on or about April 23, 1998, and as a co-claimant on the original test claim, I am convinced that the issues of (1) ensuring that all parents receive a copy of the SARC and (2) making administrators and teachers available to answer any questions regarding the SARC were overlooked and not included in the original submission, and therefore were neither approved or denied by the commission.

There is no disagreement with the fact that the voters did approve Proposition 98 in 1988, however, claimant totally disagrees with staffs interpretation of what was included in Proposition 98.

Government Code section 17556 stipulates that "The commission shall not find costs mandated by the state...if, after a hearing, the commission finds that: (f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election." Claimant asserts that there were thirteen specific items to be reported that the voters agreed should be included in the SARC, plus the requirement to develop a model SARC. Claimant believes that those requirements represent the totality of what the public wanted to see. Further, since most people can not foresee the future, claimant contends that the issues addressed in this test claim were not even a glimmer in some legislators eye at the time that Proposition 98 was approved by the voters. Thusly claimant contends that neither the voters through Proposition 98 or the Government Code have provided any state department or

Paula Higashi
 Commission on State Mandates
 School Accountability Report Cards II and III
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commission with the right to make interpretations about what activities required today might fit into the meaning of what is very plainly written in Proposition 98 and/or the Government Code.

Claimant alleges that to conclude that the specific Proposition 98 statements (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals, and (13) "Quality of school instruction and leadership" are the same as reporting on "Pupil achievement by grade level, as measured by the Standardized testing and reporting programs", "Number of advanced courses offered", ... "the rate of pupils who earned a Governor's scholarship award" are the same, represents a monumental interpretation and in the claimants opinion has lead to an incorrect conclusion. First, prior to and subsequent to the SARC and until a time subsequent to the implementation of the Standardized Testing process, student achievement was reported as district wide percentile ranks. Second, there has never been requirements to report the number of advanced courses offered or the rate of pupils earning a Governor's Scholarship award until the requirements were imposed through the legislative process.

Further claimant disagrees that the inclusion of statewide drop rates has any relationship to (2) Progress toward reducing dropout rates. Statewide rates are simply that. Showing "progress toward reducing drop-out rates" is a comparison of what each individual school dropout rate is and has been, and then determining if a school has done better or worse.

Claimant also disagrees with staff's determination that reporting the ratio of textbooks per pupil has any relationship to (9) ...adequacy of school facilities, (11) ...climate for learning or (13) quality of school instruction. (9) ... adequacy of school facilities is directly related to buildings and grounds, (11) ...climate for learning is directly related to the classroom setting and discipline, and (13) quality of school instruction is directly related to the quality of the instructional and leadership staff.

Claimant does not agree with staff's determination that (1) including "contact information pertaining to any organized opportunities for parental involvement" is "minimal information," or (2) it does not rise to the level of a reimbursable "higher level of service". Claimant alleges that this requirement is not simply the "additional of a few lines to the existing school accountability report card," but instead imposes a higher level of service upon staff members who must determine what organized opportunities for parental involvement are available and then discover who the contact is.

In Addition, no matter how "minimal", someone away from the tasks to be performed, might presume a state mandated activity to be, the State Constitution still requires that the mandate be funded. That issue would seem to have been settled as a direct result of the following question posed by San Diego Unified School District in a letter dated November 27, 1990. The question posed was "Do local agencies or school districts incur reimbursable costs when their existing staff perform state mandated duties as part of their normal workday, when those duties result from a new program or higher level of service in an existing program?"

The State Commission on Mandates responded in a memorandum dated June 3, 1991 that "At its May 30, 1991 hearing, the Commission on State Mandates reviewed the issue of providing reimbursement for labor cost. After discussion, the Commission decided to continue its longstanding interpretation of mandate law by requiring a finding of fact that a local entity can incur increased labor costs before reimbursement is provided for those costs. It was further

Paula Higashi
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stated that "This decision should be reviewed in conjunction with the Commission's January 28, 1991 decision to continue to provide reimbursement for the employee time spent performing state mandated duties for those employees in a nonfixed environment, when the employee time can be properly identified, using accepted accounting practices."

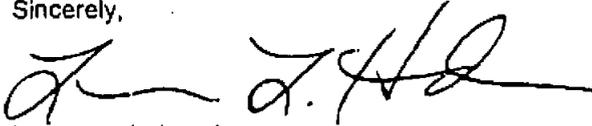
Claimant agrees that training is not specifically referred to in the legislation, however, the California Safe School Assessment process is a reasonable example of what happens when definitions developed by others are distributed without training, and those who did not receive any training are then left to determine what the definitions are going to be.

Claimant disagrees with the staff position on providing evidence that state funds and/or property tax revenue is unavailable for the alleged additional costs. The imposition of a mandate upon an entity will always create a lack of funding simply because entities do not have personnel sitting around waiting for mandates to be imposed. District personnel are hired to perform specific tasks required by the district.

Claimant requests that the staff analysis be reviewed and revised to reflect the interpretation of the provisions of the State Constitution which provides for reimbursement of costs when legislation is adopted that imposes a higher level of service than the level of service that existed prior to the adopting of the new legislation.

Thank you for assisting in this matter.

Sincerely,



Lawrence L. Hendee
Coordinator Mandated Costs

COMMISSION ON STATE MANDATES

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March 4, 2004

Mr. David Scribner
 Schools Mandate Group, JPA
 One Capitol Mall, Suite 200
 Sacramento, CA 95814

Mr. Donald R. Kiger, Business Manager (CBO)
 Empire Union School District
 116 N. McClure Road
 Modesto, CA 95357

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: **Claimant's Request to Amend Test Claim to Add Schools Mandate Group as Co-Claimant and Lead Claimant**
School Accountability Report Cards II and III, 00-TC-09, 00-TC-13 and 02-TC-32
 Empire Union Unified School District, Sweetwater Union High School District and
 Bakersfield City School District, Claimants
 Education Code Sections 33126, 33126.1, and 41409
 Statutes 1997, Chapter 912; Statutes 2000, Chapter 996; Statutes 2001, Chapters 159
 and 734; and Statutes 2002, Chapter 1168

Dear Mr. Scribner and Mr. Kiger:

On October 29, 2003, as part of comments on the draft staff analysis, the Commission received a request from claimant, Empire Union School District, to amend this test claim to add the Schools Mandate Group as a co-claimant and to designate the Schools Mandate Group as the lead claimant. The claimant's request to amend the test claim is denied. As described below, the Schools Mandate Group is not an eligible claimant for purposes of reimbursement under article XIII B, section 6 of the California Constitution and Government Code section 17500 et seq.

The Schools Mandate Group is a joint powers authority established pursuant to the Joint Exercise of Powers Act ("Act") in Government Code section 6500 et seq.¹ Under the Act, school districts and local agencies are authorized to enter into agreements to "jointly exercise any power common to the contracting parties."² The entity provided to administer or execute the agreement (in this case the Schools Mandate Group) may be a firm or corporation, including a nonprofit corporation, designated in the agreement.³ A joint powers authority is a separate entity from the

¹ According to the letter dated November 20, 2003, by the Schools Mandate Group to the Commission's Chief Legal Counsel, the Schools Mandate Group has been "legally established consistent with Government Code section 6500 et seq."

² Government Code section 6502.

³ Government Code section 6506.

parties to the agreement and is not legally considered to be the same entity as its contracting parties.⁴

According to the joint powers agreement in this case, the Schools Mandate Group was established "to permit the filing of test claims, incorrect reduction claims, parameters and guidelines amendments, requests for rulemaking, and any other related activities, including litigation and lobbying, that will assist the JPA and/or its member agencies to protect their right to full reimbursement for mandated costs under the State's mandate reimbursement program (Cal. Const. Art. XIII B, § 6; Gov. Code, § 17500 et seq.)." The Schools Mandate Group does not have the delegated authority to perform a school district's education-related activities.

The test claim legislation at issue in this case involves providing school accountability report cards. The Commission is required to determine whether the test claim legislation imposes a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution.

To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. as the "sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution."⁵ The Commission, like the court, is required to limit enforcement to the procedures established by the Legislature in Government Code section 17500 et seq.⁶

Government Code sections 17550 and 17551 authorize local agencies and school districts to file test claims seeking reimbursement pursuant to article XIII B, section 6. Government Code section 17519 defines "school district" to mean "any school district, community college district, or county superintendent of schools." Government Code section 17520 defines "special district" to include "joint powers agency." The term "special district" appears in the definition of "local agency,"⁷ but does not appear in the definition of "school district." In construing the mandate reimbursement statutes, the Commission must apply the definitions provided by the Legislature.⁸ Where a defined term is absent from one statute, yet appears in another code section within the same statutory scheme, the term cannot be read into that section in which it does not appear.⁹ Thus, based on the plain language of the statutes, the Schools Mandate Group, as a joint powers authority for contracting school districts, is not a claimant.

This conclusion is further supported by the courts' interpretation of article XIII B, section 6. In 1991, the California Supreme Court decided *Kinlaw v. State of California, supra*. In *Kinlaw*, medically indigent adults and taxpayers brought an action against the state alleging that the state violated article XIII B, section 6 by enacting legislation that shifted financial responsibility for

⁴ Government Code section 6507; 65 Opinions of the California Attorney General 618, 623 (1982).

⁵ Government Code section 17552.

⁶ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 334.

⁷ Government Code section 17518.

⁸ Government Code section 17510.

⁹ *Moncharsh v. Heily & Blasé* (1992) 3 Cal.4th 1, 26.

the funding of health care for medically indigent adults to the counties. The Supreme Court denied the claim, holding that the medically indigent adults and taxpayers lacked standing to prosecute the action and that the plaintiffs have no right to reimbursement under article XIII B, section 6.¹⁰ The court stated the following:

Plaintiffs' argument that they must be permitted to enforce section 6 as individuals because their right to adequate health care services has been compromised by the failure of the state to reimburse the county for the cost of services to medically indigent adults is unpersuasive. *Plaintiffs' interest*, although pressing, *is indirect* and does not differ from the interest of the public at large in the financial plight of local government. Although the basis for the claim that the state must reimburse the county for its costs of providing the care that was formerly available to plaintiffs under Medi-Cal is that AB 799 created a state mandate, plaintiffs have no right to have any reimbursement expended for health care services of any kind.¹¹ (Emphasis added.)

The Supreme Court's ruling in *Kinlaw* is relevant here. Like the plaintiffs in *Kinlaw*, the School Mandates Group, as a separate entity from the contracting school districts, is not directly affected by the test claim legislation. The Legislature imposed requirements on school districts, which may result in a reimbursable state-mandated program for school districts. But, the amended statutes do not impose any duties on the Schools Mandate Group, or any other joint powers authority. As expressed in an opinion of the California Attorney General, a joint powers authority "is simply not a city, a county, [a school district], or the state as those terms are normally used."¹² Thus, consistent with the *Kinlaw* decision, the School Mandates Group lacks standing in this case to act as a claimant.

In 1997, the Third District Court of Appeal decided *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976. Although Government Code section 17520 expressly includes redevelopment agencies in the definition of "special districts" that are eligible to file test claims with the Commission, the court found that redevelopment agencies are not subject to article XIII B, section 6 since they not bound by the spending limitations in article XIII B, and are not required to expend any "proceeds of taxes." The court stated the following:

Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "general revenues for the local entity."¹³

The Third District Court of Appeal affirmed the *Redevelopment Agency* decision in *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281, again finding that

¹⁰ *Kinlaw, supra*, 54 Cal.3d at pages 334-335.

¹¹ *Ibid.*

¹² 65 Opinions of the California Attorney General 618, 623 (1982).

¹³ *Redevelopment Agency, supra*, 55 Cal.App.4th at page 986.

redevelopment agencies are not entitled to claim reimbursement for state-mandated costs because they are not required to expend "proceeds of taxes."

In the present case, the Schools Mandate Group is also not subject to the appropriations limitation of article XIII B and does not expend any "proceeds of taxes" within the meaning of article XIII B. Therefore, the Schools Mandate Group is not entitled to reimbursement as an eligible claimant pursuant to article XIII B, section 6.

Please contact Katherine Tokarski, Commission Counsel, at (916) 323-3562 if you have any questions regarding the above.

Sincerely,



PAULA HIGASHI
Executive Director

c. Mailing list

Commission on State Mandates

Original List Date: 3/21/2001
Last Updated: 10/8/2003
List Print Date: 03/04/2004
Claim Number: 00-TC-09
Issue: School Accountability Report Cards II

Mailing Information: Other

Mailing List

Related

00-TC-13 School Accountability Report Cards II (Amendment)
02-TC-32 School Accountability Report Card III

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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FOR OFFICIAL USE ONLY RECEIVED MAR 16 2001 COMMISSION ON STATE MANDATES
TEST CLAIM NUMBER: <i>00-TC-09</i>

TEST CLAIM FORM**LOCAL AGENCY OR SCHOOL DISTRICT SUBMITTING CLAIM**

Empire Union

CONTACT PERSON

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 Attorney for Mandated Cost Systems, Inc.

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REPRESENTATIVE ORGANIZATION TO BE NOTIFIED

Mandated Cost Systems, Inc.
 Attn.: Steve Smith, President
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THIS TEST CLAIM ALLEGES THE EXISTENCE OF A REIMBURSABLE STATE MANDATED PROGRAM WITHIN THE MEANING OF SECTION 17514 OF THE GOVERNMENT CODE AND SECTION 6, ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION. THIS TEST CLAIM IS FILED PURSUANT TO SECTION 17551(A) OF THE GOVERNMENT CODE.

IDENTIFY SPECIFIC SECTION(S) OF THE CHAPTERED BILL OR EXECUTIVE ORDER ALLEGED TO CONTAIN A MANDATE, INCLUDING THE PARTICULAR STATUTORY CODE SECTION(S) WITHIN THE CHAPTERED BILL, IF APPLICABLE.

Statutes of 2000, Chapter 996 (SB 1632)

Education Code §§ 33126 and 33126.1

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

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SIGNATURE OF AUTHORIZED REPRESENTATIVE

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Authorized Representative of Claimant,
Empire Union

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM OF:

Empire Union

CSM No. _____

Statutes of 2000, Chapter 996 (SB 1632)

Education Code Sections 33126 and 33126.1

School Accountability Report Cards II

School Accountability Report Cards II

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I. TEST CLAIM EXECUTIVE SUMMARY

SUMMARY OF THE SCHOOL ACCOUNTABILITY REPORT CARDS TEST CLAIM

On December 31, 1997, the Bakersfield City School District and the Sweetwater Union High School District filed the *School Accountability Report Cards Test Claim*. Proposition 98, adopted by the voters, requires school districts to develop and issue a school accountability report card (SARC). The claimants filed their Test Claim contending that numerous statutes enacted by the Legislature added new subjects to be included in the SARC in addition to those required by Proposition 98. On April 23, 1998, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the activities imposed by the claimed statutes constituted a reimbursable state-mandate. On August 27, 1998, the Commission adopted Parameters and Guidelines for the SARC Test Claim and on March 25, 1999 adopted the SARC Statewide Cost Estimate.

SUMMARY OF THE TEST CLAIM LEGISLATION

Statutes of 2000, Chapter 996 (SB 1632) (the test claim legislation), enacted and operative as an urgency statute on September 30, 2000, made several amendments and additions to the Education Code. Among other things, the test claim legislation requires school districts to include the following new information in the SARC: (1) pupil achievement by grade level; (2) the graduation rate; (3) whether textbooks and other materials meet state standards and have been adopted by the State Board of Education and the governing boards of school districts; (4) the ratio of textbooks per pupil; (5) the year textbooks were adopted; (6) the ratio of academic counselors per pupil; (7) the number of advanced placement courses offered, by subject; (8) the Academic Performance Index; (9) whether a school qualified for the Immediate Intervention

Underperforming Schools Program and whether the school applied for, and received a grant pursuant to, that program; (10) whether the school qualifies for the Governor's Performance Award Program; (11) when available, the percentage of pupils, including the disaggregation of subgroups, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (12) contact information pertaining to any organized opportunities for parental involvement; (13) for secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and (14) whether the school has a college admission test preparation course program.

In addition, the test claim legislation requires school districts to train its staff on the State Department of Education's (SDE's) templates and definitions, once the SDE adopts these items.

OVERVIEW OF MANDATES LAW

For the Commission to find that the test claim legislation imposes a reimbursable state mandated program, the legislation: (1) must be subject to article XIII B, section 6 of the California Constitution, or in other words, the legislation must impose a "program" upon local governmental entities; (2) the "program" must be new, thus constituting a "new program," or it must create an increased or "higher level of service" over the former required level of service; and (3) the newly required program or increased level of service must be state mandated within the meaning of Government Code section 17514.

QUESTIONS PRESENTED

1. **Does the Test Claim Legislation Impose a "Program" Upon School Districts Within the Meaning of the Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

Short Answer: YES. The test claim legislation requires school districts to include additional information in the school accountability report card (SARC). For example, the SARC shall include pupil achievement by grade level, graduation rates, and the number of advanced placement courses. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public. Moreover, the test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, including the additional information in the SARC constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

2. **Does the Test Claim Legislation Impose a "New Program" or a "Higher Level of Service" Upon School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

Short Answer: YES. All of the activities imposed upon school districts by the test claim legislation are new. By comparing the requirements imposed upon school districts under prior law and those imposed by the test claim legislation, it becomes clear that school districts are engaging in numerous *new* activities related to the completion of the SARC.

In addition, the test claim legislation requires school districts to train staff on the use of the State Department of Education's (SDE) SARC templates and definitions, once this information becomes available. Therefore, the activities related to completing the SARC and training staff on new SDE templates and definitions imposed upon school districts by

the test claim legislation represent a "new program" or "higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

3. Does the Test Claim Legislation Impose "Costs Mandated by the State" Upon School Districts Within the Meaning of Government Code Section 17514?

Short Answer: YES. None of the Government Code section 17556 "exceptions" apply and there is no federal law requiring districts to complete the SARC as outlined in the test claim legislation. Therefore, the test claim legislation does impose "costs mandated by the state" upon school districts within the meaning of Government Code section 17514.

CONCLUSION

The following activities represent reimbursable state-mandated activities imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Education Code section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)
- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)
- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and

adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)

- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)
- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)
- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)

- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
- N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)
- O. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in the test claim legislation;
- P. Training of school district staff regarding the new requirements outlined above;
- Q. Training of school district staff regarding the State Department of Education's templates, once adopted; (Ed. Code, § 33126.1.)
- R. Training of school district staff regarding the State Department of Education's definitions, once adopted; and (Ed. Code, § 33126.1.)
- S. Any additional activities identified as reimbursable during the Parameters and Guidelines phase.
-

II. TEST CLAIM ANALYSIS

OVERVIEW OF SCHOOL ACCOUNTABILITY REPORT CARDS TEST CLAIM

On December 31, 1997, the Bakersfield City School District and the Sweetwater Union High School District filed the *School Accountability Report Cards* Test Claim. Proposition 98, adopted by the voters, requires school districts to develop and issue a school accountability report card (SARC). The claimants filed their Test Claim contending that numerous statutes enacted by the Legislature added new subjects to be included in the SARC in addition to those required by Proposition 98. On April 23, 1998, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the activities imposed by the claimed statutes constituted a reimbursable state-mandate. On August 27, 1998, the Commission adopted Parameters and Guidelines for the SARC Test Claim and on March 25, 1999 adopted the SARC Statewide Cost Estimate.

ANALYSIS

Statutes of 2000, Chapter 996 (SB 1632) (the test claim legislation), enacted and operative as an urgency statute on September 30, 2000, made several amendments and additions to the Education Code. Among other things, the test claim legislation requires school districts to include the following new information in the SARC: (1) pupil achievement by grade level; (2) the graduation rate; (3) whether textbooks and other materials meet state standards and have been adopted by the State Board of Education and the governing boards of school districts; (4) the ratio of textbooks per pupil; (5) the year textbooks were adopted; (6) the ratio of academic counselors per pupil; (7) the number of advanced placement courses offered, by subject; (8) the Academic Performance Index; (9) whether a school qualified for the Immediate Intervention Underperforming Schools Program and whether the school applied for, and received a grant

pursuant to, that program; (10) whether the school qualifies for the Governor's Performance Award Program; (11) when available, the percentage of pupils, including the disaggregation of subgroups, completing the grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (12) contact information pertaining to any organized opportunities for parental involvement; (13) for secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and (14) whether the school has a college admission test preparation course program.

In addition, the test claim legislation requires that school districts train its staff on the State Department of Education's (SDE's) templates and definitions, once these items are adopted by the SDE.

In order for a statute or executive order, which is the subject of a test claim, to impose a reimbursable state mandated program, the language: (1) must impose a program upon local governmental entities; (2) the program must be new, thus constituting a "new program," or it must create an increased or "higher level of service" over the former required level of service; and (3) the newly required program or increased level of service must be state mandated.

The court has defined the term "program" to mean programs that carry out the governmental function of providing services to the public, or a law, which to implement a state policy, imposes unique requirements on local agencies or school districts that do not apply generally to all residents and entities in the state. To determine if a required program 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 before the enactment of the test claim legislation.¹ To determine if the new program or higher level of service is state mandated, a review of state and federal statutes, regulations, and case law must be undertaken.²

1. Does the Test Claim Legislation Impose a “Program” Upon School Districts Within the Meaning of the Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?

Statutes of 2000, Chapter 996 (the test claim legislation), enacted and operative as an urgency statute on September 30, 2000, requires school districts to include additional information in their SARCs. The California Supreme Court in *County of Los Angeles v. State of California*, defined “program” as:

“Programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.”³

The California Appellate Court in *Carmel Valley Fire Protection District v. State of California*, found the following regarding the *County of Los Angeles* “program” holding:

“The [Supreme] Court concluded that the term ‘program’ has two alternative meanings: ‘programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.’ (Citation omitted.) [O]nly one of these findings is necessary to trigger reimbursement.”⁴ (Emphasis added.)

The test claim legislation provides that it is the state’s policy that the school accountability report card shall provide data by which parents can make meaningful comparisons between public

¹ *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.

² *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1594; Government Code sections 17513, 17556.

³ *County of Los Angeles, supra* (1987) 43 Cal.3d 46, 56.

schools enabling them to make informed decisions on which schools to enroll their children. The test claim legislation requires that the school accountability report card shall include assessment of the following school conditions:

1. Pupil achievement by grade level, as measured by the standardized testing and reporting programs;
2. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available;
3. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
4. The ratio of textbooks per pupil;
5. The year textbooks were adopted;
6. The ratio of academic counselors per pupil;
7. The number of advanced placement courses offered, by subject;
8. The Academic Performance Index, including the disaggregation of subgroups and the decile rankings and a comparison of schools;
9. Whether a school qualified for the Immediate Intervention Underperforming Schools Program and whether the school applied for, and received a grant pursuant to, that program;
10. Whether the school qualifies for the Governor's Performance Award Program;
11. When available, the percentage of pupils, including the disaggregation of subgroups completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination;
12. Contact information pertaining to any organized opportunities for parental involvement;
13. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and
14. Whether the school has a college admission test preparation course program.

⁴ *Carmel Valley Fire Protection Dist.*, *supra* (1987) 190 Cal.App.3d 521, 537.

The test claim legislation clearly passes both tests outlined by *County of Los Angeles* and reiterated in *Carmel Valley*. First, these requirements are deemed necessary to ensure that parents have the necessary information related to a public school's performance. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public.⁵ Second, the test claim legislation only applies to public schools and as such imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, including the additional information in the SARC constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

2. Does the Test Claim Legislation Impose a "New Program" or a "Higher Level of Service" Upon School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?

To determine if a required program 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 before the enactment of the test claim legislation.⁶

Prior Law

Prior law required school districts to produce a SARC for each school site in every school district. Under prior law, school districts were required to include the following information in the SARC: information related to pupil achievement, dropout rates, estimated expenditures per pupil, class size reduction progress, number of credentialed teachers, quality and currency of

⁵ *Long Beach Unified School Dist, supra* (1990) 225 Cal.App.3d 155, 172 (The court found that although numerous private schools exist, education in the state is considered a peculiarly governmental function and public education is administered by local agencies to provide a service to the public. Based on these findings, the court held that public education constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.)

⁶ *Lúcia Mar Unified School Dist, supra* (1988) 44 Cal.3d 830, 835 (The court found that legislation that shifts activities from the state to a local entity represents a new program especially when the local entity was not required to perform that activity at the time the legislation was enacted. The court concluded that, under these circumstances, the activity is "new" insofar as the local entity is concerned.)

textbooks, availability of qualified personnel to provide pupil counseling, availability of substitute teachers, safety, cleanliness, and adequacy of school facilities, adequacy of teacher evaluations, classroom discipline, teacher training and curriculum improvement programs, the degree to which pupils are prepared to enter the workforce, and the total number of instructional minutes offered in the school year.

Current Requirements: The Test Claim Legislation

Although prior law did require school districts to engage in numerous activities related to the completion of SARCs, the test claim legislation imposes additional activities upon school districts when compared to those required under prior law. The following activities were added to the Education Code by the test claim legislation, were not required under prior law, and therefore these activities represent a higher level of service imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)
- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)
- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and

- adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)
- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)
- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)
- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)

- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
 - N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)
 - O. Training of school district staff regarding the State Department of Education's templates, once adopted; and (Ed. Code, § 33126.1.)
 - P. Training of school district staff regarding the State Department of Education's definitions, once adopted. (Ed. Code, § 33126.1.)
3. **Does the Test Claim Legislation Impose "Costs Mandated by the State" Upon School Districts Within the Meaning of Government Code Section 17514?**

None of the "exceptions" listed in Government Code section 17556 apply⁷ and state law was not enacted in response to any federal requirement. Therefore, the test claim legislation does impose costs mandated by the state upon school districts.

⁷ Government Code section 17556 provides several exceptions to reimbursement. Specifically, section 17556 provides that the Commission shall not find costs mandated by the state if it concludes that the test claim legislation: (1) is issued in response to a specific request by a local governmental entity; (2) implements a court mandate; (3) implements federal law; (4) can be financed through a fee or assessment charged by a local governmental entity; (5) provides for offsetting savings that result in no net costs to local governmental entities or includes additional revenue specifically intended to fund the costs of the mandate in an amount sufficient to fund the mandate; (6) implements a ballot proposition; or (7) creates a new crime or infraction, eliminates a crime or infraction, or changed the penalty for a crime or infraction related to the enforcement of the crime or infraction.

CONCLUSION

The following activities represent reimbursable state-mandated activities imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)
- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)
- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)
- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)

- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)
- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)
- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
- N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)

- O. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in the test claim legislation;
- P. Training of school district staff regarding the new requirements outlined above;
- Q. Training of school district staff regarding the State Department of Education's templates, once adopted; (Ed. Code, § 33126.1.)
- R. Training of school district staff regarding the State Department of Education's definitions, once adopted; and (Ed. Code, § 33126.1.)
- S. Any additional activities identified as reimbursable during the Parameters and Guidelines phase.

III. CLAIM REQUIREMENTS

AUTHORITY FOR THE TEST CLAIM

The Commission on State Mandates has the authority pursuant to Government Code Section 17551, subdivision (a), to hear and decide a claim by a local agency or school district that the local agency or school district is entitled to reimbursement by the state for costs mandated by the state as required by article XIII B, section 6 of the California Constitution. Empire Union is a "school district" as defined in Government Code section 17519. This test claim is filed pursuant to Title 2, California Code of Regulations, section 1183.

ESTIMATED COSTS RESULTING FROM THE MANDATE

It is estimated that Empire Union will incur costs in excess of \$200.00 to comply with the requirements outlined in the *School Accountability Report Cards II* Test Claim.

APPROPRIATIONS

No funds are appropriated by the test claim legislation for reimbursement of these new costs mandated by the state and there is no other provision of law for recovery of costs for these activities.

CLAIM CERTIFICATION

I certify by my signature below that the statements made in this document are true and correct of my knowledge, and as to all other matters, I believe them to be true and correct based on information or belief.

Executed on 3/16/01, at Sacramento, California, by:

SPECTOR, MIDDLETON, YOUNG & MINNEY

Paul C. Minney

PAUL C. MINNEY, ESQ.

Attorney for Mandated Cost Systems, Inc.
and Authorized Representative of Empire Union

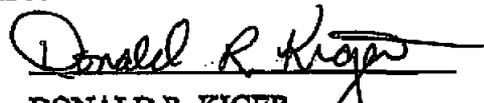
**AUTHORIZATION TO ACT AS REPRESENTATIVE
FOR EMPIRE UNION'S TEST CLAIM**

SCHOOL ACCOUNTABILITY REPORT CARDS II

I, Donald R. Kiger, Business Manager (CBO), hereby authorize Paul C. Minney (or designee) of the Law Office of Spector, Middleton, Young & Minney to act as the representative and sole contact of Empire Union in this Test Claim. All correspondence and communications regarding this Test Claim should be forwarded to:

Paul C. Minney, Esq.
SPECTOR, MIDDLETON, YOUNG & MINNEY
7 Park Center Drive
Sacramento, California 95825
Telephone: (916) 646-1400
Facsimile: (916) 646-1300

Dated: 03-14-01


DONALD R. KIGER,
BUSINESS MANAGER (CBO)

Donald R. Kiger, Business Manager (CBO)
Empire Union
116 N. McClure Road
Modesto, California 95357
Telephone: (209) 521-2800
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Facsimile: (916) 646-1300

Attorney for Mandated Cost Systems, Inc. and
Authorized Representative of Claimant,
Empire Union

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM OF:
Empire Union

CSM No. _____

DECLARATION OF DONALD R. KIGER

School Accountability Report Cards II

I, Donald R. Kiger, make the following declaration and statement. As Empire Union's (claimant's) Business Manager, I have knowledge of its policies and procedures for completing school accountability report cards. I am familiar with the provisions and requirements of Statutes of 2000, Chapter 996 (Chapter 996). The claimant must include the following information in its school accountability report cards to comply with the requirements outlined in Chapter 996:

1. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33;
2. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052;
3. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
4. The ratio of textbooks per pupil;
5. The year textbooks were adopted;
6. The ratio of academic counselors per pupil;
7. The number of advanced placement courses offered, by subject;
8. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools;
9. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program;
10. Whether the school qualifies for the Governor's Performance Award Program;
11. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in

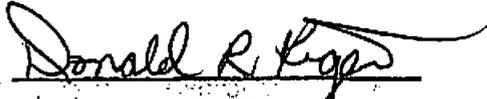
- the district and statewide completing grade 12 who successfully complete the examination;
12. Contact information pertaining to any organized opportunities for parental involvement;
 13. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system;
 14. Whether the school has a college admission test preparation course program;
 15. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in Chapter 996;
 16. Training of school district staff regarding the new requirements outlined above;
 17. Training of school district staff regarding the State Department of Education's templates, once adopted; and
 18. Training of school district staff regarding the State Department of Education's definitions, once adopted.

I am informed and believe that before the test claim legislation, there was no responsibility for the claimant to engage in the activities set forth above. It is estimated that the claimant will/has incurred significantly more than \$200.00 to implement these new activities mandated by the state for which the claimant has not been reimbursed by any federal, state, or local agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and if so required, I could testify to the

statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

Executed on MARCH 14, 2001, at Modesto, California, by:


DONALD R. KIGER,
BUSINESS MANAGER (CBO)

Senate Bill No. 1632

CHAPTER 996

An act to amend Section 33126 of, and to add Sections 33126.1 and 33126.2 to, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1632, Poochigian. Education resources.

(1) Existing law, the Classroom Instructional Improvement and Accountability Act, requires a school accountability report card to include certain assessments of school conditions.

This bill would require the State Department of Education to develop and recommend for adoption a standardized template for the school accountability report card, as specified, and definitions for the elements required to be included in the school accountability report card.

The bill would require the State Department of Education to annually post the viewable template on the Internet. The bill would require that the template be designed so that it can be downloaded and data may be entered electronically by schools or districts.

The bill would also require the Secretary for Education to review the data elements provided by school districts via the school accountability report card to determine the extent to which the data elements may be incorporated into the Academic Performance Index. The bill would authorize the Superintendent of Public Instruction to recommend additional data elements for inclusion in the Academic Performance Index to be included, as specified.

(2) The bill would appropriate \$330,000 from the General Fund to the Superintendent of Public Instruction according to a specified schedule.

(3) The bill would state that the Legislature finds and declares that the bill furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to make the school accountability report card a more effective tool for providing public information by achieving all of the following:

- (a) Providing consistent definitions and format for reporting data.
- (b) Providing that the school accountability report card becomes a meaningful tool to understand the rating of a school by the academic performance index pursuant to Article 2 (commencing with Section 52051) of Chapter 6.1 of Part 28 of the Education Code by including all of the components of measurement employed by the academic performance index, including subgroup comparisons as defined by the Public Schools Accountability Act Advisory Committee pursuant to Section 52052.5 of the Education Code.
- (c) Providing that the school accountability report card includes comparative information that, when possible, enables a reader to compare a particular school to other schools in the same district and to schools in other districts in the state, to compare the district of a particular school to other school districts, and to compare a particular school or district to a statewide average for the same.
- (d) Ease the burden on schools of collecting and reporting data.
- (e) Standardize the definitions on the school accountability report card to be consistent with the definitions already in place or under development at the state level with definitions pursuant to the academic performance index superseding conflicting definitions.
- (f) Protect the personalized descriptive aspect of the report card by providing space on the model report card and suggesting its use to encourage districts to continue to provide descriptive information.

SEC. 2. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 3. Section 33126.1 is added to the Education Code, to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a

standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(i) The State Department of Education shall maintain current Internet links with the web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

SEC. 4. Section 33126.2 is added to the Education Code, to read:

33126.2. (a) The Secretary for Education, as part of the study conducted pursuant to Provision 2 of Item 0650-011-0001 of Section 2.00 of the Budget Act of 2000, shall review the data elements provided by school districts via their school accountability report cards to determine to what extent these data elements may be incorporated into the Academic Performance Index, as established by Section 52052. This review may include, but is not limited to, the number of computers per pupil, quality and capacity of technology in the classroom, postsecondary matriculation data, and disaggregation of required data elements by subgroups. The Superintendent of Public Instruction may also recommend additional data elements for inclusion in the Academic Performance

Index. Data elements may be incorporated in the Academic Performance Index only after those elements have been determined by the State Board of Education to be valid and reliable for the purpose of measuring school performance, and only if their inclusion would not be likely to result in a valid claim against the state for reimbursement pursuant to Section 6 of Article XIII B of the California Constitution.

(b) The Superintendent of Public Instruction shall additionally review, and the State Board of Education shall consider, any empirical research data that becomes available concerning barriers to equal opportunities to succeed educationally for all California pupils, regardless of socioeconomic background. Upon obtaining this information, the board shall evaluate whether there is any need to revise the school accountability report card.

SEC. 5. The sum of three hundred thirty thousand dollars (\$330,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation according to the following schedule:

(a) One hundred thousand dollars (\$100,000) to support the activities of the advisory committee established pursuant to subdivision (e) of Section 33126.1 of the Education Code. Funds appropriated for the purposes of this subdivision that have not been allocated by June 30, 2001, shall be available for allocation and expenditure for the purposes of this subdivision in the 2001-02 fiscal year.

(b) Two hundred thirty thousand dollars (\$230,000) for two personnel years and associated data processing costs to provide support services for the implementation of Sections 33126 and 33126.1 of the Education Code, including the monitoring of compliance of legal education agencies, the monitoring of the contract for the posting of standardized templates, technical assistance to local educational agencies, and the preparation of data files.

SEC. 6. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make information available to parents as soon as possible regarding performance of public schools, it is necessary that this act take effect immediately.

O

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized

template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(i) The State Department of Education shall maintain current Internet links with the web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

Assembly Bill No. 572

CHAPTER 912

An act to amend Section 33126 of the Education Code, relating to schools.

[Approved by Governor October 12, 1997. Filed
with Secretary of State October 12, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 572, Caldera. School Accountability Report Card.

(1) Under the Classroom Instructional Improvement and Accountability Act (Proposition 98), in order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the Superintendent of Public Instruction is required by March 1, 1989, to develop and present to the State Board of Education for adoption a statewide model school accountability report card that includes an assessment of specified school conditions. The Superintendent of Public Instruction is required to consult with a Task Force on Instructional Improvement in developing the statewide model school accountability report card. Under the act, the governing board of each school district is required to implement a school accountability report card for each school in the district that includes the conditions covered in the statewide model report card.

This bill would eliminate the obsolete requirement that the Superintendent of Public Instruction develop by March 1, 1989, in consultation with a Task Force on Instructional Improvement, a statewide model school accountability report card. The bill would provide that the school accountability report card shall provide data by which parents can make meaningful comparisons between public schools.

The bill would require that the school accountability report card also include, but not be limited to, the results by grade level from the assessment tool used by the school district and after it is developed, the statewide assessment, average verbal and math Scholastic Assessment Test scores, the one-year dropout rate, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program, the total number of the school's credentialed teachers, the annual number of schooldays dedicated to staff development, and the suspension and expulsion rates for the most recent 3-year period. The bill, by adding conditions to the school accountability report card, would require school districts to modify their school accountability report cards, thereby imposing a state-mandated local program. The bill would also express the Legislature's intent that schools make a concerted effort to ensure

that parents receive a copy of the accountability report card, that the accountability report cards are easy to read and understandable, and that administrators and teachers are available to answer any questions regarding the report card.

(2) The Classroom Instructional Improvement and Accountability Act, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house.

This bill would declare that it furthers the purposes of the act.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period. After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, the school accountability report card shall include pupil achievement by grade level, as measured by the results of the statewide assessment. Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in California Basic Education Data System for the schoolsite over the most recent three-year period.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the school site by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System information for the most recent three-year period.

(5) The total number of the school's credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials.

(7) The availability of qualified personnel to provide counseling and other pupil support services.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the work force.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 2. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

PHONE: (916) 323-3562

(916) 445-0278

E-mail: csminfo@cam.ca.gov



March 21, 2001

Mr. Paul C. Minney, Esq.
Spector, Middleton, Young & Minney
7 Park Center Drive
Sacramento, Ca 95825

And Affected Parties and State Agencies (See Enclosed Mailing List)

Re: **School Accountability Report Cards II, 00-TC-09**
Empire Union Unified School District, Claimant
Statutes of 2000, Chapter 996 (SB 1632)
Education Code Sections 33126 and 33126.1

Dear Mr. Minney:

The Commission on State Mandates determined that the subject test claim submittal is complete. The test claim initiates the process for the Commission to consider whether the provisions of the chapters listed above impose a reimbursable state-mandated program upon local entities. State agencies and interested parties are receiving a copy of this test claim because they may have an interest in the Commission's determination.

The key issues before the Commission are:

- Do the subject statutes, executive orders, standards and procedures result in a new program or higher level of service within an existing program upon local entities within the meaning of section 6, article XIII, B of the California Constitution and section 17514 of the Government Code? If so, are there costs associated with the mandate that are reimbursable?
- Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes impose a reimbursable state-mandated program upon local entities?

March 21, 2001

Page 2

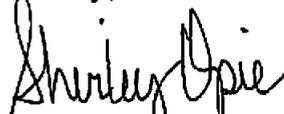
The Commission requests your participation in the following activities concerning this test claim:

- **Informal Conference.** An informal conference may be scheduled if requested by any interested party. See Title 2, California Code of Regulations, section 1183.04 (the regulations).
- **State Agency Review of Test Claim.** State agencies receiving this letter are requested to analyze the merits of the test claim and to file written comments on its validity under the provisions of Government Code sections 17500 through 17630 and section 1183.02 of the regulations. Alternatively, if a state agency chooses not to respond to this request, please submit a written statement of non-response to the Commission. Requests for extensions of time may be filed in accordance with sections 1183.01 (c) and 1181.1 (g) of the regulations. State agency comments are due 30 days from the date of this letter.
- **Claimant Rebuttal.** The claimant and interested parties may file a rebuttal to state agencies' comments on the test claim under section 1183.02 of the regulations. The rebuttal is due 30 days from the service date of written comments.
- **Public Hearing.** The public hearing on the test claim is tentatively set for **October 25, 2001**, at 9:30 a.m., in Room 126, State Capitol, Sacramento. State and local representatives may provide testimony at this hearing. A court reporter will tape the proceedings in order to prepare a transcript. Requests for postponement of the hearing may be filed with the Executive Director in accordance with section 1183.01 of the regulations.

If the Commission determines that a reimbursable state mandate exists, the claimant is responsible for submitting proposed parameters and guidelines for reimbursing all eligible local entities. All interested parties, including affected state agencies, will be given an opportunity to comment on the claimant's proposal before consideration and adoption by the Commission. Finally, the Commission is required to adopt a statewide cost estimate of the reimbursable state-mandated program within 12 months of receipt of an amended test claim. This deadline may be extended for up to six months upon the request of either the claimant or the Commission.

Please contact Nancy Patton at (916) 323-8217 if you have any questions.

Sincerely,



SHIRLEY OPIE

Assistant Executive Director

Enclosures: Mailing List and Test Claim

F:/mandates/2000/tc/00tc09/completeltr

MAILED: Mail List FAXED: _____
DATE: 3/21/01 INITIAL: CD
CHRON: _____ FILE:
WORKING BINDER: _____

Commission on State Mandates

List Date: 03/21/2001

Mailing Information

Mailing List

Claim Number 00-TC-09 Claimant Empire Union Unified School District

Subject Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue School Accountability Report Cards II

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Claimant

Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

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Subject
IssueStatutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1
School Accountability Report Cards II

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LISA A. CORR
AMANDA J. McKECHNIE
DAVID E. SCRIBNER

May 10, 2001



Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

RE: **Amended Test Claim Filing**

School Accountability Report Cards II Test Claim, CSM-00-TC-09^{00-TC-13}
Empire Union Unified School District, Claimant
Statutes of 1997, Chapter 912 (AB 572)
Statutes of 2000, Chapter 996 (SB 1632)
Education Code Sections 33126 and 33126.1

Dear Ms. Higashi:

On August 18, 1999, Empire Union Unified School District filed the *School Accountability Report Cards II* Test Claim (CSM 00-TC-09). The original test claim filing alleged that Statutes of 2000, Chapter 996 imposed a reimbursable state-mandated program upon school districts as result of the Legislature requiring additional information in the SARC. Department of Finance's comments are due on May 28, 2001.

After further discussions with our client concerning the mandated activities, it has come to our attention that additional activities must be added to the original test claim filing. The amended test claim adds two activities not alleged in the original test claim filing. The claimant finds this amendment necessary to ensure that school districts receive reimbursement for all of the activities they must engage in to meet the requirements outlined in the test claim legislation. The new activities are italicized throughout the attached amended test claim. An original and seven copies are attached to this letter for distribution by the Commission.

Please give me a call at (916) 646-1400 if you have any questions or comments regarding this amended test claim filing.

Sincerely,

PAUL C. MINNEY
Attorney at Law

Enc: Amended Test Claim

cc: Mailing List (Letter only)
Donald Kiger, Business Manager (CBO) (Amended Test Claim and Letter)
Steve Smith, President, Mandated Cost. 153ams, Inc. (Amended Test Claim and Letter)

Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

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Interested Party

Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB-1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

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Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000; Chapter 996 (SB 1632); Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

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STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
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(916) 323-3562

<small>FOR OFFICIAL USE ONLY</small> RECEIVED MAY 10 2001 COMMISSION ON STATE MANDATES
TEST CLAIM NUMBER: <i>00-TC-13</i>

TEST CLAIM FORM

LOCAL AGENCY OR SCHOOL DISTRICT SUBMITTING CLAIM

Empire Union Unified School District

CONTACT PERSON

Paul C. Minney, Esq.
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THIS TEST CLAIM ALLEGES THE EXISTENCE OF A REIMBURSABLE STATE MANDATED PROGRAM WITHIN THE MEANING OF SECTION 17514 OF THE GOVERNMENT CODE AND SECTION 6, ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION. THIS TEST CLAIM IS FILED PURSUANT TO SECTION 17551(A) OF THE GOVERNMENT CODE.

IDENTIFY SPECIFIC SECTION(S) OF THE CHARTERED BILL OR EXECUTIVE ORDER ALLEGED TO CONTAIN A MANDATE, INCLUDING THE PARTICULAR STATUTORY CODE SECTION(S) WITHIN THE CHARTERED BILL, IF APPLICABLE.

Statutes of 2000, Chapter 996 (SB 1632)
Statutes of 1997, Chapter 912 (AB 572)

Education Code §§ 33126 and 33126.1

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

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Attorney for Mandated Cost Systems, Inc. and
Authorized Representative of Claimant,
Empire Union Unified School District

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE AMENDED TEST CLAIM OF:
Empire Union Unified School District

CSM NO. 00-TC-09

Statutes of 1997, Chapter 912 (AB 572)
Statutes of 2000, Chapter 996 (SB 1632)

Education Code Sections 33126 and 33126.1

School Accountability Report Cards II

School Accountability Report Cards II

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I. TEST CLAIM EXECUTIVE SUMMARY

SUMMARY OF THE SCHOOL ACCOUNTABILITY REPORT CARDS TEST CLAIM

On December 31, 1997, the Bakersfield City School District and the Sweetwater Union High School District filed the *School Accountability Report Cards* Test Claim. Proposition 98, adopted by the voters, requires school districts to develop and issue a school accountability report card (SARC). The claimants filed their Test Claim contending that numerous statutes enacted by the Legislature added new subjects to be included in the SARC in addition to those required by Proposition 98. On April 23, 1998, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the activities imposed by the claimed statutes constituted a reimbursable state-mandate. On August 27, 1998, the Commission adopted Parameters and Guidelines for the SARC Test Claim and on March 25, 1999 adopted the SARC Statewide Cost Estimate.

SUMMARY OF THE TEST CLAIM LEGISLATION

Statutes of 2000, Chapter 996 (SB 1632), enacted and operative as an urgency statute on September 30, 2000 and Statutes of 1997, Chapter 912 (AB 572), enacted on October 12, 1997 and operative on January 1, 1998 (the test claim legislation), made several amendments and additions to the Education Code. Among other things, the test claim legislation requires school districts to include the following new information in the SARC: (1) pupil achievement by grade level; (2) the graduation rate; (3) whether textbooks and other materials meet state standards and have been adopted by the State Board of Education and the governing boards of school districts; (4) the ratio of textbooks per pupil; (5) the year textbooks were adopted; (6) the ratio of academic counselors per pupil; (7) the number of advanced placement courses offered, by subject; (8) the

Academic Performance Index; (9) whether a school qualified for the Immediate Intervention Underperforming Schools Program and whether the school applied for, and received a grant pursuant to, that program; (10) whether the school qualifies for the Governor's Performance Award Program; (11) when available, the percentage of pupils, including the disaggregation of subgroups, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (12) contact information pertaining to any organized opportunities for parental involvement; (13) for secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and (14) whether the school has a college admission test preparation course program.

In addition, the test claim legislation requires school districts to ensure that all parents receive a copy of the SARC, make administrators and teachers available to answer questions, and train staff on the State Department of Education's (SDE's) templates and definitions, once the SDE adopts these items.

OVERVIEW OF MANDATES LAW

For the Commission to find that the test claim legislation imposes a reimbursable state mandated program, the legislation: (1) must be subject to article XIII B, section 6 of the California Constitution, or in other words, the legislation must impose a "program" upon local governmental entities; (2) the "program" must be new, thus constituting a "new program," or it must create an increased or "higher level of service" over the former required level of service;

and (3) the newly required program or increased level of service must be state mandated within the meaning of Government Code section 17514.

QUESTIONS PRESENTED

1. **Does the Test Claim Legislation Impose a "Program" Upon School Districts Within the Meaning of the Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

Short Answer: YES. The test claim legislation requires school districts to include additional information in the school accountability report card (SARC). For example, the SARC shall include pupil achievement by grade level, graduation rates, and the number of advanced placement courses. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public. Moreover, the test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, including the additional information in the SARC constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

2. **Does the Test Claim Legislation Impose a "New Program" or a "Higher Level of Service" Upon School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

Short Answer: YES. All of the activities imposed upon school districts by the test claim legislation are new. By comparing the requirements imposed upon school districts under prior law and those imposed by the test claim legislation, it becomes clear that school districts are engaging in numerous *new* activities related to the completion of the SARC. In addition, the test claim legislation requires school districts to ensure that all parents receive a copy of the SARC, make administrators and teachers available to answer

questions, and train staff on the State Department of Education's (SDE's) templates and definitions, once the SDE adopts these items. Therefore, the activities related to completing the SARC and training staff on new SDE templates and definitions imposed upon school districts by the test claim legislation represent a "new program" or "higher level of service" within the meaning of article XIII B, section 6 of the California Constitution.

3. Does the Test Claim Legislation Impose "Costs Mandated by the State" Upon School Districts Within the Meaning of Government Code Section 17514?

Short Answer: YES. None of the Government Code section 17556 "exceptions" apply and there is no federal law requiring districts to complete the SARC as outlined in the test claim legislation. Therefore, the test claim legislation does impose "costs mandated by the state" upon school districts within the meaning of Government Code section 17514.

CONCLUSION

The following activities represent reimbursable state-mandated activities imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Education Code section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)

- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)
- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)
- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)
- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully

- complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)
- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)
- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
- N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)
- O. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in the test claim legislation;
- P. Training of school district staff regarding the new requirements outlined above;
- Q. Training of school district staff regarding the State Department of Education's templates, once adopted; (Ed. Code, § 33126.1.)
- R. Training of school district staff regarding the State Department of Education's definitions, once adopted; (Ed. Code, § 33126.1.)
- S. *Ensuring that all parents receive a copy of the SARC; (Ed. Code, § 33126, subd. (c).)*
- T. *Making administrators and teachers available to answer any questions regarding the SARC; and (Ed. Code, § 33126, subd. (c).)*

U. Any additional activities identified as reimbursable during the Parameters and Guidelines phase

II. TEST CLAIM ANALYSIS

OVERVIEW OF SCHOOL ACCOUNTABILITY REPORT CARDS TEST CLAIM

On December 31, 1997, the Bakersfield City School District and the Sweetwater Union High School District filed the *School Accountability Report Cards* Test Claim. Proposition 98, adopted by the voters, requires school districts to develop and issue a school accountability report card (SARC). The claimants filed their Test Claim contending that numerous statutes enacted by the Legislature added new subjects to be included in the SARC in addition to those required by Proposition 98. On April 23, 1998, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the activities imposed by the claimed statutes constituted a reimbursable state-mandate. On August 27, 1998, the Commission adopted Parameters and Guidelines for the SARC Test Claim and on March 25, 1999 adopted the SARC Statewide Cost Estimate.

ANALYSIS

Statutes of 2000, Chapter 996 (SB 1632), enacted and operative as an urgency statute on September 30, 2000 and Statutes of 1997, Chapter 912 (AB 572), enacted on October 12, 1997 and operative on January 1, 1998 (the test claim legislation), made several amendments and additions to the Education Code. Among other things, the test claim legislation requires school districts to include the following new information in the SARC: (1) pupil achievement by grade level; (2) the graduation rate; (3) whether textbooks and other materials meet state standards and have been adopted by the State Board of Education and the governing boards of school districts; (4) the ratio of textbooks per pupil; (5) the year textbooks were adopted; (6) the ratio of academic counselors per pupil; (7) the number of advanced placement courses offered, by subject; (8) the Academic Performance Index; (9) whether a school qualified for the Immediate Intervention

Underperforming Schools Program and whether the school applied for, and received a grant pursuant to, that program; (10) whether the school qualifies for the Governor's Performance Award Program; (11) when available, the percentage of pupils, including the disaggregation of subgroups, completing the grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (12) contact information pertaining to any organized opportunities for parental involvement; (13) for secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and (14) whether the school has a college admission test preparation course program.

In addition, the test claim legislation requires school districts to ensure that all parents receive a copy of the SARC, make administrators and teachers available to answer questions, and train staff on the State Department of Education's (SDE's) templates and definitions, once the SDE adopts these items.

In order for a statute or executive order, which is the subject of a test claim, to impose a reimbursable state mandated program, the language: (1) must impose a program upon local governmental entities; (2) the program must be new, thus constituting a "new program," or it must create an increased or "higher level of service" over the former required level of service; and (3) the newly required program or increased level of service must be state mandated.

The court has defined the term "program" to mean programs that carry out the governmental function of providing services to the public, or a law, which to implement a state policy, imposes unique requirements on local agencies or school districts that do not apply

generally to all residents and entities in the state. To determine if a required program 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 before the enactment of the test claim legislation.² To determine if the new program or higher level of service is state mandated, a review of state and federal statutes, regulations, and case law must be undertaken.³

1. **Does the Test Claim Legislation Impose a "Program" Upon School Districts Within the Meaning of the Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

The test claim legislation requires school districts to include additional information in their SARCs and perform additional activities related to providing the SARC to parents and guardians. The California Supreme Court in *County of Los Angeles v. State of California*, defined "program" as:

"Programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state."⁴

The California Appellate Court in *Carmel Valley Fire Protection District v. State of California*, found the following regarding the *County of Los Angeles* "program" holding:

"The [Supreme] Court concluded that the term 'program' has two alternative meanings: 'programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.' (Citation omitted.) [O]nly one of these findings is necessary to trigger reimbursement."⁵ (Emphasis added.)

² *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.

³ *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76; *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1594; Government Code sections 17513, 17556.

⁴ *County of Los Angeles, supra* (1987) 43 Cal.3d 46, 56.

⁵ *Carmel Valley Fire Protection Dist., supra* (1987) 190 Cal.App.3d 521, 537.

The test claim legislation provides that it is the state's policy that the school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which schools to enroll their children. The test claim legislation requires that the school accountability report card shall include assessment of the following school conditions:

1. Pupil achievement by grade level, as measured by the standardized testing and reporting programs;
2. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available;
3. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
4. The ratio of textbooks per pupil;
5. The year textbooks were adopted;
6. The ratio of academic counselors per pupil;
7. The number of advanced placement courses offered, by subject;
8. The Academic Performance Index, including the disaggregation of subgroups and the decile rankings and a comparison of schools;
9. Whether a school qualified for the Immediate Intervention Underperforming Schools Program and whether the school applied for, and received a grant pursuant to, that program;
10. Whether the school qualifies for the Governor's Performance Award Program;
11. When available, the percentage of pupils, including the disaggregation of subgroups completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination;
12. Contact information pertaining to any organized opportunities for parental involvement;
13. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; and

14. Whether the school has a college admission test preparation course program.

In addition, the test claim legislation requires school districts to ensure that all parents receive a copy of the SARC, make administrators and teachers available to answer questions, and train staff on the SDE's templates and definitions, once the SDE adopts these items.

The test claim legislation clearly passes both tests outlined by *County of Los Angeles* and reiterated in *Carmel Valley*. First, these requirements are deemed necessary to ensure that parents have the necessary information related to a public school's performance. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public.⁶ Second, the test claim legislation only applies to public schools and as such imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, including the additional information in the SARC constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

2. **Does the Test Claim Legislation Impose a "New Program" or a "Higher Level of Service" Upon School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution by Requiring the Inclusion of Additional Information in the School Accountability Report Card?**

To determine if a required program 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 before the enactment of the test claim legislation.⁷

⁶ *Long Beach Unified School Dist, supra* (1990) 225 Cal.App.3d 155, 172 (The court found that although numerous private schools exists, education in the state is considered a peculiarly governmental function and public education is administered by local agencies to provide a service to the public. Based on these findings, the court held that public education constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.)

⁷ *Lucia Mar Unified School Dist, supra* (1988) 44 Cal.3d 830, 835 (The court found that legislation that shifts activities from the state to a local entity represents a new program especially when the local entity was not required to perform that activity at the time the legislation was enacted. The court concluded that, under these circumstances, the activity is "new" insofar as the local entity is concerned.)

Prior Law

Prior law required school districts to produce a SARC for each school site in every school district. Under prior law, school districts were required to include the following information in the SARC: information related to pupil achievement, dropout rates, estimated expenditures per pupil, class size reduction progress, number of credentialed teachers, quality and currency of textbooks, availability of qualified personnel to provide pupil counseling, availability of substitute teachers, safety, cleanliness, and adequacy of school facilities, adequacy of teacher evaluations, classroom discipline, teacher training and curriculum improvement programs, the degree to which pupils are prepared to enter the workforce, and the total number of instructional minutes offered in the school year.

Current Requirements: The Test Claim Legislation

Although prior law did require school districts to engage in numerous activities related to the completion of SARCs, the test claim legislation imposes additional activities upon school districts when compared to those required under prior law. The following activities were added to the Education Code by the test claim legislation, were not required under prior law, and therefore represent a higher level of service imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)
- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)

- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)
- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)
- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)
- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)
- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
- N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)
- O. Training of school district staff regarding the State Department of Education's templates, once adopted; and (Ed. Code, § 33126.1.)
- P. Training of school district staff regarding the State Department of Education's definitions, once adopted. (Ed. Code, § 33126.1.)

Prior Law: Statutes of 1997, Chapter 912

Government Code section 17521 defines "test claim" as:

"[T]he first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that particular statute or executive order imposes costs mandated by the state."

The Commission has interpreted Section 17521 to preclude a claimant from filing another test claim on the same statute or executive order alleging that the particular statute or executive order imposes costs mandated by the state. However, section 17521 does not preclude a claimant from filing a test claim alleging that a statute or executive order that was included in a prior test claim imposes activities not previously claimed.

In the School Accountability Report Cards Test Claim, Sweetwater Union High School District claimed that Statutes of 1997, Chapter 912 required school districts to include the following information in their SARC:

- 1. Results, by grade level, of specified student assessment tools (such as SAT scores) for the most recent three-year period;*
- 2. The one-year dropout rate for the school site over the most recent three-year period;*
- 3. The distribution of class sizes by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1 through 3 participating in the state's Class Size Reduction Program;*
- 4. The total number of credentialed teachers, the number of teachers relying upon emergency credentials, and the assignment of teachers outside of their subject area of competence for the most recent three-year period;*
- 5. The annual number of schooldays dedicated to staff development for the most recent three-year period; and*
- 6. Suspension and expulsion rates for the most recent three-year period.*

Additional Activities Required Under Statutes of 1997, Chapter 912

In addition to the activities listed above, Statutes of 1997, Chapter 912 requires school districts to perform the following activities:

1. *Ensuring that all parents receive a copy of the SARC; (Ed. Code, § 33126, subd. (c).)*
2. *Making administrators and teachers available to answer any questions regarding the SARC; and (Ed. Code, § 33126, subd. (c).)*

These activities were not alleged in the original School Accountability Report Cards Test Claim. Moreover, the law in effect immediately before the enactment of Chapter 912 did not require school districts to perform these activities.

On May 26, 1998, comments were filed with the Commission on the SARC Proposed Parameters and Guidelines claiming these activities were imposed by the test claim legislation and should be included as reimbursable state-mandated activities in the Parameters and Guidelines. In response, Commission staff provided:

"Staff notes that the original test claim did not allege any reimbursable activities pursuant to subdivision (c), and the Commission's Statement of Decision makes no findings concerning subdivision (c). Therefore, staff finds that the new activities proposed by Mr. Petersen are inconsistent with the Statement of Decision and cannot be added to the Parameters and Guidelines for this test claim.

".....

"Claimants and interested parties may wish to consider filing a test claim on Education Code section 33126, subdivision (c), as added by Chapter 912, Statutes of 1997."⁸

Based on the foregoing, the claimant contends that the test claim legislation has imposed a new program or higher level of service upon school districts related to the activities associated with ensuring that all parents receive a copy of the SARC and making administrators and teachers available to answer any questions regarding the SARC.

⁸ *Commission on State Mandates, Staff Analysis, Item 8 for the June 25, 1998 hearing at page 4.*

3. Does the Test Claim Legislation Impose "Costs Mandated by the State" Upon School Districts Within the Meaning of Government Code Section 17514?

None of the "exceptions" listed in Government Code section 17556 apply⁹ to activities [A] through [R] and activity [T] and state law was not enacted in response to any federal requirement. Therefore, the test claim legislation does impose costs mandated by the state upon school districts for activities [A] through [R], and activity [T].

However, an argument may be raised that activity [S] is imposed upon school districts by Proposition 98 and would therefore not be eligible for reimbursement. This potential bar to reimbursement argument is without merit when analyzed further. Government Code section 17556, subdivision (f), provides that the Commission shall not find costs mandated by the state if it concludes that the test claim legislation imposed duties that were expressly included in an approved ballot proposition. Education Code section 35256, subdivision (c), which was added to the Education Code by Proposition 98, provides:

"The Governing Board of each school district shall annually issue a [SARC] for each school in the school district, publicize such reports, and notify parents and guardians of students that a copy will be provided upon request." (Emphasis added.)

From the plain language of section 35256, school districts are only required to notify parents and guardians that a copy of the SARC will be provided upon request. In contrast, Education Code section 33126, subdivision (c), as amended by the test claim legislation provides:

⁹ Government Code section 17556 provides several exceptions to reimbursement. Specifically, section 17556 provides that the Commission shall not find costs mandated by the state if it concludes that the test claim legislation: (1) is issued in response to a specific request by a local governmental entity; (2) implements a court mandate; (3) implements federal law; (4) can be financed through a fee or assessment charged by a local governmental entity; (5) provides for offsetting savings that result in no net costs to local governmental entities or includes additional revenue specifically intended to fund the costs of the mandate in an amount sufficient to fund the mandate; (6) implements a ballot proposition; or (7) creates a new crime or infraction, eliminates a crime or infraction, or changed the penalty for a crime or infraction related to the enforcement of the crime or infraction.

“(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the [SARC] . . . and ensure that all parents receive a copy of the report card. . . .” (Emphasis added.)

Section 33126 not only includes the requirement to notify parents of the SARC, but it also includes the requirement to ensure that every parent receives a copy of the SARC. Clearly, there is a difference between simply notifying parents that a copy of the SARC will be provided upon request and ensuring that every parent receives a copy of the SARC. Based on this difference, the claimant contends that Government Code section 17556, subdivision (f), does not bar reimbursement for the costs associated with ensuring that every parent receive a copy of the SARC. Therefore, the claimant concludes that the test claim legislation imposes costs mandated by the state upon school districts for the activities associated with ensuring that every parent receives a copy of the SARC.

CONCLUSION

The following activities represent reimbursable state-mandated activities imposed upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The school accountability report card shall include assessment of the following school conditions:

- A. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33; (Ed. Code, § 33126, subd. (b)(1)(A).)
- B. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052; (Ed. Code, § 33126, subd. (b)(2).)

- C. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive; (Ed. Code, § 33126, subd. (b)(6).)
- D. The ratio of textbooks per pupil; (Ed. Code, § 33126, subd. (b)(6).)
- E. The year textbooks were adopted; (Ed. Code, § 33126, subd. (b)(6).)
- F. The ratio of academic counselors per pupil; (Ed. Code, § 33126, subd. (b)(7).)
- G. The number of advanced placement courses offered, by subject; (Ed. Code, § 33126, subd. (b)(17).)
- H. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools; (Ed. Code, § 33126, subd. (b)(18).)
- I. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program; (Ed. Code, § 33126, subd. (b)(19).)
- J. Whether the school qualifies for the Governor's Performance Award Program; (Ed. Code, § 33126, subd. (b)(20).)
- K. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination; (Ed. Code, § 33126, subd. (b)(21).)

- L. Contact information pertaining to any organized opportunities for parental involvement; (Ed. Code, § 33126, subd. (b)(22).)
- M. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system; (Ed. Code, § 33126, subd. (b)(23).)
- N. Whether the school has a college admission test preparation course program; (Ed. Code, § 33126, subd. (b)(24).)
- O. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in the test claim legislation;
- P. Training of school district staff regarding the new requirements outlined above;
- Q. Training of school district staff regarding the State Department of Education's templates, once adopted; (Ed. Code, § 33126.1.)
- R. Training of school district staff regarding the State Department of Education's definitions, once adopted; (Ed. Code, § 33126.1.)
- S. *Ensuring that all parents receive a copy of the SARC; (Ed. Code, § 33126, subd. (c).)*
- T. *Making administrators and teachers available to answer any questions regarding the SARC; and (Ed. Code, § 33126, subd. (c).)*
- U. Any additional activities identified as reimbursable during the Parameters and Guidelines phase.

III. CLAIM REQUIREMENTS

AUTHORITY FOR THE TEST CLAIM

The Commission on State Mandates has the authority pursuant to Government Code Section 17551, subdivision (a), to hear and decide a claim by a local agency or school district that the local agency or school district is entitled to reimbursement by the state for costs mandated by the state as required by article XIII B, section 6 of the California Constitution. Empire Union Unified School District is a "school district" as defined in Government Code section 17519. This test claim is filed pursuant to Title 2, California Code of Regulations, section 1183.

ESTIMATED COSTS RESULTING FROM THE MANDATE

It is estimated that Empire Union Unified School District will incur costs in excess of \$200.00 to comply with the requirements outlined in the *School Accountability Report Cards II* Test Claim.

APPROPRIATIONS

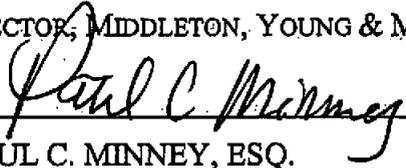
No funds are appropriated by the test claim legislation for reimbursement of these new costs mandated by the state and there is no other provision of law for recovery of costs for these activities.

CLAIM CERTIFICATION

I certify by my signature below that the statements made in this document are true and correct of my knowledge, and as to all other matters, I believe them to be true and correct based on information or belief.

Executed on May 10, 2001, at Sacramento, California, by:

SPECTOR, MIDDLETON, YOUNG & MINNEY LLP



PAUL C. MINNEY, ESQ.
Attorney for Mandated Cost Systems, Inc.
and Authorized Representative of Empire Union
Unified School District

AUTHORIZATION TO ACT AS REPRESENTATIVE
FOR EMPIRE UNION UNIFIED SCHOOL DISTRICT'S TEST CLAIM

SCHOOL ACCOUNTABILITY REPORT CARDS II

I, Donald R. Kiger, Business Manager (CBO), hereby authorize Paul C. Minney (or designee) of the Law Office of SPECTOR, MIDDLETON, YOUNG & MINNEY LLP to act as the representative and sole contact of Empire Union Unified School District in this Test Claim. All correspondence and communications regarding this Test Claim should be forwarded to:

Paul C. Minney, Esq.
SPECTOR, MIDDLETON, YOUNG & MINNEY LLP
7 Park Center Drive
Sacramento, California 95825
Telephone: (916) 646-1400
Facsimile: (916) 646-1300

Dated: _____

DONALD R. KIGER,
BUSINESS MANAGER (CBO)

Donald R. Kiger, Business Manager (CBO)
Empire Union Unified School District
116 N. McClure Road
Modesto, California 95357
Telephone: (209) 521-2800
Facsimile: (209) 526-6421

Paul C. Minney, Esq.
SPECTOR, MIDDLETON, YOUNG & MINNEY LLP
7 Park Center Drive
Sacramento, California 95825
Telephone: (916) 646-1400
Facsimile: (916) 646-1300

Attorney for Mandated Cost Systems, Inc. and
Authorized Representative of Claimant,
Empire Union Unified School District

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE AMENDED TEST CLAIM OF:
Empire Union Unified School District

CSM NO. 00-TC-09
DECLARATION OF DONALD R. KIGER
School Accountability Report Cards II

I, Donald R. Kiger, make the following declaration and statement. As Empire Union Unified School District's (claimant's) Business Manager, I have knowledge of its policies and procedures for completing school accountability report cards. I am familiar with the provisions and requirements of Statutes of 2000, Chapter 996 and Statutes of 1997, Chapter 912. The claimant must include the following information in its school accountability report cards and

engage in the following activities to comply with the requirements outlined in the test claim legislation:

1. Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33;
2. The graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code section 52052;
3. Whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
4. The ratio of textbooks per pupil;
5. The year textbooks were adopted;
6. The ratio of academic counselors per pupil;
7. The number of advanced placement courses offered, by subject;
8. The Academic Performance Index, including the disaggregation of subgroups as set forth in Education Code section 52052 and the decile rankings and a comparison of schools;
9. Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Education Code section 52053 and whether the school applied for, and received a grant pursuant to, that program;
10. Whether the school qualifies for the Governor's Performance Award Program;
11. When available, the percentage of pupils, including the disaggregation of subgroups as defined in Education Code section 52052, completing grade 12 who successfully

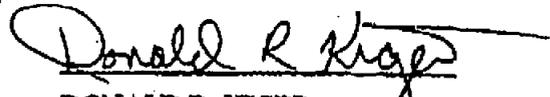
- complete the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination;
12. Contact information pertaining to any organized opportunities for parental involvement;
 13. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Education Code section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor system;
 14. Whether the school has a college admission test preparation course program;
 15. Modification of school district and school site policies and procedures as necessary to implement the activities outlined in Chapter 996;
 16. Training of school district staff regarding the new requirements outlined above;
 17. Training of school district staff regarding the State Department of Education's templates, once adopted;
 18. Training of school district staff regarding the State Department of Education's definitions, once adopted;
 19. *Ensuring that all parents receive a copy of the SARC; and*
 20. *Making administrators and teachers available to answer any questions regarding the SARC.*

I am informed and believe that before the test claim legislation, there was no responsibility for the claimant to engage in the activities set forth above. It is estimated that the

claimant will/has incurred significantly more than \$200.00 to implement these new activities mandated by the state for which the claimant has not been reimbursed by any federal, state, or local agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

Executed on 5-10-2001, at Modesto, California, by:


DONALD R. KIGER,
BUSINESS MANAGER (CBO)

1. The first part of the document is a list of names and addresses.

2. The second part of the document is a list of names and addresses.

3. The third part of the document is a list of names and addresses.

4. The fourth part of the document is a list of names and addresses.

5. The fifth part of the document is a list of names and addresses.

6. The sixth part of the document is a list of names and addresses.

7. The seventh part of the document is a list of names and addresses.

8. The eighth part of the document is a list of names and addresses.

9. The ninth part of the document is a list of names and addresses.

10. The tenth part of the document is a list of names and addresses.

EDUCATION CODE SECTION 35256

35256. School Accountability Report Card

The governing board of each school district maintaining an elementary or secondary school shall by September 30, 1989, or the beginning of the school year develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Accountability Report Card shall include, but is not limited to, the conditions listed in Education Code Section 33126.

(b) Not less than triennially, the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education. Variances among school districts shall be permitted where necessary to account for local needs.

(c) The Governing Board of each school district shall annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request.

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

PHONE: (916) 323-3562

(916) 445-0278

E-mail: csminfo@csm.ca.gov



May 21, 2001

Mr. Paul C. Minney, Esq.
Spector, Middleton, Young & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

And Affected Parties and State Agencies (See Enclosed Mailing List)

Re: **School Accountability Report Cards II, 00-TC-13**
Empire Union Unified School District, Claimant
Education Code Sections 33126 and 33126.1
Statutes of 2000, Chapter 996
Statutes of 1997, Chapter 912

Dear Mr. Minney:

The Commission on State Mandates determined that the subject test claim submittal is complete. The test claim initiates the process for the Commission to consider whether the provisions listed above impose a reimbursable state-mandated program upon local entities. State agencies and interested parties are receiving a copy of this test claim because they may have an interest in the Commission's determination.

The key issues before the Commission are:

- Do the provisions listed above impose a new program or higher level of service within an existing program upon local entities within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to section 17514 of the Government Code?
- Does Government Code section 17556 preclude the Commission from finding that any of the test claim provisions impose costs mandated by the state?

Mr. Paul Minney
May 21, 2001
Page 2

The Commission requests your participation in the following activities concerning this test claim:

- **Informal Conference.** An informal conference may be scheduled if requested by any interested party. See Title 2, California Code of Regulations, section 1183.04 (the regulations).
- **State Agency Review of Test Claim.** State agencies receiving this letter are requested to analyze the merits of the enclosed test claim and to file written comments on the key issues before the Commission. Alternatively, if a state agency chooses not to respond to this request, please submit a written statement of non-response to the Commission. Requests for extensions of time may be filed in accordance with sections 1183.01 (c) and 1181.1 (g) of the regulations. State agency comments are due 30 days from the date of this letter.
- **Claimant Rebuttal.** The claimant and interested parties may file rebuttals to state agencies' comments under section 1183.02 of the regulations. The rebuttal is due 30 days from the service date of written comments.
- **Hearing and Staff Analysis.** A hearing on the test claim will be set when the record closes. Pursuant to section 1183.07 of the Commission's regulations, at least eight weeks before the hearing is conducted, a draft staff analysis will be issued to parties, interested parties, and interested persons for comment. Comments are due 30 days following receipt of the analysis. Following receipt of any comments, and before the hearing, a final staff analysis will be issued.
- **Mailing Lists.** Under section 1181.2 of the Commission's regulations, the Commission will promulgate a mailing list of parties, interested parties, and interested persons for each test claim and provide the list to those included on the list, and to anyone who requests a copy. Any written material filed on that claim with the Commission shall be simultaneously served on the other parties listed on the claim.
- **Dismissal of Test Claims.** Under section 1183.09 of the Commission's regulations, test claims filed after May 5, 2001, may be dismissed if postponed or placed on inactive status by the claimant for more than one year. Prior to dismissing a test claim, the Commission will provide 150 days notice and opportunity for other parties to take over the claim.

If the Commission determines that a reimbursable state mandate exists, the claimant is responsible for submitting proposed parameters and guidelines for reimbursing all eligible local entities. All interested parties and affected state agencies will be given an nt on the claimant's proposal before consideration and adoption

WORKING BINDER: _____
FILE: _____
DATE: 5/21/01
INITIAL: VS
FAXED: _____
MAILED: _____

Mr. Paul Minney

May 21, 2001

Page 3

Finally, the Commission is required to adopt a statewide cost estimate of the reimbursable state-mandated program within 12 months of receipt of an amended test claim. This deadline may be extended for up to six months upon the request of either the claimant or the Commission.

Please contact Nancy Patton at (916) 323-8217 if you have any questions.

Sincerely,



SHIRLEY OPIE

Assistant Executive Director

Enclosures: Mailing List and Test Claim

F:/mandates/2000/tc/00tc13/completeltr

Commission on State Mandates

List Date: 05/22/2001

Mailing Information

Mailing List

Claim Number 00-TC-13 **Claimant** Empire Union Unified School District

Subject Statutes of 2000, Chapter 996, Statutes of 1997, Chapter 912, Education Code Sec. 33126 and 33126.1

Issue School Accountability Report Cards II (Amendment to 00-TC-09)

Harmeet Barkschat, Interested person
Mandate Resource Services

8254 Heath Peak Place
Antelope CA 95843

Tel: (916) 727-1350
FAX: (916) 727-1734

Dr. Carol Berg, Ph. D,
Education Mandated Cost Network

1121 L Street Suite 1060
Sacramento CA 95814

Tel: (916) 446-7517
FAX: (916) 446-2011

Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

1153 El Prado Drive
San Jose CA 95120

Tel: (408) 997-2500
FAX: (408) 997-3171

Ms. Diana Halpenny, General Counsel
San Juan Unified School District

3738 Walnut Avenue P.O. Box 477
Carmichael CA 95609-0477

Tel: (916) 971-7109
FAX: (916) 971-7704

Mr. Donald Kiger, Business Manager
Empire Union Unified School District

116 N. McClure Road
Modesto Ca 95357

Tel: (209) 521-2800
FAX: (209) 526-6421

Fact

Statutes of 2000, Chapter 996, Statutes of 1997, Chapter 912, Education Code Sec. 33126 and 33126.1

Issue

School Accountability Report Cards II (Amendment to 00-TC-09)

Mr. James Lombard, Principal Analyst (A-15)
Department of Finance

915 L Street
Sacramento CA 95814

Tel: (916) 445-8913
FAX: (916) 327-0225

Mr. Wayne Martin, Director of Fiscal Services
Stockton Unified School District

401 North Madison Street
Stockton CA 95202-1687

Tel: (209) 953-4066
FAX: (209) 953-4477

Mr. Paul Minney,
Spector, Middleton, Young & Minney, LLP

7 Park Center Drive
Sacramento Ca 95825

Tel: (916) 646-1400
FAX: (916) 646-1300

Mr. Andy Nichols, Senior Manager
Centration, Inc.

12150 Tributary Point Drive, Suite 150
Gold River CA 95670

Tel: (916) 351-1050
FAX: (916) 351-1020

Mr. Keith B. Petersen, President
Sixten & Associates

5252 Balboa Avenue Suite 807
San Diego CA 92117

Tel: (858) 514-8605
FAX: (858) 514-8645

Ms. Gamy Rayburn, Accounting Director
San Diego City Schools

4100 Normal Street Room 3251
San Diego CA 92103-2682

Tel: (619) 725-7667
FAX: (619) 725-7692

Claim Number

00-TC-13

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996, Statutes of 1997, Chapter 912, Education Code Sec. 33126 and 33126.1

Issue

School Accountability Report Cards II (Amendment to 00-TC-09)

Mr. James Lombard, Principal Analyst (A-15)

Department of Finance

915 L Street
Sacramento CA 95814

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Mr. Wayne Martin, Director of Fiscal Services

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401 North Madison Street
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Tel: (209) 953-4066
FAX: (209) 953-4477

Mr. Paul Minney,
Spector, Middleton, Young & Minney, LLP

7 Park Center Drive
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Gold River CA 95670

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FAX: (916) 351-1020

Mr. Keith B. Petersen, President
Sixten & Associates

5252 Balboa Avenue Suite 807
San Diego CA 92117

Tel: (858) 514-8605
FAX: (858) 514-8645

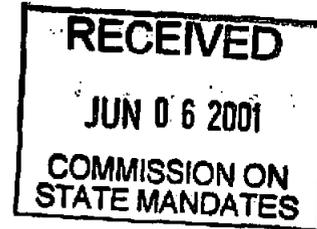
Ms. Gamy Rayburn, Accounting Director
San Diego City Schools

4100 Normal Street Room 3251
San Diego CA 92103-2682

Tel: (619) 725-7667
FAX: (619) 725-7692



June 1, 2001.



Ms. Paula Higashi
Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814

Dear Ms Higashi:

As requested in your letter of March 21, 2000, the Department of Finance has reviewed the test claim submitted by the Empire Union Unified School District (claimant) asking the Commission to determine whether specified costs incurred under Chapter No. 996, Statutes of 2000, (SB 1632), are reimbursable state mandated costs (Claim No. CSM-00-TC-09 "School Accountability Report Cards II").

Upon completion of our review, we have concerns regarding the activities listed by the claimants as reimbursable state-mandated costs. On page 6 of the claim, the claimants list modifications of school site policies and training of staff on the School Accountability Report Card (SARC) template and definitions, as reimbursable state-mandated costs. We note that Chapter 996, Statutes of 2000, does not require such training, and the use of the state-adopted template is voluntary. To the extent that a district voluntarily decides to use the SARC template, and should it need to train any staff in regards to the template, or modify policy/procedure, those activities would not be reimbursable.

Much of the new information required to be included on the SARC by Chapter 996, Statutes of 2000, is currently readily available through the Department of Education (SDE) website or is already gathered by school districts. Consequently, any work associated with gathering information for the purposes of the new SARC requirements pursuant to Chapter 996, Statutes of 2000, should be minimal. Following is a list of the new elements and the relevant data source:

- A. **Pupil Achievement by grade level, as measured by the STAR Program:** Currently provided to the school by the test publisher.
- B. **Graduation Rates:** The school would have to provide this information.
- C. **Whether instructional materials meet state-standards and have been adopted by the State Board of Education for grades K-8, and have been adopted by governing boards for grades 9-12:** The school would have to provide this information.

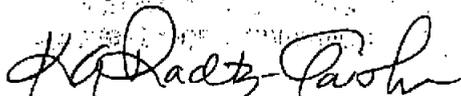
- D. **Ratio of textbooks per pupil:** The school would have to provide this information.
- E. **The year the textbooks were adopted:** The school would have to provide this information.
- F. **Ratio of counselors per pupil:** Currently available through the SDE website.
- G. **Number of Advanced Placement classes offered:** Currently available through the SDE website.
- H. **Academic Performance Index, including disaggregating of subgroups, and the decile rankings and a comparison of schools:** Currently available through the SDE website.
- I. **Whether a school qualified for the Immediate Intervention/Underperforming Schools Program and whether a school applied for the program:** The list of participants is currently available through the SDE website. The school would have to provide information regarding whether it applied for the program.
- J. **Whether the school qualifies for the Governor's Performance Award Program:** Currently available through the SDE website.
- K. **Percentage of pupils, including disaggregating of subgroups completing grade 12 who successfully complete the High School Exit Exam (HSEE), as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination:** The SDE website currently provides this information without reference to the HSEE. When the first class required to pass the HSEE for graduation graduates, the information provided by the SDE website would reflect the pupils at a school-site who successfully completed the HSEE.
- L. **Contact information pertaining to any organized opportunities for parental involvement:** The schools would have to provide this information.
- M. **The percentage of graduates who have passed course requirements for entrance into the University of California and the California State University, and the percentage of pupils enrolled in those courses as reported by the California Basic Education Data System:** Currently available through the SDE website.
- N. **Whether the school has a college admission test preparation course program:** The schools would have to provide this information.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your March 21, 2000, letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

Ms. Paula Higashi
June 1, 2001
Page 3

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328 or Jim Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



Kathryn Radtkey-Gaither
Program Budget Manager

Attachment

Attachment A

DECLARATION OF MICHAEL WILKENING
DEPARTMENT OF FINANCE
CLAIM NO. CSM-00-TC-09

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter No. 996, Statutes of 2000, (SB 1632) sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

June 1, 2001

at Sacramento, CA

Michael Wilkening

Michael Wilkening

PROOF OF SERVICE

Test Claim Name: "School Accountability Report Cards II"
Test Claim Number: CSM-00-TC-09

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On June 1, 2001, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: Paige Vorhies
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

E-8
Department of Education
School Business Services
Attention: Gerry Shelton
560 J Street, Suite 150
Sacramento, CA 95814

Mandated Cost Systems, Inc.
Attention: Steve Smith
2275 Watt Avenue, Suite C
Sacramento, CA 95825

San Diego City Schools
Attention: Gamy Rayburn
4100 Normal Street, Room 3251
San Diego, CA 92103-2682

Mr. Andy Nichols
Vavrinek Trine Day & Co., LLP
12150 Tributary Point Drive, Suite 150
Gold River, CA 95670

Empire Union Unified School District
Attention: Mr. Donald Kiger
116 North McClure Road
Modesto, CA 95357

Harmeet Barkschat
Mandate Resource Services
8254, Heath Peak Place
Antelope, CA 95843

Mr. William A. Doyle
Mandated Cost Administrator
San Jose Unified School District
1153 El Prado Drive
San Jose, CA 95120

Ms. Diana Halpenny
San Juan Unified School District
P.O. Box 477
Carmichael, CA 95609-0477

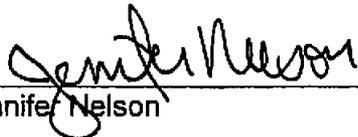
B-8
State Controller's Office
Division of Audits
Attention: Jim Spano
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Reynolds Consulting, Inc.
Attention: Sandy Reynolds
PO Box 987
Sun City, CA 92586

Mr. Wayne Martin
Stockton Unified School District
401 North Madison Street
Stockton, CA 95202

Bakersfield City Elementary School District
Attention: Mr. Wayne Stapley
1300 Baker Street
Bakersfield, CA 93305-4399

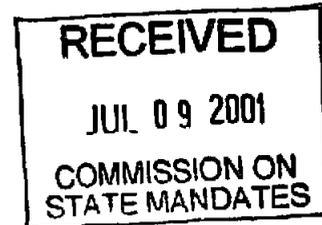
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 1, 2001, at Sacramento, California.



Jennifer Nelson



June 28, 2001



Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms Higashi:

As requested in your letter of May 21, 2000, the Department of Finance has reviewed the test claim submitted by the Empire Union Unified School District (claimant) asking the Commission to determine whether specified costs incurred under Chapter No. 996, Statutes of 2000, (SB 1632), are reimbursable state mandated costs (Claim No. CSM-00-TC-13 "School Accountability Report Cards II").

Upon completion of our review, we have concerns regarding the activities listed by the claimants as reimbursable state-mandated costs. Much of the new information required to be included on the SARC, is currently readily available through the Department of Education (SDE) website or is already gathered by school districts. Consequently, any work associated with gathering information for the purposes of the new SARC requirements pursuant to Chapter 996, Statutes of 2000, should be minimal. Following is a list of the new elements and the relevant data source:

- A. **Pupil Achievement by grade level, as measured by the STAR Program:** Currently provided to the school by the test publisher.
- B. **Graduation Rates:** The school would have to provide this information.
- C. **Whether instructional materials meet state-standards and have been adopted by the State Board of Education for grades K-8, and have been adopted by governing boards for grades 9-12:** The school would have to provide this information.
- D. **Ratio of textbooks per pupil:** The school would have to provide this information.
- E. **The year the textbooks were adopted:** The school would have to provide this information.
- F. **Ratio of counselors per pupil:** Currently available through the SDE website.
- G. **Number of Advanced Placement classes offered:** Currently available through the SDE website.

- H. **Academic Performance Index, including disaggregating of subgroups, and the decile rankings and a comparison of schools:** Currently available through the SDE website.
- I. **Whether a school qualified for the Immediate Intervention/Underperforming Schools Program and whether a school applied for the program:** The list of participants is currently available through the SDE website. The school would have to provide information regarding whether it applied for the program.
- J. **Whether the school qualifies for the Governor's Performance Award Program:** Currently available through the SDE website.
- K. **Percentage of pupils, including disaggregating of subgroups completing grade 12 who successfully complete the High School Exit Exam (HSEE), as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination:** The SDE website currently provides this information without reference to the HSEE. When the first class required to pass the HSEE for graduation graduates, the information provided by the SDE website would reflect the pupils at a school-site who successfully completed the HSEE.
- L. **Contact information pertaining to any organized opportunities for parental involvement:** The schools would have to provide this information.
- M. **The percentage of graduates who have passed course requirements for entrance into the University of California and the California State University, and the percentage of pupils enrolled in those courses as reported by the California Basic Education Data System:** Currently available through the SDE website.
- N. **Whether the school has a college admission test preparation course program:** The schools would have to provide this information.
- O-R. **Modifications of school site policies and training of staff on the School Accountability Report Card (SARC) template and definitions.** We note that Chapter 996, Statutes of 2000, does not require such training, and the use of the state-adopted template is voluntary. To the extent that a district voluntarily decides to use the SARC template, and should it need to train any staff in regards to the template, or modify policy/procedure, those activities would not be reimbursable.
- S-T. **Ensuring that all parents receive a copy of the SARC and making teachers and administrators available to answer any questions regarding the SARC.** Education Code 33126, subdivision (c) merely states legislative intent that schools make a "concerted effort" to ensure that all parents receive a copy of the SARC and that administrators and teachers are available to answer questions. Schools may choose to

Ms. Paula Higashi
June 28, 2001
Page 3

comply with legislative intent, however any activities associated with such efforts would not be reimbursable.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your May 21, 2001, letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328 or Jim Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



Kathryn Radtkey-Gaither
Program Budget Manager

Attachment

Attachment A

DECLARATION OF MICHAEL WILKENING
DEPARTMENT OF FINANCE
CLAIM NO. CSM-00-TC-13

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter No. 996, Statutes of 2000, (SB 1632) sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

June 28, 2001

at Sacramento, CA

Michael Wilkening

Michael Wilkening

PROOF OF SERVICE

Test Claim Name: "School Accountability Report Cards II"
Test Claim Number: CSM-00-TC-13

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California; I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA. 95814.

On June 28, 2001, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: Paige Vorhies
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Spector, Middleton, Young, Minney, LLP
Attention: Paul Minney
7 Park Center Drive
Sacramento, CA 95825

Mandated Cost Systems, Inc.
Attention: Steve Smith
2275 Watt Avenue, Suite C
Sacramento, CA 95825

San Diego City Schools
Attention: Gamy Rayburn
4100 Normal Street, Room 3251
San Diego, CA 92103-2682

Mr. Andy Nichols
Centration, Inc.
12150 Tributary Point Drive, Suite 150
Gold River, CA 95670

Empire Union Unified School District
Attention: Mr. Donald Kiger
116 North McClure Road
Modesto, CA 95357

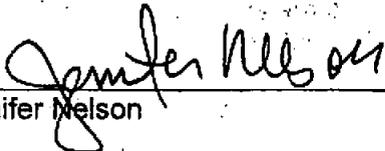
Harmeet Barkschat
Mandate Resource Services
8254 Heath Peak Place
Antelope, CA 95843

Mr. William A. Doyle
Mandated Cost Administrator
San Jose Unified School District
1153 El Prado Drive
San Jose, CA 95120

Ms. Diana Halpenny
San Juan Unified School District
P.O. Box 477
Carmichael, CA 95609-0477

Mr. Wayne Martin
Stockton Unified School District
401 North Madison Street
Stockton, CA 95202

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 28, 2001, at Sacramento, California.



Jennifer Nelson



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

March 7, 2002

VIA FIRST CLASS MAIL
and VIA FACSIMILE

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: **Rebuttal to Department of Finance's Opposition**
School Accountability Report Cards II, CSM 00-TC-09
Empire Union Unified School District, Claimant
Statutes of 1997, Chapter 912
Statutes of 2000, Chapter 996
Education Code Sections 33126 and 33126.1



PAUL C. MINNEY
JAMES E. YOUNG
MICHAEL S. MIDDLETON
DANIEL I. SPECTOR

LISA A. CORR
AMANDA J. McKECHNIE
DAVID E. SCRIBNER
PHILLIP MURRAY
JESSICA J. HAWTHORNE

Dear Ms. Higashi:

On June 28, 2001, the Department of Finance ("Finance") filed comments on the *School Accountability Report Cards II* Test Claim. In its filing, Finance agrees that almost all of the activities claimed in the test claim represent reimbursable state-mandated activities imposed upon school districts. However, Finance makes three contentions the claimant addresses below.

Department of Finance Contention 1: Some SARC Information is Readily Available

Finance contends that several of the new elements that must be included in the school accountability report card (SARC) are available from other sources and therefore the costs associated with gathering this information would be minimal. While the claimant agrees that some SARC information is available from other sources, this fact does not diminish that these new elements must still be collected and integrated into a district's SARC.

Under the test claim legislation, school districts must gather, process, and integrate 15 additional pieces of information for the SARC not required under prior law. Although Finance contends that gathering some of these new elements would be minimal, the mandate as a whole imposes more than the statutorily required minimum of \$200 upon the claimant. Furthermore, it is irrelevant that some material is available from other sources, like the Department of Education. School districts must expend the time and resources to gather, process, and integrate this new information into district SARCs.

The claimant reasserts its position that the test claim legislation imposes reimbursable state-mandated activities upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Department of Finance Contention 2: Use and Training on the Department of Education SARC Template is Not Required

Finance contends that school districts are not required to train district personnel on the state-adopted SARC template and definitions since districts are not required to adopt and use the template. Education Code section 33126.1, subdivision (c), provides:

“(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish *standard definitions* for school conditions included in the [SARC].” (Emphasis added.)

Section 33126.1, subdivision (i), provides:

“(i) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section *shall report the data for its [SARC] in a manner that is consistent* with the definitions adopted pursuant to subdivision (c) of this section.” (Emphasis added.)

School districts must report their data in a manner that is consistent with section 33126.1. The use of the state-adopted template is one manner in which this data may properly be reported. The template is made available over the Internet for downloading and ease of entry and its use ensures that the information and definitions used for the SARC meet the state’s rigorous reporting standards. Regardless of district use of the state-adopted template, they still must ensure that they report SARC data in a manner that is consistent with the definitions adopted pursuant to Education Code section 33126.1, subdivision (c).

Using the state-adopted forms would not only provide a more cost-effective approach to SARC completion, but it would ensure that all districts are properly reporting data based on the state-adopted definitions. The claimant reasserts its contention that school districts must train district personnel and modify district policies on the state-adopted definitions. These activities are necessary regardless of whether the district uses the state-adopted forms, or if the district uses its own form since district-developed forms must be consistent with the definitions adopted pursuant to section 33126.1. Moreover, the manner in which school districts implement the mandate is many times up to the discretion of the districts. Upon filing a claim, the State Controller determines whether the manner in which districts did implement the mandate were unreasonable or excessive. In this light, it seems unlikely that the State Controller would consider district use of the state-adopted forms and definitions unreasonable or excessive.

Therefore, the activities associated with training district staff and modifying district policies to adhere to the requirements outlined in Education Code section 33126.1 are reimbursable under article XIII B, section 6 of the California Constitution and Government Code section 17514.

Department of Finance Contention 3: Ensuring Parents Receive a Copy of the SARC is Discretionary

Finance contends that the test claim legislation does not require school districts to ensure all parents receive a copy of the SARC or make administrators and teachers available to answer questions regarding the SARC. Specifically, Finance states:

“Education Code 33126, subdivision (c) merely states legislative intent that schools make a ‘concerted effort’ to ensure that all parents receive a copy of the SARC and that administrators and teachers are available to answer questions.”¹

The interpretation of subdivision (c) forwarded by Finance is in error. Education Code section 33126, subdivision (c), provides:

“It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the [SARC], as described in this section, and *ensure that all parents receive a copy of the report card*; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to *ensure that administrators and teachers are available to answer any questions regarding the report cards.*” (Emphasis added.)

Finance’s contention that the Legislature intends that school districts make a concerted effort to ensure all parents receive a copy of the SARC makes no sense. The term “concerted effort” is analogous to “serious attempt.” The term “ensure” is analogous to “to make sure or certain.”² Under Finance’s interpretation of section 33126, subdivision (c), the Legislature intended that school districts “really try” to “make sure” every parent receives a SARC. How does a district try to make sure every parent receive a SARC?³ Although it appears clear that the Legislature requires school districts to provide parents with a copy of the SARC and to make administrators and teachers available to answer questions, a review of how the Legislature uses the terms “concerted effort” and “ensure” provide additional support for the claimant’s reading of section 33126, subdivision (c).

¹ Department of Finance Opposition comments dated June 28, 2001 at page 2.

² Cambridge dictionary defines “concerted” as determined and “ensure” as make certain.

³ It is interesting to note that the term “concerted effort” does not appear elsewhere throughout the Education Code while the term “ensure” does. In those instances where the term “ensure” is used, the terms “make sure or certain” could be interjected without altering the meaning of the Code section.

The Legislature's Use of the Term "Concerted Effort"

The Legislature uses the phrase "concerted effort" in the context of an attempt to accomplish something, but without expectation or guarantee that the attempt will be successful.⁴ For example, regarding seismic safety, Government Code section 8870 provides, "through *concerted efforts* of broad scope, . . . long term safety *should be made* towards higher levels of seismic safety." (Emphasis added.) In the notes following California Health & Safety Code section 1568.10, the Legislature found and declared that, "despite *concerted efforts* of the Legislature, . . . the state has not yet achieved the degree of coordination [needed]." (Emphasis added.) In other words, although the Legislature had made a determined attempt or concerted effort it has not yet been successful in accomplishing its goal. As further example, Health & Safety Code section 104875 addresses individuals exposed to certain birth defects and the information campaign designed to reach such individuals and provides:

"The campaign shall include, but not be limited to, a *concerted effort* at reaching those persons or the offspring of persons who have been exposed to [hazardous materials] while pregnant . . . *in order to encourage* them to see medical care. . . ." (Emphasis added.)

The combination of the phrase "concerted effort" with "encourage" indicates that the Legislature hopes the information campaign will reach pregnant women who may be at risk, but there is no requirement that these women be found or be provided with medical care. Rather, the information campaign is a determined attempt to reach women or their offspring who may be at risk.

The Legislature's Use of the Term "Ensure"

The Legislature has typically used the word "ensure" in the context of accountability, compliance, or safety indicating a necessity that the action be completed and successful.⁵ The California Constitution uses "ensure" in reference to school district and county offices of education requiring "independent performance audits to *ensure* that the funds have been expended only on the specific projects listed."⁶

⁴ See also, *Fletcher v. Commission on Jud. Perf.* (1998) 19 Cal.4th 865, 914; *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1093; California Revenue & Tax Code section 6701.

⁵ See notes, *Proposition 39, section 2-3.*

⁶ California Constitution, Article XIII A, Section I, subdivision (b)(3)(C).

The California Health & Safety Code consistently uses "ensure" with the verb "shall," indicating that to "ensure" that something happens means it "shall" be done.⁷ In general, the use of "ensure" indicates that more than a mere attempt should be made, rather, the Legislature is indicating that there is a mandate to *make certain* that something happen.

Department of Finance's Interpretation of Section 33126 is Erroneous

The claimant contends that the proper interpretation of legislative intent outlined in section 33126, subdivision (c), is that the Legislature intended districts to make a concerted effort to *notify* parents of the purpose of the SARC and to ensure each parent actually *receives* a copy of district SARCs. First, the language of the statute reads, "It is the intent of the legislature that schools make a concerted effort to notify parents of the purpose of the [SARC]. . . ." Presumably, the Legislature intended to have schools provide parents with information regarding this legislation in preparation for receipt of the report cards. Otherwise, the parents would receive report cards with no understanding of the information contained in the cards and the overall purpose of the SARC.

Second, schools must also:

"*Ensure* that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards." (Emphasis added.)

Therefore, in addition to the *determined effort* schools must make to notify the parents of the purpose of the SARC, schools must *make certain* that the report cards are accessible and easy to understand and that administrators and teachers are available to answer parent questions.

The language used in section 33126, subdivision (c) clearly separates the Legislature's encouragement that school districts notify parents of the SARC and the requirement that school districts make certain that SARCs are received by parents in an understandable format. To find otherwise defeats the purpose of the SARC legislation. Why would the Legislature enact legislation that provides valuable insight regarding the performance of schools and school districts and not require this information sent to the parents of pupils enrolled in the public school system? The Legislature would not and did not. Moreover, the plain language included in section 33126, subdivision (c), requires that administrators and teachers are available to answer any questions regarding the report cards despite Finance's contention otherwise.

The claimant reasserts its contention that the activities associated with ensuring that all parents receive a copy of the SARC and to make administrators and teachers available for

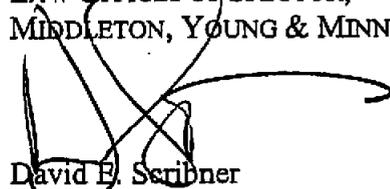
⁷ See e.g., Health & Safety Code sections 39607.5, 50759, and 50767.

Ms. Paula Higashi, Executive Director
Commission on State Mandates
March 7, 2002
Page 6 of 6

questions regarding the SARC are reimbursable under article XIII B, section 6 of the California Constitution and Government Code section 17514.

If you have any questions or comments concerning this letter, please feel free to contact me at (916) 646-1400.

Sincerely yours,
LAW OFFICES OF SPECTOR,
MIDDLETON, YOUNG & MINNEY, LLP



David E. Scribner
ATTORNEY AT LAW

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

I am employed in the county of Sacramento, State of California. I am over the age of 18 and not a party to the within action; my business address is 7 Park Center Drive, Sacramento, California 95825.

On March 7, 2002, I served the foregoing document(s) described as

**Rebuttal to Department of Finance's Opposition
School Accountability Report Cards II, CSM 00-TC-09**

to the persons/parties listed on the attached Mailing List via first class mail and facsimile, and to the Commission on State Mandates via first class mail and facsimile.

I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2002, at **Sacramento, California.**



LANI WOODS

Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

Harmeet Barkschat, Interested person
Mandate Resource Services

8254 Heath Peak Place
Antelope CA 95843

Tel: (916) 727-1350
FAX: (916) 727-1734

Interested Person

Dr. Carol Berg, Ph. D,
Education Mandated Cost Network

1121 L Street Suite 1060
Sacramento CA 95814

Tel: (916) 446-7517
FAX: (916) 446-2011

Interested Person

Mr. William A. Doyle, Mandated Cost Administrator
San Jose Unified School District

1153 El Prado Drive
San Jose CA 95120

Tel: (408) 997-2500
FAX: (408) 997-3171

Interested Person

Ms. Diana Halpenny, General Counsel
San Juan Unified School District

3738 Walnut Avenue P.O. Box 477
Carmichael CA 95609-0477

Tel: (916) 971-7109
FAX: (916) 971-7704

Interested Person

Mr. Donald Kiger, Business Manager
Empire Union Unified School District

116 N. McClure Road
Modesto Ca 95357

Tel: (209) 521-2800
FAX: (209) 526-6421

Claimant

Mr. James Lombard, Principal Analyst (A-15)
Department of Finance

915 L Street
Sacramento CA 95814

Tel: (916) 445-8913
FAX: (916) 327-0225

Interested Party

Claim Number

00-TC-09

Claimant Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

Mr. Wayne Martin, Director of Fiscal Services
Stockton Unified School District

401 North Madison Street
Stockton CA 95202-1687

Tel: (209) 953-4066
FAX: (209) 953-4477

Interested Person

Mr. Paul Minney,
Spector, Middleton, Young & Minney, LLI

7 Park Center Drive
Sacramento Ca 95825

Tel: (916) 646-1400
FAX: (916) 646-1300

Interested Party

Mr. Andy Nichols, Senior Manager
Centration, Inc.

12150 Tributary Point Drive, Suite 150
Gold River CA 95670

Tel: (916) 351-1050
FAX: (916) 351-1020

Interested Person

Mr. Keith B. Petersen, President
Sixten & Associates

5252 Balboa Avenue Suite 807
San Diego CA 92117

Tel: (858) 514-8605
FAX: (858) 514-8645

Interested Person

Mr. Art Palkowitz,
San Diego City Schools
4100 Normal Street, Rm 3251
San Diego, CA 92103-2682

Ms. Sandy Reynolds, President (Interested Person)
Reynolds Consulting, Inc.

P.O. Box 987
Sun City CA 92586

Tel: (909) 672-9964
FAX: (909) 672-9963

Claim Number

00-TC-09

Claimant

Empire Union Unified School District

Subject

Statutes of 2000, Chapter 996 (SB 1632), Education Code Sections 33126 and 33126.1

Issue

School Accountability Report Cards II

Mr. Gerry Shelton, (E-8)
Department of Education
School Business Services
560 J Street Suite 150
Sacramento CA 95814

Tel: (916) 322-1466
FAX: (916) 322-1465

Interested Party

Mr. Steve Smith, CEO
Mandated Cost Systems, Inc.
11130 Sun River Dr., Ste. 100
Rancho Cordova, CA 95670

Jim Spano,
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850
Sacramento CA 95814

Tel: (916) 323-5849
FAX: (916) 324-7223

Interested Party

Mr. Wayne Stapley, Director of Financial Services
Bakersfield City Elementary School District

1300 Baker Street
Bakersfield CA 93305-4399

Tel: (805) 631-4682
FAX: (805) 631-4688

Interested Person

Mr. Paige Vorhies, Bureau Chief (B-8)
State Controller's Office
Division of Accounting & Reporting
3301 C Street Suite 500
Sacramento CA 95816

Tel: (916) 445-8756
FAX: (916) 323-4807

Interested Party

State of California
 COMMISSION ON STATE MANDATES
 980 9th Street Suite 300
 Sacramento CA 95814
 (916) 323-3562

For Official Use Only
RECEIVED
JUN 23 2003
COMMISSION ON STATE MANDATES
Claim No. <u>02-TC-32</u>

TEST CLAIM FORM

Local Agency or School District Submitting Claim
 Bakersfield City School District
 Sweetwater Union High School District

Contact Person	Telephone No.
Lawrence L. Hendee	(619)585-4450
Coordinator/Mandated Costs	
Sweetwater Union High School District	

Address
 1130 Fifth Avenue
 Chula Vista CA 91910-2896

Representative Organization to be Notified
 Dr. Carol Berg, Consultant
 Education Mandated Cost Network

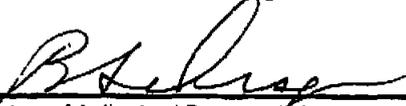
This test claim alleges the existence of "costs mandated by the state" within the meaning of section 17514 of the Government Code, and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable:

Chapters:		Education Code Sections:	
996/00	734/01	33126	41409
159/01	1168/02	33126.1	

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative	Telephone No.
Barry S. Dragon	(619)691-5550
Chief Fiscal Office	
Sweetwater Union High School District	

	6/18/03
Signature of Authorized Representative	Date

Name and Title of Authorized Representative	Telephone No.
Michael D. Lingo	(661) 631-4675
Assistant Superintendent/Business	
Bakersfield City School District	

	6/17/03
Signature of Authorized Representative	Date

BEFORE THE
COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Test Claim of:)	No. CSM _____
)	
Sweetwater Union High)	Chapter 996, Statutes of 2000
)	Chapter 159, Statutes of 2001
and)	Chapter 734, Statutes of 2001
)	Chapter 1168, Statutes of 2002
Bakersfield City)	
)	Education Code sections 33126
)	Education Code sections 33126.1
School Districts)	Education Code sections 41409
)	
)	<u>School Accountability Report Card III</u>

AUTHORITY FOR THE CLAIM

The Commission on State Mandates ("Commission") has the authority pursuant to Government Code Section 17551(a) to hear and decide upon a claim by a school district that the school district is entitled to be reimbursed by the state for costs mandated by the state as required by section 6 of article XIII B of the California Constitution. The Bakersfield City and Sweetwater Union High School Districts ("Claimants") are school districts as defined in Government Code section 17519. This test claim is filed pursuant to title 2, California Code of Regulations section 1183.

STATEMENT OF THE CLAIM

This test claim alleges reimbursable costs mandated by the state by Chapter 996, Statutes of 2000 ("Chapter 996/00"), Chapter 159, Statutes of 2001, Chapter 734, Statutes of 2001, and Chapter 1168, Statutes of 2002 which impose an additional workload on school districts by requiring additional disclosures of data through the School Accountability Report Card process.

A. ACTIVITIES REQUIRED UNDER PRIOR LAW

1. Activities Required Prior to 1975.

Prior to January 1, 1975, no statute or regulation required school districts to develop school accountability report cards.

2. Post-1974 Requirements.

Chapter 1463, Statutes of 1989¹, Chapter 759, Statutes of 1992¹, Chapter 1031, Statutes of 1993¹, Chapter 824, Statutes of 1994¹, Chapter 912, Statutes of 1997¹, and Chapter 918, Statutes of 1997¹, which added and amended Education Codes 33126² and 41409³ were found by the Commission on State Mandates ("COSM") to contain increased costs mandated by the State and the Parameters and Guidelines were adopted by the COSM on August 20, 1998. This test claim is intended to amend the adopted School Accountability Report Card Parameters and Guidelines submitted by the Bakersfield City and Sweetwater Union High School Districts by adding the following alleged reimbursable activities.

Chapter 996, Statutes of 2000 ("Chapter 996/00")⁴ amended Education Code section 33126⁵, which requires a school accountability report card to include certain assessments of school conditions. Section 33126 requires school districts to provide information with which

¹ These statutes are part of the Commission's administrative record in 97-TC-21 and are not attached as exhibits to this test claim.

² Education Codes 33126 Prior to Chapter 996/00 is attached as Exhibit E.

³ Education Codes 33126 Prior to Chapter 996/00 is attached as Exhibit H

⁴ Chapter 996, Statutes of 2000 is attached as Exhibit A.

⁵ Education Code section 33126 Post Chapter 996/00 is attached as Exhibit F.

⁶ Education Code section 33126.1 is attached as Exhibit G.

⁷ Chapter 159, Statutes of 2001 is attached as Exhibit B.

⁸ Chapter 734, Statutes of 2001 is attached as Exhibit C.

⁹ Education Code section 41409 Post Chapter 734/01 is attached as Exhibit H.

¹⁰ Chapter 1168, Statutes of 2002 is attached as Exhibit D.

parents can make meaningful comparisons and informed decisions related to schools in which they might enroll their student(s). Chapter 996/00 amended Education Code section 33126 to add the following additional requirements to the School Accountability Report Card:

1. Disclosure of the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052;
2. Disclosure of whether or not textbooks and other materials utilized by the district meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
3. Disclosure of the ratio of textbooks per pupil;
4. Disclosure of the year that the textbooks were adopted;
5. Disclosure of the number of advanced placement courses offered, by subject;
6. Disclosure of the Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools;
7. Disclosure of whether or not a school qualified for the Immediate Intervention Underperforming Schools Program, and whether the school applied for, and received a grant pursuant to, that program;
8. Disclosure of whether or not the school qualified for the Governor's Performance Award Program;
9. Disclosure of the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high

- school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination;
10. Disclosure of contact information regarding any organized opportunities for parental involvement;
 11. Disclosure for secondary schools of the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any other successor data system; and,
 12. Disclosure as to whether or not a school has a college admission preparation course program.

Chapter 996/00 created Education Code section 33126.1⁶, which addresses the State Department of Education and requires the creation of a "School Accountability Report Card Standardized" template for schools to utilize and will result in training requirements for school personnel whose choice it is to use the template or training for school personnel who choose not to use the template on "standard definitions" to be used in the preparation of a school's accountability report card.

Chapter 159, Statutes of 2001⁷ amended Education Code section 33126.1 and made non-substantive changes.

Chapter 734, Statutes of 2001⁸ amended Education Code section 41409⁹ and made non-substantive changes.

Chapter 1168, Statutes of 2002¹⁰ amended Education Code 33126 to add the requirement to disclose the claiming rate of pupils enrolled in grades nine, ten or eleven, that earned a Governor's Scholarship award pursuant to (a) Subdivision 69997 for the most recent two year period.

B. ACTIVITIES REQUIRED UNDER STATUTE CONTAINING MANDATES.

Chapter 996/00 amends Education Code 33126 to add the following additional requirements to the School Accountability Report Card.

The activities required by Chapter 996/00 include:

- The calculation of the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052;
- The evaluation of whether or not textbooks and other materials utilized by the district meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive;
- The calculation of the ratio of textbooks per pupil;
- The determination of the year that the textbooks were adopted;
- The evaluation of the number of advanced placement courses offered, by subject;

- The determination of the Academic Performance Index, and the calculation of the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools;
- The evaluation of whether or not a school qualified for the Immediate Intervention Underperforming Schools Program, and whether the school applied for, and received a grant pursuant to, that program;
- The evaluation of whether or not the school qualified for the Governor's Performance Award Program;
- The calculation of the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination;
- The evaluation of and disclosure of contact information regarding any organized opportunities for parental involvement;
- For secondary schools, the calculation of the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the calculation of the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any other successor data system; and,
- An evaluation of data to determine whether or not a school has a college admission preparation course program and the disclosure results of the evaluation.

Chapter 996/00 created Education Code section 33126.1, which requires specific activities of the State Department of Education that will result in training requirements for school personnel whose choice is to use the template developed by the State Department of Education or training for school personnel who choose not to use the template developed by the State Department of Education regarding the "standard definitions" to be used in the preparation of a schools accountability report card.

Chapter 1168, Statutes of 2002, amended Education Code 33126 to require evaluation and calculation of the claiming rate of pupils enrolled in grades nine, ten or eleven, that earned a Governor's Scholarship award pursuant to (a) Subdivision 69997 for the most recent two year period.

Claimant proposes to amend the Parameters and Guidelines for the *School Accountability Report Card* mandate to add these activities to the reimbursable activities listed in the Parameters and Guidelines.

C. COSTS INCURRED OR EXPECTED TO BE INCURRED FROM MANDATE

School districts have incurred or will incur costs in excess of \$1000 per fiscal year to perform the activities described in section B above.

D. OTHER PROVISIONS IMPACTED BY THE MANDATE

1. None of the Government Code section 17556 statutory exceptions to a finding of costs mandated by the state apply to this statute.
2. No funds were appropriated by Chapters 996/00, 159/01, 734/01, 1168/02 for reimbursement of the costs mandated by the state.
3. There are no other Federal or State constitutional provisions, statutes or executive orders impacted.

EXHIBITS

The following exhibits are attached to and incorporated into this test claim:

- Exhibit A: Excerpt from Chapter 996, Statutes of 2000
- Exhibit B: Excerpt from Chapter 159, Statutes of 2001
- Exhibit C: Excerpt from Chapter 734, Statutes of 2001
- Exhibit D: Excerpt from Chapter 1168, Statutes of 2002
- Exhibit E: Education Code Section 33126 Pre Chapters 996, 734, and 1168
- Exhibit F: Education Code Section 33126 Post Chapters 996, 734, and 1168
- Exhibit G: Education Code Section 33126.1 as added by Chapter 996, Statutes of 2000
- Exhibit H: Education Code Section 41409 Pre Chapters 996, 734, and 1168
- Exhibit I: Education Code Section 41409 Post Chapters 996, 734, and 1168

CERTIFICATIONS

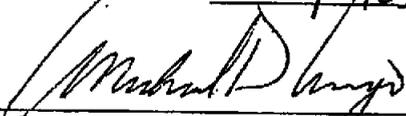
I certify, under penalty of perjury, by my signature below that the statements made in this document are true and correct of my own knowledge, and as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on 7/14/03, at Chula Vista, California, by:


Barry S. Dragon, Chief Fiscal Officer
Sweetwater Union High School District

I certify, under penalty of perjury, by my signature below that the statements made in this document are true and correct of my own knowledge, and as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on 7/14/03, at Bakersfield, California, by:


Michael D. Lingo, Assistant Superintendent/Business
Bakersfield City School District

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT A

100/81 SARC III

Excerpts from Chapter 996, Statutes of 2000

BILL NUMBER: SB 1632 CHAPTERED
BILL TEXT

CHAPTER 996
FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2000
APPROVED BY GOVERNOR SEPTEMBER 29, 2000
PASSED THE SENATE AUGUST 31, 2000
PASSED THE ASSEMBLY AUGUST 31, 2000
AMENDED IN ASSEMBLY AUGUST 29, 2000
AMENDED IN ASSEMBLY AUGUST 25, 2000
AMENDED IN ASSEMBLY AUGUST 7, 2000
AMENDED IN ASSEMBLY JUNE 26, 2000
AMENDED IN SENATE MAY 30, 2000
AMENDED IN SENATE MAY 3, 2000
AMENDED IN SENATE MARCH 27, 2000

INTRODUCED BY Senators Poochigian, Hayden, and Alpert (Principal coauthors: Assembly Members Lempert and Mazzone) (Coauthors: Senators Costa, Haynes, McPherson, and Murray) (Coauthors: Assembly Members Ashburn, Bates, Battin, Briggs, Dickerson, Firebaugh, Oller, Strickland, Strom-Martin, and Zettel)

FEBRUARY 22, 2000

An act to amend Section 33126 of, and to add Sections 33126.1 and 33126.2 to, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1632, Poochigian. Education resources.

(1) Existing law, the Classroom Instructional Improvement and Accountability Act, requires a school accountability report card to include certain assessments of school conditions. This bill would require the State Department of Education to develop and recommend for adoption a standardized template for the school accountability report card, as specified, and definitions for the elements required to be included in the school accountability report card.

The bill would require the State Department of Education to annually post the viewable template on the Internet. The bill would require that the template be designed so that it can be downloaded and data may be entered electronically by schools or districts.

The bill would also require the Secretary for Education to review the data elements provided by school districts via the school accountability report card to determine the extent to which the data elements may be incorporated into the Academic Performance Index.

The bill would authorize the Superintendent of Public Instruction to recommend additional data elements for inclusion in the Academic Performance Index to be included, as specified.

(2) The bill would appropriate \$330,000 from the General Fund to the Superintendent of Public Instruction according to a specified schedule.

(3) The bill would state that the Legislature finds and declares that the bill furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to make the school accountability report card a more effective tool for providing public information by achieving all of the following:

(a) Providing consistent definitions and format for reporting data.

(b) Providing that the school accountability report card becomes a meaningful tool to understand the rating of a school by the academic performance index pursuant to Article 2 (commencing with Section 52051) of Chapter 6.1 of Part 28 of the Education Code by including all of the components of measurement employed by the academic performance index, including subgroup comparisons as defined by the Public Schools Accountability Act Advisory Committee pursuant to Section 52052.5 of the Education Code.

(c) Providing that the school accountability report card includes comparative information that, when possible, enables a reader to compare a particular school to other schools in the same district and to schools in other districts in the state, to compare the district of a particular school to other school districts, and to compare a particular school or district to a statewide average for the same.

(d) Ease the burden on schools of collecting and reporting data.

(e) Standardize the definitions on the school accountability report card to be consistent with the definitions already in place or under development at the state level with definitions pursuant to the academic performance index superseding conflicting definitions.

(f) Protect the personalized descriptive aspect of the report card by providing space on the model report card and suggesting its use to encourage districts to continue to provide descriptive information.

SEC. 2. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 3. Section 33126.1 is added to the Education Code, to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(i) The State Department of Education shall maintain current Internet links with the web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards...

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT B

100/81 SARC III

Excerpt from Chapter 159, Statutes of 2001

BILL NUMBER: SB 662
BILL TEXT

CHAPTERED

~~CHAPTERED~~

FILED WITH SECRETARY OF STATE AUGUST 9, 2001
APPROVED BY GOVERNOR AUGUST 8, 2001
PASSED THE SENATE JULY 21, 2001
PASSED THE ASSEMBLY JUNE 29, 2001
AMENDED IN ASSEMBLY JUNE 25, 2001

INTRODUCED BY Committee on Judiciary (Senators Escutia (Chair), Kuehl, O'Connell, Peace, and Sher)

FEBRUARY 23, 2001

An act to amend Sections 27, 113, 130, 144, 350, 1647.11, 2570.6, 2570.8, 2570.19, 2995, 3059, 3364, 3403, 4059, 4312, 4980.80, 4980.90, 4996.6, 5111, 5536, 6403, 6716, 6730.2, 6756, 7092, 7583.11, 8027, 8773.4, 10167.2, and 21702 of the Business and Professions Code, to amend Sections 1748.10, 1748.11, 1810.21, 2954.4, 2954.5, and 3097 of, and to amend and renumber Section 1834.8 of, the Civil Code, to amend Sections 403.020, 645.1, 674, and 699.510 of the Code of Civil Procedure, to amend Sections 9323, 9331, and 9408 of the Commercial Code, to amend Sections 2200, 6810, 17540.3, 25102, 25103, and 25120 of the Corporations Code, to amend Sections 313, 406, 426, 427, 11700, 17071.46, 17210, 17317, 17610.5, 22660, 22950, 25933, ~~21261~~, 37252, 37252.2, 37619, 41329.1, 42239, 44114, 45023.1, 48664, 52054, 52270, 52485, 54749, 56045, 56845, 69432.7, 69434.5, 69437.6, 69439, 69613.1, 87164, and 92901 of, and to amend and renumber Sections 45005.25 and 45005.30 of, the Education Code, to amend Sections 1405, 8040, 9118, and 15375 of the Elections Code, to amend Section 17504 of the Family Code, to amend Sections 761.5, 4827, 16024, 16501, and 18586 of the Financial Code, to amend Sections 1506, 2921, and 8276.3 of the Fish and Game Code, to amend Sections 492, 6046, and 75131 of the Food and Agricultural Code, to amend Sections 3543.4, 3562.2, 3583.5, 6254, 6516.6, 6599.2, 7074, 18935, 20028, 20300, 20392, 21006, 21547.7, 30064.1, 31461.3, 31681.55, 31835.02, 38773.6, 55720, 65584, 65585.1, and 75059.1 of the Government Code, to amend Sections 444.21, 1358.11, 11836, 11877.2, 17922, 25358.6.1, 39619.6, 104170, 105112, 111656.5, 111656.13, 114145, 123111, and 124900 of, to amend and renumber Section 104320 of, and to amend and renumber the heading of Article 10.5 (commencing with Section 1399.801) of Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 789.8, 1215.1, 1871, 1872.83, 10123.135, 10178.3, 10192.11, 10231.2, 10236, 10506.5, 11621.2, 11784, 11786, 11787, and 12698 of the Insurance Code, to amend Sections 90.5, 129, 230.1, 4455, and 4609 of the Labor Code, to amend Section 1048 of the Military and Veterans Code, to amend Sections 272, 417.2, 646.94, and 3058.65 of the Penal Code, to amend Sections 1813 and 16062 of the Probate Code, to amend Sections 10129 and 20209.7 of the Public Contract Code, to amend Sections 5090.51, 14581, 36710, and 42923 of the Public Resources Code, to amend Sections 383.5, 2881.2, 7943, 9608, 9610, and 12702.5 of, and to amend and renumber Section 399.15 of, the Public Utilities Code, to amend Sections 75.11, 75.21, 97.3, 214, 23622.8, 23646, 44006, and 45153 of the Revenue and Taxation Code, to amend Section 1110 of the Unemployment Insurance Code, to amend Section 4000.37 of the Vehicle Code, to amend Sections 1789.5, 4098.1, 5614, 8102, 10082, 14005.28, 14005.35, 14008.6, 14087.32, and 14105.26 of the Welfare and Institutions Code, and to amend Section 511 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), Section 1 of Chapter 352 of the Statutes of 2000, Section 1 of Chapter 661 of the Statutes of 2000, Section 2 of Chapter 693 of the Statutes of 2000, Sections 5 and 6 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000), Section 228 of Chapter 862 of the Statutes of 2000, and Sections 2 and 3 of Chapter 975 of the Statutes of 2000, relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

SB 662, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would restate existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2001, and would not make any substantive change in the law.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b), on or after July 1, 2001...

SEC. 62. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The State Department of Education shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their Web sites to the State Department of Education.

(i) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(j) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(k) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(l) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT C

100/81 SARC III

Excerpt from Chapter 734, Statutes of 2001

CHAPTER 78

FILED WITH SECRETARY OF STATE OCTOBER 11, 2001
APPROVED BY GOVERNOR OCTOBER 10, 2001
PASSED THE SENATE SEPTEMBER 14, 2001
PASSED THE ASSEMBLY SEPTEMBER 14, 2001
AMENDED IN SENATE SEPTEMBER 14, 2001
AMENDED IN SENATE SEPTEMBER 7, 2001
AMENDED IN SENATE AUGUST 22, 2001
AMENDED IN SENATE JULY 18, 2001
AMENDED IN SENATE JULY 2, 2001
AMENDED IN ASSEMBLY MARCH 27, 2001

INTRODUCED BY Committee on Education (Strom-Martin (Chair), Alquist, Calderon, Correa, Goldberg, Liu, Pavley, Salinas, Vargas, Wyland, and Zettel)

FEBRUARY 22, 2001

An act to amend Sections 8208, 8264.5, 8278.3, 8951, 10901, 11023, 11024.5, 17070.75, 17150, 17582, 17584, 22303.5, 32228, 32228.1, 33533, 37220.6, 41374, ~~41409~~, 42238.44, 42239.15, 42650, 42850, 44503, 47773, 48264.5, 51210, 51220, 51224.5, 51511, 51810, 51874, 52066, 52067, 52334, 52523, 52761, 53029, 54746, 54749, 56026, 56029, 56200, 56207, 56366.1, 56391, 56836.02, 60061, 60240, 60313, 60400, 63051, 69995, 69996, 69997, 69998, 78300, 89230, and 99223 of, to amend and renumber the heading of Chapter 17 (commencing with 53081) of Part 28 of, to amend and renumber Sections 53081, 53082, 53083, and 53084 of, to add Sections 44395.5, 47661.5, and 54746.5 to, to add Article 3.7 (commencing with Section 56055) to Chapter 1 of Part 30 of, to repeal Section 56044 of, and to repeal Article 19 (commencing with Section 8420) and Article 19.5 (commencing with Section 8430) of Chapter 2 of Part 6 of, the Education Code, and to amend Sections 3540.2, 4420.5, 6516.6, and 8869.84 of the Government Code, to amend Section 3 of Chapter 1024 of the Statutes of 2000, and to amend Items 6110-001-0890, 6110-165-0001, 6110-210-0001, 6110-295-0001, and 6110-485 of Section 2.00 of the Budget Act of 2001, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 804, Committee on Education. Education.

(1) Existing law authorizes programs previously funded under the Alternative...

SEC. 20. Section 41409 of the Education Code is amended to read:

41409. (a) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of administrative personnel, as that term is defined in accounts 1200, 1300, 1700, 1800, and 2200 in Part I of the California School Accounting Manual published by the State Department of Education. For school districts using the Standardized Account Code Structure, the term salaries of administrative personnel are defined in object accounts 1300 and 2300 in Part II of the California School Accounting Manual. The Superintendent of Public Instruction also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers, as defined in account 1100 in Parts I and II of the California School Accounting Manual. The statewide averages shall be calculated for the following types and sizes of school districts:

District	ADA
Elementary	less than 1,000
Elementary	1,000 to 4,999
Elementary	5,000 and greater

High School less than 1,000
High School 1,000 to 3,999
High School 4,000 and greater
Unified less than 1,500
Unified 1,500 to 4,999
Unified 5,000 to 9,999
Unified 10,000 to 19,999
Unified 20,000 and greater

(b) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average salary, by size and type of district, for the following:

- (1) Beginning, mid-range, and highest salary paid to teachers.
- (2) Schoolsite principals.
- (3) District superintendents.

(c) The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card.

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT D

100/81 SARC III

Excerpt from Chapter 1168, Statutes of 2002

CHAPTER 116

FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2002
APPROVED BY GOVERNOR SEPTEMBER 30, 2002
PASSED THE ASSEMBLY AUGUST 28, 2002
PASSED THE SENATE AUGUST 27, 2002
AMENDED IN SENATE AUGUST 22, 2002
AMENDED IN SENATE AUGUST 12, 2002
AMENDED IN SENATE JUNE 13, 2002
AMENDED IN ASSEMBLY APRIL 15, 2002
AMENDED IN ASSEMBLY APRIL 1, 2002

INTRODUCED BY Committee on Education (Strom-Martin (Chair), Leach (Vice Chair), Alquist, Calderon, Correa, Goldberg, Liu, Maddox, Pavley, Reyes, Salinas, Vargas, and Washington)

JANUARY 17, 2002

An act to amend Sections 2557.5, 2558, 17150, ~~33126~~, 33128, 35120, 38133, 41023, 41031, 41032, 41033, 41035, 41038, 41303, 41372, 41403, 41404, 42127, 42127.1, 42129, 42238.12, 42241.7, 42850, 44049, 46200, 46200.5, 46202, 52054, 52055.610, 52055.640, 52055.656, 52291, 52310.5, 52314, 54743, 54745, 54746, 54747, 56001, 56100, 56129, 56130, 56200, 56205, 56345, 56361, 56392, 56441.1, 56473, 56836.155, 56836.23, 59201, 59203, 59204.5, 59210, 60451, 60453, and 60642.5 of, to amend the heading of Article 3 (commencing with Section 41030) of Chapter 1 of Part 24 of, to amend and repeal Section 49553 of, to repeal and add Section 59220 of, to amend and renumber Section 42238.146 of, to add Sections 14002.3, 35735.3, and 41407 to, and to repeal Sections 41405, 56393, 59204, 59211, and 59223 of, and to repeal Article 3.7 (commencing with Section 32230) of Chapter 2 of Part 19 of, the Education Code, to amend Section 3540.2 of, and to amend the heading of Chapter 26.5 (commencing with Section 7570) of, the Government Code, to amend Section 62 of Chapter 78 of the Statutes of 1999, and to amend Section 12.40 of Chapter 106 of the Statutes of 2001, relating to education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1818, Committee on Education. Education.

(1) Existing law authorizes an adjustment in the revenue limit of any county...

SEC. 5. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(26) When available from the State Department of Education, the claiming rate of pupils who earned a Governor's scholarship award pursuant to subdivision (a) of Section 69997 for the most recent two year period. This paragraph applies only to schools that enroll pupils in grades nine, ten or eleven.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to

ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 6. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools. (3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The State Department of Education shall annually post, on the Internet, each eligible school's claiming rate of pupils who earned an award for either of the programs established by subdivision (a) of Section 69997. The Scholarshare Investment Board shall provide the claiming rates, for the most recent two-year period, for each eligible school to the State Department of Education by June 30 of each year. Schools shall post their claiming rate, required in paragraph (26) of subdivision (b) of Section 33216, from the State Department of Education Internet site.

(i) The State Department of Education shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their Web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

EXHIBIT E

100/81 SARC III

Education Code section 33126 (Pre Chapters 996, 734, and 1168)

§ 33126. School accountability report card

*** (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The *** school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period. After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, the school accountability report card shall include pupil achievement by grade level, as measured by the results of the statewide assessment. Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in California Basic Education Data System for the schoolsite over the most recent three-year period.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including 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 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System information for the most recent three-year period.

(5) *** The total number of the school's credentialed teachers, the number of teachers relying upon emergency

credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials.

(7) The availability of qualified personnel to provide counseling and other pupil support services.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the work force.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

(Added by Initiative Measure, approved by the electors, Nov. 8, 1988. Amended by Stats.1993, c. 1031 (A.B.198), § 1; Stats.1994, c. 824 (S.B.1665), § 1; Stats.1997, c. 912 (A.B.572), § 1.)

EXHIBIT F

100/81 SARC III

Education Code section 33126 (Post Chapters 996, 734, and 1168)

§ 33126. School accountability report card

(a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1)(A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of school-days dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) 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 school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program:

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(26)¹ When available from the State Department of Education, the claiming rate of pupils who earned a Governor's scholarship award pursuant to subdivision (a) of Section 69997 for the most recent two year period. This paragraph applies only to schools that enroll pupils in grades nine, ten or eleven.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards. (Added by Initiative Measure, approved by the electors, Nov. 8, 1988. Amended by Stats.1993, c. 1031 (A.B.198), § 1; Stats.1994, c. 824 (S.B.1665), § 1; Stats.1997, c. 912 (A.B.572), § 1; Stats.2000, c. 996 (S.B.1632), § 2, eff. Sept. 30, 2000; Stats.2002, c. 1166 (S.B.1868), § 2; Stats.2002, c. 1168 (A.B.1818), § 5, eff. Sept. 30, 2002.)

¹ So in enrolled bill.

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT G

100/81 SARC III

Education Code section 33126.1 as added by Chapter 996, Statutes of 2000

§ 33126.1. Standardized template; simplify process for completing school accountability report card

(a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by

school districts secured access only for those school officials authorized to make modifications.

(i) The State Department of Education shall maintain current Internet links with the web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards. *(Added by Stats.2000, c. 996 (S.B.1632), § 3, eff. Sept. 30, 2000.)*

Test Claim of the Bakersfield City and Sweetwater Union High School Districts
Chapter 100, Statutes of 1981
SARC III

EXHIBIT H

100/81 SARC III

Education Code section 41409 (Pre Chapters 996, 734, and 1168)

§ 41409. Determination of statewide average percentage of school district expenditures allocated to salaries

(a) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of administrative personnel, as that term is defined in Sections 1200, 1300, 1700, 1800, and 2200 of the California School Accounting Manual published by the State Department of Education. The Superintendent of Public Instruction also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers, as defined in Section 1100 of the

California School Accounting Manual. The statewide averages shall be calculated for the following types and sizes of school districts:

District	ADA
Elementary	less than 1,000
Elementary	1,000 to 4,999
Elementary	5,000 and greater
High School	less than 1,000
High school	1,000 to 3,999
High School	4,000 and greater
Unified	less than 1,500
Unified	1,500 to 4,999
Unified	5,000 to 9,999
Unified	10,000 to 19,999
Unified	20,000 and greater

(b) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average salary, by size and type of district, for the following:

- (1) Beginning, mid-range, and highest salary paid to teachers.
- (2) Schoolsite principals.
- (3) District superintendents.

(c) The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card. A copy of the state summary information shall be submitted annually to the Legislature, the Governor, the Department of Finance, and the office of the Legislative Analyst. *(Added by Stats.1989, c. 1463, § 2. Amended by Stats.1992, c. 759 (A.B.1248), § 11, eff. Sept. 21, 1992.)*

EXHIBIT I

100/81 SARC III

Education Code section 41409 (Post Chapters 996, 734, and 1168)

§ 41409. Determination of statewide average percentage of school district expenditures allocated to salaries

(a) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of administrative personnel, as that term is defined in accounts 1200, 1300, 1700, 1800, and 2200 in Part I of the California School Accounting Manual published by the State Department of Education. For school districts using the Standardized Account Code Structure, the term salaries of administrative personnel are defined in object accounts 1300 and 2300 in Part II of the California School Accounting Manual. The Superintendent of Public Instruction also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers, as defined in account 1100 in Parts I and II of the California School Accounting Manual. The statewide averages shall be calculated for the following types and sizes of school districts:

District	ADA
Elementary	less than 1,000
Elementary	1,000 to 4,999
Elementary	5,000 and greater
High School	less than 1,000
High School	1,000 to 3,999
High School	4,000 and greater
Unified	less than 1,500
Unified	1,500 to 4,999
Unified	5,000 to 9,999
Unified	10,000 to 19,999
Unified	20,000 and greater

(b) Commencing with the 1988-89 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall determine the statewide average salary, by size and type of district, for the following:

- (1) Beginning, mid-range, and highest salary paid to teachers.
- (2) Schoolsite principals.
- (3) District superintendents.

(c) The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card. *(Added by Stats. 1989, c. 1463, § 2. Amended by Stats. 1992, c. 759 (A.B. 1248), § 11, eff. Sept. 21, 1992; Stats. 2001, c. 734 (A.B. 804), § 20, eff. Oct. 11, 2001.)*

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



July 3, 2003

Mr. Lawrence L. Hendee
Sweetwater Union High School District
1130 Fifth Avenue
Chula Vista, CA 91911-2896

Re: Incomplete Test Claim Filing – *School Accountability Report Card III*; 02-TC-32

On June 23, 2003, a test claim was filed on the above named program. Following initial review, Commission staff found the test claim to be incomplete for the following reason:

- A test claim or amendment thereto must be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, the declarant's title, address, and telephone number must be included (Cal. Code Regs., tit. 2, § 1183, subd. (d)(6)). *The certifications on page 9 of the claim are not dated nor are they signed "under penalty of perjury."*

To complete the filing, you must submit one original and seven copies of the document completed as noted above. If this document is not submitted to complete the test claim within 30 days of the date of this letter, the original test claim filing date may be disallowed (Cal. Code Regs., tit. 2, § 1183, subd. (g)). As provided in the Commission's regulations, you may appeal to the Commission for review of the actions and decisions of the executive director (Cal. Code Regs., tit. 2, § 1181, subd. (c)1183).

Please contact Nancy Patton at (916) 323-8217 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
(916) 445-0278
E-mail: csminfo@csm.ca.gov



August 7, 2003

Mr. Lawrence L. Hendee
Sweetwater Union High School District
1130 Fifth Avenue
Chula Vista, CA 91911-2896

Mr. Keith Gmeinder
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Michael D. Lingo
Bakersfield City School District
1300 Baker Street
Bakersfield, CA 93305-4399

Mr. Michael Havey
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. Gerald Shelton
California Department of Education
Fiscal and Administrative Services Division
1430 N Street, Suite 2213
Sacramento, CA 95814

And: Interested Parties
(see enclosed mailing list)

Re: Notice of Complete Test Claim Filing and Schedule for Comments – *School
Accountability Report Card III; 02-TC-32*

On June 23, 2003, a test claim was filed on the above named program by Sweetwater Union High School District and Bakersfield City School District, Claimants. Following initial review, the Commission staff found the test claim to be complete. The Commission is now requesting state agencies and interested parties to comment on the test claim as specified in the enclosed notice.

Please contact Nancy Patton at (916) 323-8217 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

Enclosures:

Notice of Complete Test Claim Filing and Schedule for Comments
Copy of Test Claim (state agencies only)
Mailing List

MAILED: Mail List FAXED: _____
DATE: 9/18/03 INITIAL: CF
CHRON: _____ FILE: X
WORKING BINDER: _____

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 33126, 33126.1, and 41409, as added and amended by Statutes 2000, Chapter 996 (SB 1632), Statutes 2001, Chapters 159 and 734 (SB 662 and AB 804); and Statutes 2002, Chapter 1168 (AB 1818)

Filed on June 23, 2003

By the Sweetwater Union High School District and Bakersfield City School District, Claimants

No. 02-TC-32

School Accountability Report Card III

NOTICE OF COMPLETE TEST CLAIM FILING AND SCHEDULE FOR COMMENTS (Gov. Code § 17500 et seq.; Cal. Code Regs., Tit. 2, §§ 1183, subd.(g) & 1183.02)

**TO: Sweetwater Union High School District
Bakersfield City School District
Department of Finance
California Department of Education
State Controller's Office
Interested Parties**

On June 23, 2003, the Sweetwater Union High School District and Bakersfield City School District filed a test claim on the above-described statutes and executive orders alleging a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. The test claim is complete. The test claim will be heard and determined by the Commission on State Mandates pursuant to article XIII B, section 6, Government Code section 17500 et seq., and case law. The procedures for hearing and determining this claim are prescribed in the Commission's regulations, California Code of Regulations, title 2, chapter 2.5, section 1181, et seq.

COMMENT PERIOD

The key issues before the Commission are:

- Do the provisions listed above impose a new program or higher level of service within an existing program upon local entities within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to section 17514 of the Government Code?

- Does Government Code section 17556 preclude the Commission from finding that any of the test claim provisions impose costs mandated by the state?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

State Agency Review of Test Claim - State agencies are requested to analyze the test claim merits and to file written comments within 30 days, or no later than **September 8, 2003**. Requests for extensions of time may be filed in accordance with sections 1183.01, subdivision (c) and 1181.1, subdivision (g) of the regulations.

Claimant Rebuttal - The claimant and interested parties may file rebuttals to state agencies' comments under section 1183.03 of the regulations. The rebuttal is due 30 days from the actual service date of written comments from any state agencies.

Mailing Lists - Under section 1181.2 of the regulations, the Commission will promulgate a mailing list of parties, interested parties, and interested persons for each test claim and provide the list to those included on the list, and to anyone who requests a copy. Any written material filed with the Commission on this claim shall be simultaneously served on the other parties listed on the mailing list provided by the Commission.

Consolidating Test Claims - Pursuant to Commission regulations, the executive director may consolidate part or all of any test claim with another test claim. See sections 1183.05 and 1183.06 of the regulations.

ADDITIONAL FILINGS ON THE SAME STATUTE OR EXECUTIVE ORDER

Under section 1183, subdivision (i) of the regulations, more than one test claim on the same statute or executive order may be filed with the Commission. The test claim must be filed within 60 days of the date the first test claim was filed. Claimants may designate a single claimant within 90 days from the date the first test claim was filed. If the Commission does not receive notice from the claimants designating a lead claimant, the executive director will designate the claimant who filed the first test claim as the lead claimant.

INFORMAL/PREHEARING CONFERENCE

An informal conference or prehearing conference may be scheduled if requested by any party. See sections 1183.04 and 1187.4 of the regulations.

HEARING AND STAFF ANALYSIS

A tentative hearing date for the test claim will be set when the draft staff analysis of the claim is being prepared. At least eight weeks before a hearing is conducted, the draft staff analysis will be issued to parties, interested parties, and interested persons for comment. Comments are due at least five weeks prior to the hearing or on the date set by the Executive Director, pursuant to section 1183.07 of the regulations. Before the hearing, a final staff analysis will be issued.

Dismissal of Test Claims - Under section 1183.09 of the regulations, test claims may be dismissed when postponed or placed on inactive status by the claimant for more than one year. Before dismissing a test claim, the Commission will provide 60 days notice and opportunity for other parties to take over the claim.

Parameters and Guidelines - If the Commission determines that a reimbursable state mandate exists, the claimant is responsible for submitting proposed parameters and guidelines for reimbursing all eligible local entities. See section 1183.1 of the regulations. All interested parties and affected state agencies will be given an opportunity to comment on the claimant's proposal before consideration and adoption by the Commission.

Statewide Cost Estimate - The Commission is required to adopt a statewide cost estimate of the reimbursable state-mandated program within 12 months of receipt of a test claim. This deadline may be extended for up to six months upon the request of either the claimant or the Commission.

Dated: _____

PAULA HIGASHI, Executive Director

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated:
List Print Date: 08/07/2003
Claim Number: 02-TC-32
Issue: School Accountability Report Card III

Mailing Information: Completeness Determination

Mailing List

Related Matter(s)

00-TC-09 School Accountability Report Cards II

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Lawrence L. Hendee Sweetwater Union High School District 1130 Fifth Avenue Chula Vista, CA 91911-2896	Claimant Representative Tel: (619) 585-4450 Fax: (619) 498-4727
--	--

Mr. Barry S. Dragon Sweetwater Union High School District 1130 Fifth Ave. Chula Vista, CA 91911-2896	Claimant Tel: (619) 691-5550 Fax: (619) 000-0000
---	---

Dr. Carol Berg Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: (916) 446-7517 Fax: (916) 446-2011
--	--

Mr. Keith B. Petersen SixTen & Associates 5252 Balboa Avenue, Suite 807 San Diego, CA 92117	Tel: (858) 514-8605 Fax: (858) 514-8645
--	--

Mr. Paul Minney Spector, Middleton, Young & Minney, LLP 7 Park Center Drive Sacramento, CA 95825	Claimant Representative Tel: (916) 646-1400 Fax: (916) 646-1300
---	--

Ms. Hameet Barkschat Mandate Resource Services 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Fax: (916) 727-1734
--	--

Ms. Sandy Reynolds
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Sun City, CA 92586

Tel: (909) 672-9964
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Mr. Arthur Palkowitz
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103-8363

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Centration, Inc.
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Rancho Cucamonga, CA 91730

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Fax: (866) 481-5383

Mr. Gerald Shelton
California Department of Education (E-08)
Fiscal and Administrative Services Division
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Mr. Donald Kiger
Empire Union Unified School District
116 N. McClure Road
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Claimant
Tel: (209) 521-2800
Fax: (209) 526-6421

Mr. Michael D. Lingo
Bakersfield City School District
1300 Baker Street
Bakersfield, CA 93305-4399

Tel: (805) 631-4682
Fax: (805) 631-4688

COMMISSION ON STATE MANDATES

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SACRAMENTO, CA 95814
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(916) 445-0278
E-mail: csminfo@esm.ca.gov



August 7, 2003

Mr. Paul C. Minney, Esq.
Spector, Middleton, Young & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

Mr. Lawrence L. Hendee
Sweetwater Union High School District
1130 Fifth Avenue
Chula Vista, CA 91911-2896

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: Notice of Consolidation of Test Claims

School Accountability Report Cards II, 00-TC-09, 00-TC-13
Education Code Sections 33126 and 33126.1
Statutes 1997, Chapter 912; Statutes 2000, Chapter 996;
Empire Union Unified School District, Claimant

School Accountability Report Cards III, 02-TC-32
Education Code Sections 33126, 33126.1, and 41409
Statutes 2000, Chapter 996; Statutes 2001, Chapters 159 and 734; and Statutes 2002,
Chapter 1168
Empire Union Unified School District and Bakersfield City School District, Co-claimants

Dear Mr. Minney and Mr. Hendee:

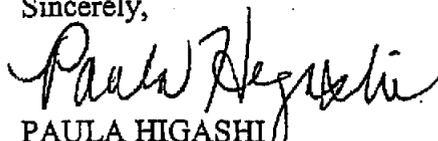
The two test claims and amendment listed above share common issues, allegations, statutes, and Education Code sections. For the sake of efficiency, these claims shall be consolidated for analysis and hearing pursuant to my authority under California Code of Regulations, title 2, section 1183.06, effective 10 days from the service of this letter, unless I receive written objections on or before Monday, August 18, 2003.

For future correspondence, the test claims will be designated *School Accountability Report Cards II and III*, Empire Union Unified School District, Bakersfield City School District, and Sweetwater Union High School District, claimants. A consolidated mailing list is enclosed.

These claims are tentatively set for the November 20, 2003 Commission hearing and a draft staff analysis will be issued by the end of September. State agencies may file comments on the new test claim filing, 02-TC-32, as described in the enclosed completeness letter, or agencies may waive initial comments and file comments on the draft staff analysis. Claimants may rebut initial state agency comments, if any, when filing comments on the draft staff analysis, or sooner.

Please contact me at (916) 323-3562 if you have any questions or concerns regarding this matter.

Sincerely,


PAULA HIGASHI
Executive Director

MAILED: FAXED: _____
DATE: 8/7/03 INITIAL: CF
CHRON: _____ FILE:
WORKING BINDER: _____

Commission on State Mandates

Original List Date: 6/26/2003

Mailing Information: Completeness Determination

Last Updated:

List Print Date: 08/07/2003

Claim Number: 02-TC-32

Issue: School Accountability Report Card III

Mailing List

Related Matter(s)

00-TC-09

School Accountability Report Cards II

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Lawrence L. Hendee

Sweetwater Union High School District

1130 Fifth Avenue

Chula Vista, CA 91911-2896

Claimant Representative

Tel: (619) 585-4450

Fax: (619) 498-4727

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Sweetwater Union High School District

1130 Fifth Ave.

Chula Vista, CA 91911-2896

Claimant

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Fax: (619) 000-0000

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Education Mandated Cost Network

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SixTen & Associates

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Fax: (858) 514-8645

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Spector, Middleton, Young & Minney, LLP

7 Park Center Drive

Sacramento, CA 95825

Claimant Representative

Tel: (916) 646-1400

Fax: (916) 646-1300

Ms. Harmeet Barkschat

Mandate Resource Services

5325 Elkhorn Blvd. #307

Sacramento, CA 95842

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Fax: (916) 727-1734

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P.O. Box 987
Sun City, CA 92586

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Fax: (909) 672-9963

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Mandated Cost Systems, Inc.
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

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San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103-8363

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Shields Consulting Group, Inc.
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Sacramento, CA 95816

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Fax: (916) 454-7312

Mr. Michael Havey
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

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Mr. Gerald Shelton
California Department of Education (E-08)
Fiscal and Administrative Services Division
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Fax: (916) 327-8306

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Department of Finance (A-15)
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Fax: (916) 324-4888

Mr. Donald Kiger
Empire Union Unified School District
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Claimant
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Fax: (209) 526-6421

Mr. Michael D. Lingo
Bakersfield City School District
1300 Baker Street
Bakersfield, CA 93305-4399

Tel: (805) 631-4882
Fax: (805) 631-4888



September 24, 2003

RECEIVED

OCT 01 2003

**COMMISSION ON
STATE MANDATES**

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of August 7, 2003, the Department of Finance has reviewed the test claim submitted by the Sweetwater Union High School District and Bakersfield City School District (claimants) asking the Commission to determine whether specified costs incurred under various chaptered legislation are reimbursable state mandated costs (Claim No. CSM-02-TC-32 "School Accountability Report Card III").

This claim is very similar to one submitted by Empire Union Unified School District (Claim No. CSM-00-TC-13 School Accountability Report Card II). In our letter dated June 28, 2001, Finance stated that while the activities addressed in claim number CSM-00-TC-13, which are included in this claim, are reimbursable, given that districts currently report much of the required information to the Department of Education, the incremental cost of including that information in an accountability report card should be minimal. If the Commission concludes that the specified statutes resulted in reimbursable mandates, the nature and extent of the specific activities required can be addressed in the parameters and guidelines which will then have to be developed for the program. We recommend this claim be merged with CSM-00-TC-13.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your August 7, 2003, letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328 or Keith Gmeinder, State mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

Jeannie Oropeza
Program Budget Manager

Attachment

Attachment A

DECLARATION OF MICHAEL WILKENING
DEPARTMENT OF FINANCE
CLAIM NO. CSM-02-TC-32

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the chaptered legislation sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

September 26, 2003

at Sacramento, CA

Michael Wilkening

Michael Wilkening

PROOF OF SERVICE

Test Claim Name: School Accountability Report Card III
Test Claim Number: CSM-02-TC-32

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On September 24, 2003, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: Michael Havey
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

E-8
Department of Education
Fiscal and Administrative Services Division
Attention: Gerry Shelton
1430 N Street, Suite 2213
Sacramento, CA 95814

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Spector, Middleton, Young, Minney, LLP
Attention: Paul Minney,
7 Park Center Drive
Sacramento, CA 95825

Mandated Cost Systems, Inc.
Attention: Steve Smith
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

San Diego Unified School District
Attention: Arthur Palkowitz
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

Mandate Resource Services
Attention: Harmeet Barkschat
5325 Elkhorn Blvd., Suite 307
Sacramento, CA 95842

Reynolds Consulting Group, Inc.
Attention: Sandy Reynolds, President
P.O. Box 987
Sun City, CA 92586

Shields Consulting Group, Inc.
Attention: Steve Shields
1536 36th Street
Sacramento, CA 95816

Sweetwater Union High School District
Attention: Lawrence L. Hendee
1130 Fifth Avenue
Chula Vista, CA 91911-2896

Empire Union Unified School District
Attention: Donald Kiger
116 North McClure Road
Modesto, CA 95357

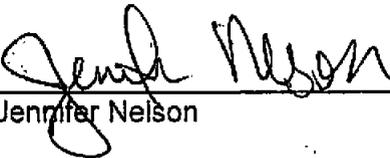
Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Centration, Inc.
Attention: Beth Hunter
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730

Sweetwater Union High School District
Attention: Barry S. Dragon
1130 Fifth Avenue
Chula Vista, CA 91911-2896

Bakersfield City School District
Attention: Michael D. Lingo
1300 Baker Street
Bakersfield, CA 93305

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 24, 2003 at Sacramento, California.



Jennifer Nelson

COMMISSION ON STATE MANDATES

880 NINTH STREET, SUITE 300
 SACRAMENTO, CA 95814
 PHONE: (916) 323-3562
 (916) 445-0278
 E-mail: csminfo@csm.ca.gov



October 7, 2003

Mr. Donald R. Kiger, Business Manager (CBO)
 Empire Union School District
 116 N. McClure Road
 Modesto, CA 95357

Mr. Lawrence L. Hendee
 Sweetwater Union High School District
 1130 Fifth Avenue
 Chula Vista, CA 91911-2896

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: Draft Staff Analysis and Hearing Date

School Accountability Report Cards II and III, 00-TC-09, 00-TC-13 and 02-TC-32

Education Code Sections 33126, 33126.1, and 41409

Statutes 1997, Chapter 912; Statutes 2000, Chapter 996; Statutes 2001, Chapters 159 and 734; and Statutes 2002, Chapter 1168

Empire Union Unified School District, Sweetwater Union High School District and Bakersfield City School District, Claimants

Dear Mr. Kiger and Mr. Hendee:

The draft staff analysis of this test claim is enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis by Tuesday, **October 28, 2003**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This test claim is set for hearing on **Tuesday, December 2, 2003** at 1:30 p.m. in Room 126 of the State Capitol, Sacramento, California. The final staff analysis will be issued on or about Monday, November 10, 2003. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Please contact Katherine Tokarski at (916) 323-3562 with any questions regarding the above.

Sincerely,


 PAULA HIGASHI
 Executive Director

Enc. Draft Staff Analysis

MAILED: 10/7/03
DATE: 10/7/03
INITIAL: VS
FAXED:
WORKING BINDER:
CHRON:
FILE:

ITEM _____
TEST CLAIM
DRAFT STAFF ANALYSIS

Education Code Sections 33126, 33126.1 and 41409

Statutes 1997, Chapter 912
Statutes 2000, Chapter 996
Statutes 2001, Chapters 159 and 734
Statutes 2002, Chapter 1168

School Accountability Report Cards II and III (00-TC-09/00-TC-13; 02-TC-32)

Empire Union School District, Claimant, and
Bakersfield City School District and Sweetwater Union High School District, Co-claimants

EXECUTIVE SUMMARY

The Executive Summary will be included with the Final Staff Analysis.

STAFF ANALYSIS

Claimants

Empire Union School District, Bakersfield City School District and Sweetwater Union High School District

Chronology

- 03/16/01 Claimant, Empire Union School District [hereafter Empire Union], files test claim, *School Accountability Report Cards II* (00-TC-09)¹
- 03/21/01 Commission staff determines test claim is complete and requests comments
- 04/14/01 Department of Finance (DOF) requests an extension of time to file comments
- 04/26/01 Commission grants an extension of time for state agency comments
- 05/10/01 Empire Union files amendment, alleging additional activities (00-TC-13)
- 05/21/01 Commission staff determines amendment is complete and requests comments
- 06/04/01 DOF files response to original test claim allegations
- 06/29/01 DOF files response to amended test claim allegations
- 03/08/02 Empire Union files rebuttal to DOF response
- 06/23/03 Co-claimants, Bakersfield City School District and Sweetwater Union High School District [hereafter Sweetwater], file test claim, *School Accountability Report Cards III* (02-TC-32)²
- 07/03/03 Commission staff determines test claim 02-TC-32 is incomplete and requests additional documents
- 07/14/03 Sweetwater submits requested documents
- 08/07/03 Commission staff issues completeness letter and requests comments; also issues letter consolidating *School Accountability Report Cards II* and *III*
- 09/29/03 DOF files response to Sweetwater's test claim allegations

Background

The California voters approved Proposition 98, effective November 9, 1988. The proposition amended article XVI, section 8 of the California Constitution, including adding subdivision (e), as follows:

Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

¹ The potential reimbursement period for this claim begins no earlier than July 1, 1999. (Gov. Code, § 17557, subd. (c).)

² The potential reimbursement period for this claim begins no earlier than July 1, 2001. (Gov. Code, § 17557, subd. (c).)

The proposition also added Education Code sections 33126 and 35256 concerning School Accountability Report Cards.

Prior Decision: School Accountability Report Cards

School Accountability Report Cards (97-TC-21), was a previous test claim heard and approved by the Commission. The claim, filed on December 31, 1997, by Bakersfield City School District and Sweetwater Union High School District, alleged a reimbursable state mandate for Education Code sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3, as added or amended by Statutes 1989, chapter 1463; Statutes 1992, chapter 759; Statutes 1993, chapter 1031; Statutes 1994, chapter 824; and Statutes 1997, chapters 912 and 918.

The following findings were made by the Commission in the *School Accountability Report Cards* Statement of Decision, adopted April 23, 1998:

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 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, 1998.³

³ To the extent the test claim analysis for *School Accountability Report Cards II and III* differs from the decision in the original claim, prior Commission decisions are not controlling. The failure of a quasi-judicial agency to consider prior decisions is *not* a violation of due process and does not constitute an arbitrary action by the agency. (*Weiss v. State Board of Equalization* (1953) 40 Cal.2d 772.) In *Weiss*, the plaintiffs brought mandamus proceedings to review the refusal of the State Board of Equalization to issue them an off-sale beer and wine license at their premises. Plaintiffs contended that the action of the board was arbitrary and unreasonable because the board granted similar licenses to other businesses in the past. The California Supreme Court disagreed with the plaintiffs' contention and found that the board did *not* act arbitrarily. The Court stated, in pertinent part, the following:

[P]laintiffs argument comes down to the contention that because the board may have erroneously granted licenses to be used near the school in the past it must continue its error and grant plaintiffs' application. That problem has been discussed: Not only does due process permit omission of reasoned administrative opinions but it probably also permits substantial deviation from the principle of stare decisis. Like courts, agencies may overrule prior decisions or practices and may initiate new policy or law through adjudication. (*Id.* at 776.)

Thus, the Commission is not bound by its prior decisions. Rather, the merits of a test claim must be analyzed individually. Commission decisions under article XIII B, section 6 are not arbitrary or unreasonable as long as the decision strictly construes the Constitution and the statutory language of the test claim statute, and does not apply section 6 as an equitable remedy. (*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816-1817; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280-1281.) The analysis in this test claim complies with these principles.

The parameters and guidelines were discussed at the July 23, 1998 hearing, and the item was continued. The Commission adopted parameters and guidelines for *School Accountability Report Cards* at the August 20, 1998 hearing.

Claimants' Positions

Claimant Sweetwater's test claim alleges new reimbursable activities are required by amendments to Education Code section 33126 by Statutes 2000, chapter 996 and Statutes 2002, chapter 1168, for additional calculating, determining and including new components in the School Accountability Report Card. In addition, claimant alleges Statutes 2000, chapter 996, amending Education Code section 33126.1 will result in costs of training school personnel to either use the School Accountability Report Card template developed by the California Department of Education (CDE), or for training school personnel who do not use the template regarding "standard definitions" to be used when preparing the School Accountability Report Card.

Claimant Empire Union made substantially similar test claim allegations regarding the amendments to Education Code sections 33126 and 33126.1 by Statutes 2000, chapter 996. Claimant also included allegations regarding "new" activities from Statutes 1997, chapter 912; that statute was part of the original *School Accountability Report Cards* test claim decision.

State Agency's Position

DOF's June 29, 2000 response to Empire Union's original and amended test claim allegations states "concerns regarding the activities listed by the claimant[] as reimbursable state-mandated costs," specifically that much of the information required to be included on the School Accountability Report Card is provided by the State or is already compiled by the school district. Regarding the assertion that training is required for use of the state template pursuant to Education Code section 33126.1, DOF asserts that the statute "does not require such training, and the use of the state-adopted template is voluntary." DOF's response to Sweetwater's test claim allegations, dated September 24, 2003, reiterates: "the incremental costs of including that information in an accountability report card should be minimal."

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁴ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁵ "Its purpose is to preclude the state from shifting financial responsibility for carrying out

⁴ Article XIII B, section 6 provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

⁵ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735.

governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."⁶ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁷ In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.⁸ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must impose costs mandated by the state.⁹

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹⁰ In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."¹¹

Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

Under Government Code section 17521, "'test claim' means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that a particular

⁶ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

⁷ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174. In *Department of Finance v. Commission on State Mandates*, *supra*, 30 Cal.4th at page 742, the court agreed that "activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement of funds - even if the local entity is obligated to incur costs as a result of its discretionary decision to participate in a particular program or practice." The court left open the question of whether non-legal compulsion could result in a reimbursable state mandate, such as in a case where failure to participate in a program results in severe penalties or "draconian" consequences. (*Id.*, at p. 754.)

⁸ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

⁹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma*, *supra*, 84 Cal.App.4th at page 1284; Government Code sections 17514 and 17556.

¹⁰ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

¹¹ *City of San Jose v. State of California*, *supra*, 45 Cal.App.4th at page 1817; *County of Sonoma*, *supra*, 84 Cal.App.4th at page 1280.

statute or executive order imposes costs mandated by the state." [Emphasis added.] The issue of whether the amendment of Education Code section 33126 by Statutes 1997, chapter 912, constitutes a reimbursable state mandate was already heard and decided by the Commission in *School Accountability Report Cards*, (97-TC-21). Empire Union asserts in the amended test claim filing: "However, section 17521 does not preclude a claimant from filing a test claim alleging that a statute or executive order that was included in a prior test claim imposes activities not previously claimed." Staff finds that claimant misapprehends the statutory meaning of Government Code section 17521.

A claimant has the opportunity upon filing a test claim to identify and allege *all* activities imposed by a particular statute or executive order.¹² Comment periods are available to all members of the public, including interested parties.¹³ Comments, additional filings, and/or hearing testimony identifying other reimbursable activities are permitted during the test claim phase.¹⁴ This provides adequate due process to the entire claimant community. Other than the reconsideration and writ of mandate provisions of Government Code section 17559, no further issues on the merits may be raised before the Commission following the adoption of a statement of decision on a particular statute or executive order.

In April 1998, the Commission issued a final statement of decision on any reimbursable state-mandated program imposed by Education Code section 33126, as amended by Statutes 1997, chapter 912. Therefore, Empire Union's claim for reimbursement of costs for "activities associated with ensuring that all parents receive a copy of the SARC and making administrators and teachers available to answer any questions regarding the SARC" pursuant to that same amended code section is denied based upon the plain meaning of Government Code section 17521, and the doctrine of estoppel.¹⁵ Thus, Education Code section 33126, as amended by Statutes 1997, chapter 912, is not included in the following analysis as part of the "test claim legislation."

In order for the remaining test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." In *County of Los Angeles v. State of California*, the California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.¹⁶ The court has held that only one of these findings is necessary.¹⁷

¹² California Code of Regulations, title 2, section 1183, subdivision (d).

¹³ California Code of Regulations, title 2, sections 1182.2, subdivision (b) and 1183.02.

¹⁴ Government Code section 17555; California Code of Regulations, title 2, sections 1183, 1183.07 and 1187.6.

¹⁵ "The doctrine of collateral estoppel bars the relitigating of issues which were previously resolved in an administrative hearing by an agency acting in a judicial capacity. (*People v. Sims* (1982) 32 Cal.3d 468, 478-479.)" *Knickerbocker v. City of Stockton* (1988) 199 Cal.App.3d 235, 242.

¹⁶ *County of Los Angeles, supra*, 43 Cal.3d at page 56.

Staff finds that providing a School Accountability Report Card imposes a program within the meaning of article XIII B, section 6 of the California Constitution under both tests. First, it constitutes a program that carries out the governmental function of providing a service to the public because it requires school districts to make a document available to the public that is designed to "promote a model statewide standard of instructional accountability and conditions for teaching and learning."¹⁸ The courts have held that education is a peculiarly governmental function administered by local agencies as a service to the public.¹⁹

The test claim legislation also satisfies the second test that triggers article XIII B, section 6, because the test claim legislation requires school districts to engage in administrative activities solely applicable to public school administration. The test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Accordingly, staff finds that providing a School Accountability Report Card constitutes a "program" and, thus, is subject to article XIII B, section 6 of the California Constitution.

However, pursuant to article XIII B, section 6, of the California Constitution, and Government Code section 17556, subdivision (f), ballot measures adopted by the voters in a statewide election do not impose reimbursable state mandates. To the extent that the claimed amendments to the Education Code are a restatement of what was required by the voters in enacting Proposition 98, no program, or new program or higher level of service, can be found.

Issue 2: Does the test claim legislation impose a new program or higher level of service within an existing program upon school districts within the meaning of the California Constitution, article XIII B, section 6, and impose costs mandated by the state pursuant to Government Code section 17514?

Amendments to Education Code sections 33126, 33126.1, and 41409, as asserted by the claimants, are analyzed below for the imposition of a new program or higher level of service on school districts within the meaning of article XIII B, section 6.

Education Code Section 33126.

Section 33126 was added to the Education Code by Proposition 98, approved by the electors, effective November 9, 1988:

In order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the Superintendent of Public Instruction shall by March 1, 1989, develop and present to the Board of Education for adoption a statewide model School Accountability Report Card.

(a) The model School Accountability Report Card shall include, but is not limited to, assessment of the following school conditions:

¹⁷ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

¹⁸ Education Code section 33126, as added to the Education Code by Proposition 98.

¹⁹ *Long Beach Unified School Dist., supra*, 225 Cal.App.3d at page 172 states "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function ... administered by local agencies to provide service to the public."

- (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals.
- (2) Progress toward reducing drop-out rates.
- (3) Estimated expenditures per student, and types of services funded.
- (4) Progress toward reducing class sizes and teaching loads.
- (5) Any assignment of teachers outside their subject areas of competence.
- (6) Quality and currency of textbooks and other instructional materials.
- (7) The availability of qualified personnel to provide counseling and other student support services.
- (8) Availability of qualified substitute teachers.
- (9) Safety, cleanliness, and adequacy of school facilities.
- (10) Adequacy of teacher evaluations and opportunities for professional improvement.
- (11) Classroom discipline and climate for learning.
- (12) Teacher and staff training, and curriculum improvement programs.
- (13) Quality of school instruction and leadership.

(b) In developing the statewide model School Accountability Report, the Superintendent of Public Instruction shall consult with a Task Force on Instructional Improvement, to be appointed by the Superintendent, composed of practicing classroom teachers, school administrators, parents, school board members, classified employees, and educational research specialists, provided that the majority of the task force shall consist of practicing classroom teachers.

Proposition 98 also added Education Code section 35256, as follows:

The governing board of each school district maintaining an elementary or secondary school shall by September 30, 1989, or the beginning of the school year develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Accountability Report Card shall include, but is not limited to, the conditions listed in Education Code Section 33126.

(b) Not less than triennially, the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education. Variances among school districts shall be permitted where necessary to account for local needs.

(c) The Governing Board of each school district shall annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request.

Pursuant to article XIII-B, section 6, of the California Constitution, and Government Code section 17556, subdivision (f), ballot measures adopted by the voters in a statewide election do not impose reimbursable state mandates. Education Code section 33126, as amended by Statutes 1993, chapter 1031, Statutes 1994, chapter 824, and Statutes 1997, chapter 912, was already heard and decided as part of the *School Accountability Report Cards (97-TC-21)* test claim. The pertinent portions of Education Code section 33126, as amended by Statutes 2000, chapter 996, effective September 30, 2000, are indicated with underline below. In addition, Statutes 2002, chapter 1168, effective September 30, 2002, amended the section by adding subdivision (b)(26).

(a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1)(A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

[¶]...[¶]

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

[¶]...[¶]

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(26) When available from the State Department of Education, the claiming rate of pupils who earned a Governor's scholarship award pursuant to subdivision (a) of Section 69997 for the most recent two year period. This paragraph applies only to schools that enroll pupils in grades nine, ten or eleven.²⁰

Claimants allege a reimbursable state-mandated program for calculating, determining and including all amended components in the School Accountability Report Card. DOF responds that much of the information is available through the CDE website or is already accumulated by school districts for other purposes; consequently, DOF argues any additional work "should be minimal."

The California voters approved Proposition 98, effective November 9, 1988, providing a state-funding guarantee for schools. Proposition 98 amended article XVI, section 8 of the California Constitution, including adding subdivision (e), requiring all elementary and secondary school districts to develop and prepare an annual audit of such funds and a School Accountability Report Card for every school. The voters also required the state to develop a model report card and, pursuant to Education Code section 35256, required schools to periodically compare their School Accountability Report Card with the statewide model. This requirement implies that the

²⁰ Subdivision (b)(26) was added by Statutes 2002, chapter 1168; all other indicated amendments were made by Statutes 2000, chapter 996. There is no subdivision (b)(25).

precise details of the model report card are subject to change as education programs change, and that schools are required to make modifications as necessary.

Education Code section 33126, as added by Proposition 98, required that "The model School Accountability Report Card shall include, *but is not limited to*, assessment of the following school conditions: (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals," and "(13) Quality of school instruction and leadership." These requirements subsume the requirements that school districts report, on "Pupil achievement by grade level, as measured by the standardized testing and reporting programs (STAR)," pursuant to subdivision (b)(1)(A); the number of advanced placement courses offered, pursuant to subdivision (b)(17); Academic Performance Index (API)²¹ rankings, pursuant to subdivision (b)(18); whether the school qualifies for the Governor's Performance Award Program based upon API rankings, pursuant to subdivision (b)(20); High School Exit Exam passage rates, when available, pursuant to subdivision (b)(21); the percentage of high school graduates who passed course requirements for entrance to the University of California and the California State University, pursuant to subdivision (b)(23); whether the school offers a college admission test preparation course, pursuant to subdivision (b)(24); and the rate of pupils who earned a Governor's scholarship award,²² pursuant to subdivision (b)(26). All of these specific reporting requirements quantify student achievement and demonstrate progress towards meeting academic goals, and/or indicate the quality of school instruction.

The requirement of subdivision (b)(2) to include statewide dropout rates, as provided by the CDE, fulfills the purpose of the Proposition 98 requirement that the report card include "(2) Progress toward reducing drop-out rates." The inclusion of statewide drop-out rates to compare to the individual school's drop-out rates "promote[s] a model statewide standard of instructional accountability," as required by Proposition 98.

The new specificity of subdivision (b)(6), that the report card is to provide information on whether the textbooks used by the schools meet state or district standards and the year the textbooks were adopted is within the Proposition 98 requirement to report on the "(6) Quality and currency of textbooks and other instructional materials." The requirement to provide the ratio of textbooks per pupil is within the Proposition 98 requirements to report on the "adequacy of school facilities," the "climate for learning," as well as on the "[q]uality of school instruction."

The requirement that districts report on the "ratio of academic counselors per pupil," pursuant to subdivision (b)(7) is within the Proposition 98 requirement to report on the "(7) The availability of qualified personnel to provide counseling and other student support services."

Subdivision (b)(19) requires districts to report whether a school qualified for the Immediate Intervention/Underperforming Schools Program, "and whether the school applied for, and

²¹ According to the CDE, "The purpose of the API is to measure the academic performance and growth of schools. It is a numeric index (or scale) that ranges from a low of 200 to a high of 1000. A school's score or placement on the API is an indicator of a school's performance level." September 19, 2003: <<http://www.cde.ca.gov/psaa/api/fallapi/apiinfo.pdf>>.

²² Education Code section 69997 provides the Governor's Scholars Program to grant a scholarship to every public high school student demonstrating high academic achievement through the STAR program.

received a grant pursuant to, that program." Education Code section 52053 provides planning grant funds for under-performing schools, as indicated by API scores. Qualification for the Immediate Intervention/Underperforming Schools Program demonstrates that a school's API scores fall below the 50th percentile. This is within the Proposition 98 requirements to report on student achievement, the quality of student instruction, and on "(13)... curriculum improvement programs." Staff finds that none of the above information elements required for the School Accountability Report Card impose a new program or higher level of service upon school districts.

In fact, the only alleged new element of the School Accountability Report Card that does not fall within one of the original 13 reporting categories is the requirement that the report card include "Contact information pertaining to any organized opportunities for parental involvement." (Ed. Code, § 33126, subd. (b)(22).) However, as described below, the addition of this minimal information²³ does not rise to the level of a reimbursable "higher level of service" within the meaning discerned by the courts.

In a recent appellate decision, *County of Los Angeles v. Commission on State Mandates* (2003) 2 Cal.Rptr.3d 419, 435, the County sought to vacate a Commission decision which denied a test claim for costs associated with a statute requiring local law enforcement officers to participate in two hours of domestic violence training. The court upheld the Commission's decision that the test claim legislation did not mandate any increased costs and thus no reimbursement was required. Thus, the court concluded:

Based upon the principles discernable from the cases discussed, we find that in the instant case, the legislation does not mandate a "higher level of service." In the case of an existing program, an increase in existing costs does not result in a reimbursement requirement. Indeed, "costs" for purposes of Constitution article XIII B, section 6, does not equal every increase in a locality's budget resulting from compliance with a new state directive. Rather, the state must be attempting to divest itself of its responsibility to provide fiscal support for a program, or forcing a new program on a locality for which it is ill-equipped to allocate funding.

[¶]...[¶]

[M]erely by adding a course requirement to POST's certification, the state has not shifted from itself to the County the burdens of state government. Rather, it has directed local law enforcement agencies to reallocate their training resources in a certain manner by mandating the inclusion of domestic violence training.

Finally, the court concluded (*id.*, at p. 436):

Every increase in cost that results from a new state directive does not automatically result in a valid subvention claim where, as here, the directive can be complied with by a minimal reallocation of resources within the entity seeking

²³ The state model School Accountability Report Card for School Year 2000-2001 (attached) has a header: "Opportunities for Parental Involvement," followed by a box showing "Contact Person Name" and "Contact Person Phone Number."

reimbursement. Thus, while there may be a mandate, there are no increased costs mandated by [the test claim legislation].

Likewise here, by requiring the addition of a few lines to the existing school accountability report card, the state has not shifted from itself to schools "the burdens of state government," when "the directive can be complied with by a minimal reallocation of resources." Therefore staff finds no new program or higher level of service was imposed. In addition, the state has not required the expenditure of local property tax funds in order for schools to comply with any revised directives regarding the annual issuance of the School Accountability Report Card.

Assuming, for purposes of analysis, that the claimants did meet their burden of proving a new program or higher level of service for all new information required to be included in the School Accountability Report Card, they have not met their burden of proving costs mandated by the state. The claimants have provided no evidence that the amendments alleged require the expenditure of local tax revenues, rather than the expenditure of school funding provided by the state, or funds available from other sources. A CDE document entitled "2000-01 K-12 Education Financial Data"²⁴ demonstrates that only 21.27% of public school funding comes from property tax revenues. A full 56.67% is from state sources,²⁵ and the remainder of the funding comes from federal and other sources, including lottery revenue. "[I]t is the expenditure of tax revenues of local governments that is the appropriate focus of section 6." (*County of Sonoma v. Commission on State Mandates*, supra, 84 Cal.App.4th at p. 1283, citing *County of Fresno v. State of California*, supra, 53 Cal.3d at p. 487.) "No state duty of subvention is triggered where the local agency is not required to expend its proceeds of taxes." (*Redevelopment Agency v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 987.)

In enacting Proposition 98, The Classroom Instructional Improvement and Accountability Act, the voters provided public schools with state funding guarantees by amending the California Constitution, article XVI, section 8, School Funding Priority, and adding section 8.5, Allocation to Schools. In exchange for this constitutional guarantee of funding, the voters also required schools to undergo an annual audit and to issue an annual School Accountability Report Card. As recently decided by the California Supreme Court, the availability of state program funds precludes a finding of a reimbursable state mandate.

We need not, and do not, determine whether claimants have been legally compelled to participate in the Chacon-Moscone Bilingual Bicultural Education program, or to maintain a related advisory committee. Even if we assume for purposes of analysis that claimants have been legally compelled to participate in the ... program, we nevertheless conclude that under the circumstances here presented, *the costs necessarily incurred* in complying with the notice and agenda requirements under that funded program *do not entitle claimants to obtain reimbursement under article XIII B, section 6, because the state, in providing*

²⁴ At <<http://www.cde.ca.gov/fiscal/financial/FingertipFacts01.html>> [as of Sept. 29, 2003.] Attached to Draft Staff Analysis. The CDE is the department statutorily charged with receiving school district and county office of education budget, audit, apportionment, and other financial status reports, pursuant to Education Code section 42129.

²⁵ Approximately \$31.4 billion for fiscal year 2000-2001.

program funds to claimants, already has provided funds that may be used to cover the necessary notice and agenda related expenses. [Emphasis added.]

(Department of Finance v. Commission on State Mandates, supra, 30 Cal.4th at pp. 746-747.)

Claimants have not demonstrated that the state funds received through article XVI, sections 8 and 8.5, or any other sources beyond property tax revenue, are unavailable for the claimed additional costs of issuing School Accountability Report Cards. In the absence of that showing, staff finds the test claim legislation did not impose costs mandated by the state.

Thus, staff finds that Education Code section 33126, as amended by Statutes 2000, chapter 996, and Statutes 2002, chapter 1168 does not impose a new program or higher level of service on school districts, and does not impose costs mandated by the state.

Education Code Section 33126.1

Education Code section 33126.1 primarily gives direction to the CDE to develop a standardized template for the School Accountability Report Card, for optional use by school districts. The code section, as added by Statutes 2000, chapter 996, effective September 30, 2000; amended by Statutes 2001, chapter 159, effective January 1, 2002, and Statutes 2002, chapter 1168, effective September 30, 2002, follows, in pertinent part:

(a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

[]...[]

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template

shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

[¶]...[¶]

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

Claimants allege this statute will result in costs of training school personnel to either use the School Accountability Report Card template developed by the CDE, or for training school personnel who do not use the template regarding "standard definitions" to be used when preparing the School Accountability Report Card.

Staff finds that none of the claimed training activities are expressly required by Education Code section 33126.1. In addition, the plain language of Proposition 98 requires the State to "adopt[] a statewide model School Accountability Report Card." The standardized template described by Education Code section 33126.1 meets this requirement. Further, in adopting Education Code section 35256, Proposition 98 required that "the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education," and shall "annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request." These requirements are not substantively different from the law of Education Code section 33126.1, which was designed to "to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public," within the requirements of the original law adopted by the voters when passing Proposition 98. The specific new requirements of Education Code section 33126.1 are directed to the CDE, not to local school districts. Thus, staff finds Education Code section 33126.1 does not impose a new program or higher level of service on school districts, and does not impose costs mandated by the state.

Education Code Section 41409.

Education Code section 41409 was added by Statutes 1989, chapter 1463 and amended by Statutes 1992, chapter 759. Further amended by Statutes 2001, chapter 734 (A.B. 804), effective October 11, 2001. Sweetwater alleges a reimbursable state-mandated program as to the amendment by Statutes 2001, chapter 734. The statute requires the state Superintendent of Public Instruction to "determine the statewide average percentage of school district expenditures

that are allocated to the salaries of administrative personnel, ... [and] also shall determine the statewide average percentage of school district expenditures that are allocated to the salaries of teachers." Subdivision (c) provides:

The statewide averages calculated pursuant to subdivisions (a) and (b) shall be provided annually to each school district for use in the school accountability report card.

This statute, as amended by Statutes 1992, chapter 759, was the subject of the original *School Accountability Report Cards* test claim, and was found in the Commission's April 23, 1998 Statement of Decision to impose a mandate for the inclusion of information on "salaries paid to schoolteachers, school site principals, and school district superintendents." Claimant acknowledges in the test claim filing that Education Code section 41409 was amended by Statutes 2001, chapter 734, but that it "made *non-substantive* changes." [Emphasis added.] No new activities were alleged by the claimant, therefore staff finds that Education Code section 41409, as amended by Statutes 2001, chapter 734, does not impose a new program or higher level of service beyond that which was recognized in the prior test claim determination, and does not impose costs mandated by the state.

CONCLUSION

Staff concludes that Education Code sections 33126, 33126.1, and 41409, as added or amended by Statutes 2000, chapter 996, Statutes 2001, chapters 159 and 734, and Statutes 2002, Chapter 1168, do not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, and do not impose costs mandated by the state pursuant to Government Code section 17514. In the case of the claim for costs under Education Code section 33126, as amended by Statutes 1997, chapter 912, the Commission does not have jurisdiction to hear a new claim for reimbursable costs mandated by the state.



2000-01 K-12 EDUCATION FINANCIAL DATA

Average Salaries (2000-01)*			
District Level	Full-Time Teachers	Superintendents	School Site Principals
Common Administration Districts	\$ 55,949	\$ 143,769	\$ 88,311
Elementary Districts	52,097	109,718	81,696
High School Districts	54,783	121,165	91,123
Unified Districts	52,289	121,111	85,324
Statewide Average	52,480	116,434	84,489

* As reported on the 2000-01 Salary and Benefits Schedule for the Certificated Bargaining Unit (Form J-90).

Current Expense Of Education Per Unit Of Average Daily Attendance (2000-01)*			
	Lowest	Highest	State Average
Common Administration Districts	\$ 6,256	\$ 6,792	\$ 6,502
Elementary School Districts	1,889	64,024	6,092
High School Districts	5,516	22,822	6,534
Unified Districts	3,958	18,029	6,412
State Average, All Public Schools			\$ 6,360

* Current expense of education per *Education Code Section 41372* as reported by school districts (Form J-200).

Income for public education, K-12 (2000-01)*		
	Amount	Percent
Property Taxes	\$ 11,784,693,666	21.27%
State Sources	31,392,549,317	56.67%
Federal Sources	4,159,512,909	7.51%
Other Sources	8,059,233,325	14.55%
Total	\$ 55,395,989,217	100.00%

* As reported by the California Department of Education to the National Center for Education Statistics. Includes data reported by local educational agencies (Forms J-200/400/600) and state agencies (State Special Schools, California Youth Authority, Department of Developmental Services, Department of Mental Health).

If you have any questions or need additional information, contact:
Office of Financial Accountability and Information Services at (916) 322-1770

(Updated 10/29/02 Cindy Brooks)

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School Accountability Report Card

School Year 2000-2001

School Information		District Information	
School Name		District Name	
Principal		Superintendent	
Street		Street	
City, State, Zip		City, State, Zip	
Phone Number		Phone Number	
Fax Number		Fax Number	
Web Site		Web Site	
Email Address		Email Address	
Enrollment		SARC Contact	
Grades Served		CDS Code	

School Description and Mission Statement

Opportunities for Parental Involvement

Contact Person Name	Contact Person Phone Number

I. Demographic Information

The percentage of students is the number of students in a racial/ethnic category divided by the school's most recent California Basic Educational Data Systems (CBEDS) total enrollment.

Racial/Ethnic Category	Number of Students	Percentage of Students	Racial/Ethnic Category	Number of Students	Percentage of Students
African-American			Hispanic or Latino		
American Indian or Alaska Native			Pacific Islander		
Asian-American			White (Not Hispanic)		
Fillpino-American			Other		

II. School Safety and Climate for Learning

School Safety Plan

Date of Last Review/Update	Date Last Reviewed with Staff

School Programs and Practices that Promote a Positive Learning Environment

Suspensions and Expulsions

The number of suspensions and expulsions is the total number of incidents. The rate of suspensions and expulsions is the total number of incidents divided by the school's California Basic Educational Data System (CBEDS) total enrollment for the given year. In unified school districts, a comparison between a particular type of school (elementary, middle, high) and district average may be misleading. Schools have the option of comparing their data with the district-wide average for same type of school.

	School			District		
	1999	2000	2001	1999	2000	2001
Suspensions (number)						
Suspensions (rate)						
Expulsions (number)						
Expulsions (rate)						

School Facilities

--

III. Academic Data

Standardized Testing and Reporting (STAR)

Through the Standardized Testing and Reporting (STAR) Program, students in grades 2-11 are tested annually in various subject areas. Currently, the STAR program includes California Standards Tests (CST) in English Language Arts and Mathematics in grades 2-11, and Science and History-Social Science in grades 9-11; and the Stanford Achievement Test, Ninth Edition (Stanford 9), which tests Reading, Language, Mathematics (grades 2-11), Spelling (grades 2-8), and Science and History-Social Science (grades 9-11 only). *Note: To protect student privacy, scores are not shown when the number of students tested is 10 or less.*

California Standards Tests (CST)

The California Standards Tests show how well students are doing in relation to the state content standards. Student scores are reported as performance levels. The five performance levels are Advanced (exceeds state standards), Proficient (meets standards), Basic (approaching standards), Below Basic (below standards), and Far Below Basic (well below standards). Students scoring at the Proficient or Advanced level have met state standards in that content area. *Note: To protect student privacy, scores are not shown when the number of students tested is 10 or less.*

CST - English Language Arts

Percentage of students achieving at the Proficient or Advanced level (meeting or exceeding the state standard)

Grade Level	School			District			State		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									

CST - Subgroups - English Language Arts

Percentage of students achieving at the Proficient or Advanced level (meeting or exceeding the state standard)

Grade Level	Male	Female	English Learners	Not-English Learners	Socioeconomically Disadvantaged	Not Socioeconomically Disadvantaged	Migrant Education Services
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							

CST - Racial/Ethnic Groups - English Language Arts

Percentage of students achieving at the Proficient or Advanced level (meeting or exceeding the state standard)

Grade Level	African-American	American Indian or Alaska Native	Asian-American	Filipino-American	Hispanic or Latino	Pacific Islander	White (Not Hispanic)	Other
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								

Stanford 9

Reading and mathematics results from the Stanford 9 test are reported for each grade level as the percentage of tested students scoring at or above the 50th percentile (the national average). School results are compared to results at the district and state levels. *Note: To protect student privacy, scores are not shown when the number of students tested is 10 or less.*

Stanford 9 - Reading

Percentage of students scoring at or above the 50th percentile:

Grade Level	School			District			State		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									

Stanford 9 - Mathematics

Percentage of students scoring at or above the 50th percentile

Grade Level	School			District			State		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									

Stanford 9 - Subgroups - Reading

Percentage of students scoring at or above the 50th percentile

Grade Level	Male	Female	English Learners	Not-English Learners	Socioeconomically Disadvantaged	Not Socioeconomically Disadvantaged	Migrant Education Services
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							

Stanford 9 - Subgroups - Mathematics

Percentage of students scoring at or above the 50th percentile

Grade Level	Male	Female	English Learners	Not-English Learners	Socioeconomically Disadvantaged	Not Socioeconomically Disadvantaged	Migrant Education Services
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							

Stanford 9 - Racial/Ethnic Groups - Reading

Percentage of students scoring at or above the 50th percentile

Grade Level	African-American	American Indian or Alaska Native	Asian-American	Filipino-American	Hispanic or Latino	Pacific Islander	White (Not Hispanic)	Other
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								

Stanford 9 - Racial/Ethnic Groups - Mathematics

Percentage of students scoring at or above the 50th percentile

Grade Level	African-American	American Indian or Alaska Native	Asian-American	Filipino-American	Hispanic or Latino	Pacific Islander	White (Not Hispanic)	Other
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								

Local Assessment

Percentage of students meeting or exceeding the district standard

Grade Level	Reading			Writing			Mathematics		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
K									
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

California Fitness Test

Percentage of students meeting fitness standards (scoring in the healthy fitness zone on all six fitness standards)

Note: To protect student privacy, scores are not shown when the number of students tested is 10 or less.

Grade Level	School			District			State		
	Total	Female	Male	Total	Female	Male	Total	Female	Male
5									
7									
9									

SAT I

The SAT I Reasoning Test, formerly known as the Scholastic Assessment Test, is one of the tests available from The College Board that students voluntarily take for college entrance. The SAT I is designed to assess many of the skills that are important to a student's success in college. The test may or may not be available to students at a given school. Students may take the test more than once, but only the highest score is reported at the year of graduation.

	School			District			State		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
Grade 12 Enrollment									
Percentage of Grade 12 Enrollment Taking Test									
Average Verbal Score									
Average Math Score									

Academic Performance Index (API)

The **Academic Performance Index (API)** is a score on a scale of 200 to 1000 that annually measures the academic performance and progress of individual schools in California. On an interim basis, the state has set 800 as the API score that schools should strive to meet.

Growth Targets: The annual growth target for a school is 5% of the distance between its base API and 800. Actual growth is the number of API points a school gained between its base and growth years. Schools that reach their annual targets are eligible for monetary awards. Schools that do not meet their targets and have a statewide API rank of one to three are eligible to participate in the Immediate Intervention/Underperforming Schools Program (II/USP), which provides resources to schools to improve their academic achievement.

Subgroup APIs and Targets: In addition to a whole-school API, schools also receive API scores for each numerically significant racial/ethnic and socioeconomically disadvantaged subgroup in the school. Growth targets are also set for each of the subgroups. Each subgroup must also meet its target for the school to be identified as having met its target.

Percentage Tested: In order to be eligible for awards, elementary and middle schools must have at least 95% of their students in grades 2-8 tested in STAR. High schools must have at least 90% of their students in grades 9-11 tested.

Statewide Rank: Schools receiving an API score are ranked in ten categories of equal size (deciles) from one (lowest) to ten (highest), according to type of school (elementary, middle, or high school).

Similar Schools Rank: This is a comparison of each school with 100 other schools with similar demographic characteristics. Each set of 100 schools is ranked by API score from one (lowest) to ten (highest) to indicate how well the school performed compared to schools most like it.

API criteria are subject to change as new legislation is enacted into law. More detailed and current information about the API and public school accountability in California can be found at the California Department of Education website at <http://apl.cde.ca.gov/> or by speaking with the school principal.

School Wide API

	API Base Data				API Growth Data		
	1999	2000	2001		From 1999 to 2000	From 2000 to 2001	From 2001 to 2002
Percentage Tested				Percentage Tested			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
Statewide Rank				Eligible for Awards			
Similar Schools Rank				Eligible for II/USP			

API Subgroups – Racial/Ethnic Groups

API Base Data				API Growth Data			
	1999	2000	2001		From 1999 to 2000	From 2000 to 2001	From 2001 to 2002
African-American				African-American			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
American Indian or Alaska Native				American Indian or Alaska Native			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
Asian-American				Asian-American			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
Filipino-American				Filipino-American			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
Hispanic or Latino				Hispanic or Latino			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
Pacific Islander				Pacific Islander			
Base API Score				API Growth Score			
Growth Target				Actual Growth			
White (Not Hispanic)				White (Not Hispanic)			
Base API Score				API Growth Score			
Growth Target				Actual Growth			

API Subgroups - Socioeconomically Disadvantaged

API Base Data				API Growth Data			
	1999	2000	2001		From 1999 to 2000	From 2000 to 2001	From 2001 to 2002
Base API Score				API Growth Score			
Growth Target				Actual Growth			

IV. School Completion (Secondary Schools)

California High School Exit Exam (CAHSEE)

Beginning with the graduating class of 2004, students in California public schools will have to pass the California High School Exit Exam to receive a high school diploma. The School Accountability Report Card for that year will report the percentage of students completing grade 12 who successfully complete the California High School Exit Exam.

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Dropout Rate and Graduation Rate

Data reported regarding progress over the most recent three-year period toward reducing dropout rates includes: grade 9-12 enrollment, the number of dropouts, and the one-year dropout rate listed in the California Basic Educational Data System (CBEDS). The formula for the one-year dropout rate is (Grades 9-12 Dropouts/Grades 9-12 Enrollment) multiplied by 100. Graduation rate data will be reported after the California State Board of Education approves a graduation rate formula.

	School			District			State		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
Enrollment (9-12)									
Number of Dropouts									
Dropout Rate									

V. Class Size

Average Class Size and Class Size Distribution

Data reported are the average class size and the number of classrooms for each range of students, by grade level as reported by CBEDS

Grade Level	1999			2000			2001					
	Avg	1-20	21-32	33+	Avg	1-20	21-32	33+	Avg	1-20	21-32	33+
K												
1												
2												
3												
4												
5												
6												
K-3												
3-4												
4-8												
Other												

Average Teaching Load and Teaching Load Distribution

Data reported are the average class size and the number of classrooms for each range of students, by subject area as reported by CBEDS

Subject	1999			2000			2001					
	Avg	1-22	23-32	33+	Avg	1-22	23-32	33+	Avg	1-22	23-32	33+
English												
Mathematics												
Science												
Social Science												

Class Size Reduction

California's K-3 Class Size Reduction program began in 1996 for children in kindergarten and grades one through three. Funding is provided to participating school districts to decrease the size of K-3 classes to 20 or fewer students per certificated teacher.

Grade Level	Percentage of Pupils Participating		
	1999	2000	2001
K			
1			
2			
3			

VI. Teacher and Staff Information

Teacher Credential Information

Part-time teachers are counted as '1'. If a teacher works at two schools, he/she is only counted at one school. Data are not available for teachers with a full credential and teaching outside his/her subject area.

	1999	2000	2001
Total Number of Teachers			
Full Credential (fully credentialed and teaching in subject area)			
Teaching Outside Subject Area (fully credentialed but teaching outside subject area)			
Emergency Credential (includes District Internship, University Internship, Pre-interns and Emergency Permits)			
Teachers with Waivers (does not have credential and does not qualify for an Emergency Permit)			

Teacher Evaluations

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Substitute Teachers

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Counselors and Other Support Staff

Data reported are in units of full-time equivalents (FTE). One FTE is defined as a staff person who is working 100% full time. Two staff persons working 50% of full time also equals one FTE.

Title	FTE
Counselor	
Librarian	
Psychologist	
Social Worker	
Nurse	
Speech/Language/Hearing Specialist	
Resource Specialist (non-teaching)	
Other	

Academic Counselors

Data reported are in units of full-time equivalents (FTE). One FTE is defined as a staff person who is working 100% of full time. Two staff persons working 50% of full time also equals one FTE. The ratio of pupils per academic counselor is enrollment as reported in the most recent California Basic Educational Data System (CBEDS) data collection divided by the number of academic counselors.

Number of Academic Counselors (FTE)	Ratio of Pupils per Academic Counselor

VII. Curriculum and Instruction

School Instruction and Leadership

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Professional Development

--

Quality and Currency of Textbooks and Other Instructional Materials

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Instructional Minutes (School Year 2000-2001)

The California Education Code establishes a required number of minutes per year for each grade. The table below compares the number of instructional minutes offered at the school level to the state requirement for each grade.

Grade Level	Instructional Minutes Offered	State Requirement
K		36,000
1		50,400
2		50,400
3		50,400
4		54,000
5		54,000
6		54,000
7		54,000
8		54,000
9		64,800
10		64,800
11		64,800
12		64,800

Total Number of Minimum Days

--

VIII. Post-Secondary Preparation (Secondary Schools)

Advanced Placement/ International Baccalaureate Courses Offered

The Advanced Placement (AP) and International Baccalaureate (IB) programs give students an opportunity to take college-level courses and exams while still in high school. The table below shows the number of classes offered and the enrollment in various AP and IB classes. The data for Fine and Performing Arts includes AP Art and AP Music, and the data for Social Science includes IB Humanities.

Subject	Number of Classes	Enrollment
Fine and Performing Arts		
Computer Science		
English		
Foreign Language		
Mathematics		
Science		
Social Science		

Percentage of Pupils Enrolled in Courses Required for University of California (UC) and California State University (CSU) Admission

The percentage of pupils enrolled in courses required for UC and/or CSU admission is calculated by dividing the total number of pupils in courses required for UC and/or UC admission (duplicated count) by the total number of pupils in all courses (also a duplicated count) for the most recent year.

Number of Pupils Enrolled in all Courses (Grades 9-12)	Number of Pupils Enrolled in Courses Required for UC and/or CSU Admission	Percentage of Pupils Enrolled in Courses Required for UC and/or CSU Admission

Percentage of Graduates Who Have Passed Course Requirements for University of California (UC) and California State University (CSU) Admission

The percentage of graduates is the number of graduates who have passed course requirements for UC and/or CSU admission divided by the school's California Basic Educational Data Systems (CBEDS) total graduates for the most recent year.

Number of Graduates	Number of Graduates Who Have Passed Course Requirements for UC and/or CSU Admission	Percentage of Graduates Who Have Passed Course Requirements for UC and/or CSU Admission

College Admission Test Preparation Course Program

Degree to Which Students Are Prepared to Enter Workforce

IX. Fiscal and Expenditure Data

Average Salaries (Fiscal Year 1999-2000)

Average Salary uses the statewide data category used for comparison by type and size of district (from Management Bulletin 01-02)

	District	State
Beginning Teacher Salary		
Mid-Range Teacher Salary		
Highest Teacher Salary		
Average Principal Salary		
Superintendent Salary		
Percentage of Budget for Teachers' Salaries		
Percentage of Budget for Administrative Payrolls		

Additional Compensation for Administrators

Expenditures (Fiscal Year 1999-2000)

District	State Average For Districts in Same Category	State Average All Districts
Total Dollars	Dollars per Student (ADA)	Dollars per Student (ADA)

Types of Services Funded

Commission on State Mandates

Original List Date: 3/21/2001

Mailing Information: Draft Staff Analysis

Last Updated: 9/8/2003

List Print Date: 10/07/2003

Mailing List

Claim Number: 00-TC-09

Issue: School Accountability Report Cards II and III

Related Matter(s)

02-TC-32

School Accountability Report Card III

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Schools Mandate Group

a JPA Dedicated to Making the State Accountable to You

EXHIBIT L

October 27, 2003

RECEIVED

OCT 30 2003

COMMISSION ON
STATE MANDATES

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: **Comments on Draft Staff Analysis**
School Accountability Report Cards II, 00-TC-09, 00-TC-13

Dear Paula:

On October 7, 2003, your office issued its draft staff analysis on the *School Accountability Report Cards II and III* ("SARC II") test claims. In the analysis, staff finds that the test claim legislation does not impose any new activities upon school districts as the claimed activities are "subsumed" under Proposition 98 and school districts have funding available to cover the costs of the SARC activities. Moreover, the analysis finds that the claimant should be estopped from claiming an activity that was subject to the SARC I test claim. The claimant disagrees with all aspects of the analysis as outlined below.

I. GOVERNMENT CODE 17521 DOES NOT PRECLUDE CLAIMING ADDITIONAL ACTIVITIES BASED UPON A PREVIOUSLY APPROVED STATUTE.

On page 7 of the draft staff analysis, staff contends that the claimant is estopped from seeking an additional activity related to the preparation of a SARC since the activity stemmed from a prior test claim. Specifically, staff states that the doctrine of collateral estoppel prevents the relitigating of an issue that was previously resolved. The claimant finds staff's application of collateral estoppel in this case is in error.

The theory of collateral estoppel, or res judicata, would apply to those instances where the Commission has denied a statute finding that it does not impose reimbursable state-mandated activities. The issue here is about an additional activity that should have been claimed but was not. The principles behind collateral estoppel are not violated in this instance as the Commission is not rehearing the threshold issue - whether the underlying statute imposes reimbursable state-mandated activities upon school districts. Indeed, the Commission found that the SARC I test claim legislation imposed reimbursable state-mandated activities upon school districts. The Commission is only deciding if an additional activity, clearly mandated by the state, should have been included in the original claim.

Staff goes on to comment that the test claim process "provides adequate due process to the entire claimant community." Staff's statement is only partially correct. In reality, the test claim process provides adequate due process for the claimants currently represented before the

Commission – a number, on average, that is hardly significant to ensure all districts are informed and their interests protected. In fact, the SARC I mail list included only 4 districts, which represents only 0.004% of the districts statewide. In *People v. Simms*, the California Supreme Court upheld the use of collateral estoppel in administrative settings when parties had adequate opportunity to litigate.¹ However, there is little evidence that all school districts have proper notice of the actions taken by the Commission or the claims filed by other districts.

Regardless, the claimant was operating under instructions issued by the Commission on State Mandates in its proposed parameters and guidelines. Item 5 on the August 1998 Commission hearing agenda was the proposed parameters and guidelines for SARC I. On page four of the Executive Summary, Commission staff, in response to comments filed by an interested party requesting this activity be included in the parameters and guidelines, stated:

“Claimants and interested parties may wish to consider filing a test claim on Education Code section 33126, subdivision (c), as added by Chapter 912, Statutes of 1997.”

Claimants have considered and filed such an amendment at the direction of Commission staff to only now be told that they are prevented from raising this issue via res judicata. The claimants contend that the direction given by Commission staff in 1998 and the position taken by Commission staff now is confusing. While no doubt it will be staff's contention that statements, decisions, or findings of the Commission or its staff have no precedential value, at some point there needs to be continuity within the mandate decision-making process.

Based on the foregoing, the claimant requests that Commission staff reconsider its position and find that the claimant is not estopped from raising this issue as the important, underlying issue of whether Statutes of 1997, Chapter 912 imposes reimbursable state-mandated activities upon school districts as already been addressed. The claimant is simply asking for the Commission to recognize an activity, missed in the original test claim filing, is reimbursable consistent with its previous decision.

II. LUCIA MAR IS CONTROLLING AND STAFF'S "NO MANDATE THROUGH IMPLICATION" OR ACTIVITIES BEING "SUBSUMED" ARGUMENTS ARE UNSUPPORTED.

The draft staff analysis is in error when it finds that none of the claimed activities imposed a higher level of service upon school districts when compared to the requirements in place immediately before the enactment of the test claim legislation. Moreover, the draft staff analysis introduces two new legal arguments for denying test claim activities that have no support in either mandates law or the Government Code – (1) denial of activities through “implication” and (2) denial of activities based upon the activities being “subsumed” within other activities.

Staff applies the wrong legal analysis when it makes statements such as, “this requirement implies . . .”, “these requirements subsume . . .”, “fulfills the purpose . . .”, and “is

¹ *People v. Simms* (1982) 32 Cal.3d 468, 479.

within the Proposition 98 requirement. . . . None of these statements represent the proper legal analysis that must be performed when attempting to determine whether the claimed activities impose a higher level of service upon school districts. In fact, the draft staff analysis fails to apply or even cite to the applicable case law that has been used for years when determining if activities represent a higher level of service - *Lucia Mar*.

Immediately before the test claim legislation was enacted school districts were performing activities related to the preparation of a SARC. The Commission previously found that thirteen new activities imposed upon school districts are reimbursable state-mandate activities in the SARC I test claim. Since that time, the Legislature has amended the original test claim legislation adding numerous activities school districts were not performing under the original SARC I legislation. For staff to state, without any declarations or practical experience with gathering the data and preparing a SARC, that almost all of the claimed activities are subsumed under the Proposition 98 requirements is absurd.

There is no legal support for any of the conclusions outlined on pages 12 and 13 of the draft staff analysis. The proper legal analysis provides the opposite conclusion that clearly school districts were not performing the claimed activities before the enactment of the test claim legislation. Moreover, staff's arguments concerning activities being "subsumed" is not proper for determining whether the claimed activities represent a higher level of service. Rather, staff's new "subsumed" and "no mandate by implication" arguments fit better in the analysis concerning whether there are costs mandated by the state.

In order for staff's analysis and conclusions to be correct under a higher level of service discussion, staff must make an *affirmative finding* that school districts were engaging in the claimed activities before the enactment of the test claim legislation. Staff fails to provide any evidence that school districts were engaging in these activities other than staff's belief that these activities are somehow "subsumed" under the previous Proposition 98 requirements. It is absurd to state that school districts are not engaging in additional activities not previously required under the test claim legislation. While it may appear to staff that some of the new requirements can fit under the original Proposition 98 sections, school districts were *never tracking or reporting on these specific pieces of information*. The reason why this information was never included in the original SARC test claim is because *school districts were not required to report on these types of information*. As such, there can be no showing by staff that the test claim legislation does not impose a higher level of service upon school districts.

In addition, why would the Legislature go to such lengths to specifically delineate over a dozen new pieces of information that must be in a SARC if this information was somehow already required to be reported? The clear answer is that it was never contemplated by the voters of Proposition 98 or the Legislature. In fact, many of the new pieces of information that must be included in the SARC are related to programs not even in existence when Proposition 98 was enacted. Interesting that staff argues that these pieces are somehow "subsumed" when the program did not even exist at the time the original activities for the SARC was created.

On page 11 of the draft staff analysis, staff states that:

"The voters also required the state to develop a model report card and, pursuant to Education Code section 35256, required schools to periodically compare their [SARC] with the statewide model. This requirement implies that the precise details of the model report card are subject to change as education programs change, and that schools are required to make modifications as necessary."

This statement fails to support staff's ultimate conclusion that the activities outlined in the test claim legislation impose a higher level of service upon school districts. The draft staff analysis at page 11 is supposed to be making the determination of whether the claimed activities represent a higher level of service imposed upon school districts. The fact that schools must periodically compare their SARC to the state model does little to diminish the fact that the test claim legislation imposes additional activities upon school districts when compared to the requirements outlined in SARC I. The claimants are not claiming activities related to the periodic comparison of their SARC to the state model, which is the only way staff's statement above would be germane to the analysis. Rather, the claimant is seeking the additional activities outlined in the test claim legislation. However, this statement may be applicable in determining whether there are costs mandated by the state and whether Government Code section 17556, subdivision (f), is applicable.²

Regardless, there is no legal support in case law for staff's new "denial of activities through implication" argument. The Commission's decisions regarding the approval or denial of test claims and their resultant activities must be based on more than a mere implication. When the Commission decides to deny test claim activities, there must be an affirmative showing that the claimed activities are not new or that they are not a higher level of service. For example, before the enactment of the test claim legislation school districts were not providing STAR data, API rankings, or high school exit examination passage rates in their SARCs. It is irrelevant to the analysis that these bits of information may fall under a previously required section since there is no evidence that districts were required to report on these specific pieces of information. Overall, the draft staff analysis fails to provide an affirmative showing that the claimed activities are not a higher level of service by showing that school districts were actively engaging in the claimed activities before the enactment of the test claim legislation.³

On page 12 of the draft staff analysis, staff cite to Education Code section 33126, which provides;

"The model [SARC] shall include, *but is not limited to*, assessment of the following school conditions. . . ." (Emphasis in original.)

The draft staff analysis then goes into a discussion of how the newly required activities are somehow "subsumed" under the previous requirements based on the verbiage "but is not

² Staff makes no attempt to apply Government Code section 17556, subdivision (f), to this test claim as such an analysis would be futile. Clearly the claimed activities were not expressly included in Proposition 98.

³ Interesting how staff waivers between a strict interpretation and application of the plain meaning rule in some claims and a more lax approach here. Either the test claim legislation imposes activities school districts were not engaging in before its enactment or it does not. There is no legal basis for staff's new "implication" argument, which runs counter to past analyses and clearly attempts to read activities into prior law that are not there on its face.

limited to." While staff places this argument in its "higher level of service" section of the test claim, this placement is in error as there is absolutely no evidence to support staff's conclusion that the claimed activities do not represent a higher level of service. In fact the very nature of the statement, "but is not limited to" as it stems from Proposition 98, lends itself better to an analysis under section 17556, subdivision (f), as a claim that the activities stem from a Proposition. Otherwise, the analysis is teetering on the assumption that the language, "but is not limited to," somehow negates the fact that the Legislature enacted additional requirements upon school districts based on some kind of legislative mandate immunity.

While Education Code section 33126 provides that the SARC is not limited to the original activities listed, this does not negate the fact that the Legislature added items to the SARC list that in turn require school districts to engage in a higher level of service when compared to the previously required level of service. It is entirely irrelevant that section 33126 makes such a statement since the legal analysis that must be performed must take into account the state of affairs immediately before the enactment of the test claim legislation. In fact, all that section 33126 really means is that the Legislature will impose mandated activities upon school districts since the Legislature retains the ability to add items to the SARC.

Based on the foregoing, the claimant requests Commission staff find that the test claim legislation imposes a higher level of service upon school districts for the newly required SARC items as districts were clearly not engaged in these activities before the enactment of the test claim legislation.

III. STAFF MISAPPLIED THE *DEPARTMENT OF FINANCE* CASE AND STAFF'S FUNDING SOURCE ARGUMENT IS MISPLACED.

The *Department of Finance* case cited by staff for the proposition that school districts must now claim that general fund monies, and funds from sources other than property tax revenue, are unavailable to pay for mandate activities is an attempt to expand the holding of the case and is a clear misreading of Proposition 98.⁴ The *Department of Finance* case dealt with a program that was specifically funded by the state. The quote provided by staff on pages 14 and 15 of the staff analysis is simply a restatement of the Government Code section 17556, subdivision (e), exception to reimbursement.

Government Code section 17556, subdivision (e), provides that the Commission shall not find costs mandated by the state if the Commission finds that:

"The statute or executive order provides for offsetting savings . . . or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate."
(Emphasis added.)

The statement by the Supreme Court regarding funds sufficient to cover the costs of the Chacon-Mosccone Bilingual Bicultural Education program ("CMBBE") is a restatement of

⁴ *Department of Finance v. Commission on State Mandates* (2003)30 Cal.4th 727.

section 17556, subdivision (e). Arguably, the CMBBE program would fall under section 17556, subdivision (e), as funding was specifically provided for it by the state. In comparison, there is no evidence that the state has provided revenue to specifically fund the costs associated with the preparation of a SARC. As stated above, there is no support for this conclusion in Proposition 98 as this was not the intent behind the Proposition 98 funding guarantee.

In addition, the *Department of Finance* case is inapplicable here as it deals with school districts choosing to participate in a program and seek revenue that would cover the costs associated with the program. The Court found that under that fact pattern school districts could not claim costs associated with the program because the state already provided the necessary funding. The Court stated nothing more than the limitation outlined in Government Code section 17556, subdivision (e). Here, school districts have no choice concerning the preparation of SARCs and there is no evidence that Proposition 98 or the Education Code provides revenue specifically intended for the SARC program in an amount that covers the costs of the program.

Moreover, it is clear staff is misreading the *Department of Finance* case since such a wide-sweeping statement would surely be addressed in greater detail. The draft staff analysis provides that general fund monies must first be used to cover the SARC activities before other programs and cites the *Department of Finance* case as support. Clearly, this was not intended by the Court since such a reading would erase all current mandate programs and any future mandates. Which is a more logical reading of the paragraph quoted in the draft staff analysis? That the Court intended to state that any funds received by schools must be applied to mandate programs or that funds that are specifically earmarked for a program, and that cover the entire costs of that program, must be applied (a simple restatement of the current Government Code section 17556(e).)?

There is no doubt that the Court intended to restate the Government Code section 17556, subdivision (e), exception to reimbursement and not expand that section to include all general fund revenue received by school districts. Since there is no evidence that Proposition 98 is a funding source for school districts, the opposite is true – it is simply a funding floor and provides how the calculations shall be made leaving appropriations to the budget; there is no way that staff should even attempt to expand the *Department of Finance* holding in such a way.

It appears staff does not understand the purpose behind Proposition 98 when in the draft staff analysis staff states that the funding guarantee was in some way an exchange for the SARC requirements and that funds then would flow to cover the costs of preparing the SARC. Proposition 98, by itself, did not provide a funding source for school districts as stated by staff in its analysis. To the contrary, all that Proposition 98 was intended to do, with regards to funding sources, is to provide a funding floor to which the state is bound to follow in future budget appropriations. Furthermore, there is no evidence of an “exchange” as cited by staff. The purpose behind Proposition 98 was to provide funding to school districts at a level to ensure success and to implement new programs to aid in accountability.

For staff to state that the Proposition 98 funding guarantee was “in exchange” for school districts preparing a SARC is ridiculous. There is no evidence from Proposition 98 that SARCs were to be funded by any specific source. The draft staff analysis jumps to the conclusion that

since the SARC is part of Proposition 98, that a specific funding source must be expended to prepare a SARC. The purpose of including SARCs in Proposition 98 was not to tie general funds to SARCs, but to:

“[E]nsure that our schools spend money where it is most needed. Therefore, this Act will require every local school board to prepare a School Accountability Report Card to guarantee accountability for the dollars spent.”⁵

The Act then went on to detail the new funding floor and other statewide requirements. However, there is no statement that SARCs are to be funded from a specific source as claimed in the draft staff analysis.

Assuming arguendo, that staff's interpretation of the *Department of Finance* case is correct, that the Court intended to include all funding sources and that Proposition 98 actually appropriated revenue to school districts, it is clear that the newly required SARC activities have impacted school districts' property tax revenues. On pages 14 and 15 of the draft staff analysis, staff contend that school districts must make an affirmative showing that property tax revenue is impacted by the enactment of the test claim legislation and the resultant higher level of service imposed upon school districts. Staff cites to several cases to provide support for this proposition. Moreover, staff contends that “in exchange for this constitutional guarantee of funding, the voters also required schools to undergo an annual audit and to issue an annual [SARC].”

There is a simple misunderstanding concerning school funding that staff seems to be engaging in. First, if the state imposes additional activities upon school districts, there is obviously going to be an impact on the district's property tax revenues. To put it simply, there is no way that school districts can do more with the same amount of money without an impact felt at some level. As such, *any new activity or higher level of service* has a real, direct impact on a district's property tax revenue as resources must be reallocated to cover the new program or higher level of service. As such, the claimant disagrees with staff's statement on page 15 that a school district claimant must provide an affirmative showing that certain funds are not available.⁶ Rather, the focus is on the impact the mandate has on tax revenue.

Attached to this letter is a declaration from the claimant stating that by being required by the Legislature to engage in the higher level of service related to the new SARC activities, the test claim legislation has impacted the district's property tax revenue. In essence, the claimant, and all school districts, are being required to engage in additional activities, without the provision of additional funding. Common sense dictates the conclusion that the additional activities imposed upon school districts by the test claim legislation will have a negative impact on property tax revenue as reallocation of resources is required.⁷

⁵ Proposition 98.

⁶ The claimant would agree with this statement in those cases where the Government Code section 17556, subdivision (e), exception to reimbursement is applicable. However, there is no evidence that this section is applicable to this test claim.

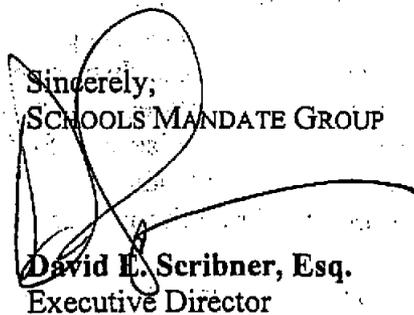
⁷ In fact, the new SARC requirements have a negative impact on all general fund sources as districts must cope with additional activities imposed upon them without additional funding.

Based on the foregoing, the claimant requests that Commission staff review the *Department of Finance* case consistent with the Government Code, acknowledge that Proposition 98 was not a funding source and no "exchange" was contemplated by the electorate, and that all un-funded mandates have a direct impact on property tax revenue as reallocation of resources is always required. Therefore, the claimant requests that the staff analysis be revised finding that the test claim legislation imposes reimbursable state-mandated activities upon school districts consistent with those items listed in the test claim.

* * *

Attached to these comments is the claimant's request to add the Schools Mandate Group as a co-claimant and to designate it as the lead claimant. A copy of the request is being sent to the mail list along with this letter. If you have any questions or comments concerning this letter or the co-claimant authorization, please feel free to contact me at (916) 444-7260.

Sincerely,
SCHOOLS MANDATE GROUP



David E. Scribner, Esq.
Executive Director

Donald R. Kiger, Business Manager (CBO)
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Modesto, California 95357
Telephone: (209) 521-2800
Facsimile: (209) 526-6421

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM OF:

Empire Union

CSM No. 00-TC-09, 00-TC-13

DECLARATION OF DONALD R. KIGER

School Accountability Report Cards II

I, Donald R. Kiger, make the following declaration and statement. As Empire Union's (claimant's) Business Manager, I have knowledge of its policies and procedures for completing school accountability report cards. I am familiar with the provisions and requirements of Statutes of 2000, Chapter 996 (Chapter 996). The claimant must include those items listed in Education Code section 33126 in its school accountability report cards to comply with the requirements outlined in Chapter 996.

I am informed and believe that before the test claim legislation, there was no responsibility for the claimant to engage in the activities set forth in the test claim. Moreover, the impact of including this information in the new SARC has dramatically affected the District's property tax revenues as reallocation of resources is required to ensure the District meets the state-mandated requirements. It is estimated that the claimant will/has incurred significantly

School Accountability Report Cards II

more than \$1000.00 to implement these new activities mandated by the state for which the claimant has not been reimbursed by any federal, state, or local agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

Executed on October 28, 2003 at Modesto, California, by:


DONALD R. KIGER,
BUSINESS MANAGER (CBO)

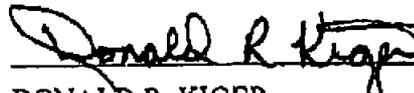
Authorization to Add the Schools Mandate Group as a Co-Claimant
and Designating it as Lead Claimant

School Accountability Report Card II

I, Donald R. Kiger, Business Manager (CBO), hereby request that the Schools Mandate Group be added as a co-claimant to the *School Accountability Report Card II* test claim and be designated lead claimant. All correspondence and communications regarding this Test Claim should be forwarded to:

Schools Mandate Group
David E. Scribner, Executive Director
One Capitol Mall, Suite 200
Sacramento, California 95814
Telephone: (916) 444-7260
Facsimile: (916) 444-7261

Dated: 10-27-2003


DONALD R. KIGER,
BUSINESS MANAGER (CBO)

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<p>Mr. Steve Smith MCS/ed 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670</p>	<p>Ms. Beth Hunter Centration, Inc. 8316 Red Oak Street, Suite 101 Rancho Cucamonga, CA 91730</p>
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<p>Ms. Harmeet Barkschat Mandate Resource Services 5325 Elkhorn Boulevard, Suite 307 Sacramento, CA 95842</p>	<p>Ms. Susan Geanacou Department of Finance 915 L Street, Suite 1190 Sacramento, CA 95814</p>
<p>Mr. Michael D. Lingo Bakersfield City School District 1300 Baker Street Bakersfield, CA 93305</p>	<p>Mr. Lawrence L. Hendee Sweetwater Union High School District 1130 Fifth Avenue Chula Vista, CA 91911</p>
<p>Ms. Paula Higashi Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814</p>	

SWEETWATER UNION HIGH SCHOOL DISTRICT

MANDATED COSTS
 1130 FIFTH AVENUE
 CHULA VISTA, CA 91911-2896
 (619) 585-4450

November 15, 2003

Paula Higashi, Executive Director
 Commission on State Mandates
 980 Ninth Street Suite 300
 Sacramento CA 95814

RECEIVED

NOV 17 2003

**COMMISSION ON
STATE MANDATES**

Dear Ms. Higashi,

RE: Test Claim of Sweetwater Union High School District and Bakersfield City School District Statutes 1997, Chapter 912, Statutes 2000, Chapter 996, Statutes 2001, Chapters 159 & 734, and Statutes of 1977, Chapter 1168
School Accountability Report Cards II and III, 00-TC-09, 00-TC-13, and 02-TC-32

On October 7, 2003, the staff analysis for this test claim was issued. Due to the San Diego County Firestorm, I was unable to complete and submit the responses to the staff analysis in a timely manner. I did request, however, in a Fax dated October 26, 2003, an extension of time to file. Your staff responded that because my request was not a formal request, an extension could not be granted. They explained that if my responses were received prior to the completion of the final analysis the responses would be included, and that the commission would receive the responses regardless of whether or not they were included in the final analysis.

The Sweetwater Union High School District, a co-claimant, disagrees with the conclusions reached by the Commission staff.

After reviewing the original SARC Test Claim, submitted on or about December 30, 1997, the Commission's Statement of Decision, issued on or about April 23, 1998, and as a co-claimant on the original test claim, I am convinced that the issues of (1) ensuring that all parents receive a copy of the SARC and (2) making administrators and teachers available to answer any questions regarding the SARC were overlooked and not included in the original submission, and therefore were neither approved or denied by the commission.

There is no disagreement with the fact that the voters did approve Proposition 98 in 1988, however, claimant totally disagrees with staffs interpretation of what was included in Proposition 98.

Government Code section 17556 stipulates that "The commission shall not find costs mandated by the state...if, after a hearing, the commission finds that: (f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election." Claimant asserts that there were thirteen specific items to be reported that the voters agreed should be included in the SARC, plus the requirement to develop a model SARC. Claimant believes that those requirements represent the totality of what the public wanted to see. Further, since most people can not foresee the future, claimant contends that the issues addressed in this test claim were not even a glimmer in some legislators eye at the time that Proposition 98 was approved by the voters. Thusly claimant contends that neither the voters through Proposition 98 or the Government Code have provided any state department or

Paula Higashi
 Commission on State Mandates
 School Accountability Report Cards II and III
 Page 2 of 3

commission with the right to make interpretations about what activities required today might fit into the meaning of what is very plainly written in Proposition 98 and/or the Government Code.

Claimant alleges that to conclude that the specific Proposition 98 statements (1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals, and (13) "Quality of school instruction and leadership" are the same as reporting on "Pupil achievement by grade level, as measured by the Standardized testing and reporting programs", "Number of advanced courses offered", ... "the rate of pupils who earned a Governor's scholarship award" are the same, represents a monumental interpretation and in the claimants opinion has lead to an incorrect conclusion. First, prior to and subsequent to the SARC and until a time subsequent to the implementation of the Standardized Testing process, student achievement was reported as district wide percentile ranks. Second, there has never been requirements to report the number of advanced courses offered or the rate of pupils earning a Governor's Scholarship award until the requirements were imposed through the legislative process.

Further claimant disagrees that the inclusion of statewide drop rates has any relationship to (2) Progress toward reducing dropout rates. Statewide rates are simply that. Showing "progress toward reducing drop-out rates" is a comparison of what each individual school dropout rate is and has been, and then determining if a school has done better or worse.

Claimant also disagrees with staff's determination that reporting the ratio of textbooks per pupil has any relationship to (9) ...adequacy of school facilities, (11) ...climate for learning or (13) quality of school instruction. (9) ... adequacy of school facilities is directly related to buildings and grounds, (11) ...climate for learning is directly related to the classroom setting and discipline, and (13) quality of school instruction is directly related to the quality of the instructional and leadership staff.

Claimant does not agree with staff's determination that (1) including "contact information pertaining to any organized opportunities for parental involvement" is "minimal information," or (2) it does not rise to the level of a reimbursable "higher level of service". Claimant alleges that this requirement is not simply the "additional of a few lines to the existing school accountability report card," but instead imposes a higher level of service upon staff members who must determine what organized opportunities for parental involvement are available and then discover who the contact is.

In Addition, no matter how "minimal", someone away from the tasks to be performed, might presume a state mandated activity to be, the State Constitution still requires that the mandate be funded. That issue would seem to have been settled as a direct result of the following question posed by San Diego Unified School District in a letter dated November 27, 1990. The question posed was "Do local agencies or school districts incur reimbursable costs when their existing staff perform state mandated duties as part of their normal workday, when those duties result from a new program or higher level of service in an existing program?"

The State Commission on Mandates responded in a memorandum dated June 3, 1991 that "At its May 30, 1991 hearing, the Commission on State Mandates reviewed the issue of providing reimbursement for labor cost. After discussion, the Commission decided to continue its longstanding interpretation of mandate law by requiring a finding of fact that a local entity can incur increased labor costs before reimbursement is provided for those costs. It was further

Paula Higashi
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stated that "This decision should be reviewed in conjunction with the Commission's January 28, 1991 decision to continue to provide reimbursement for the employee time spent performing state mandated duties for those employees in a nonfixed environment, when the employee time can be properly identified, using accepted accounting practices."

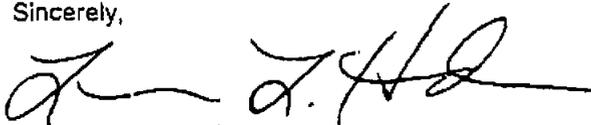
Claimant agrees that training is not specifically referred to in the legislation, however, the California Safe School Assessment process is a reasonable example of what happens when definitions developed by others are distributed without training, and those who did not receive any training are then left to determine what the definitions are going to be.

Claimant disagrees with the staff position on providing evidence that state funds and/or property tax revenue is unavailable for the alleged additional costs. The imposition of a mandate upon an entity will always create a lack of funding simply because entities do not have personnel sitting around waiting for mandates to be imposed. District personnel are hired to perform specific tasks required by the district.

Claimant requests that the staff analysis be reviewed and revised to reflect the interpretation of the provisions of the State Constitution which provides for reimbursement of costs when legislation is adopted that imposes a higher level of service than the level of service that existed prior to the adopting of the new legislation.

Thank you for assisting in this matter.

Sincerely,



Lawrence L. Hendee
Coordinator Mandated Costs

COMMISSION ON STATE MANDATES

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March 4, 2004

Mr. David Scribner
 Schools Mandate Group, JPA
 One Capitol Mall, Suite 200
 Sacramento, CA 95814

Mr. Donald R. Kiger, Business Manager (CBO)
 Empire Union School District
 116 N. McClure Road
 Modesto, CA 95357

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: **Claimant's Request to Amend Test Claim to Add Schools Mandate Group as Co-Claimant and Lead Claimant**
School Accountability Report Cards II and III, 00-TC-09, 00-TC-13 and 02-TC-32
 Empire Union Unified School District, Sweetwater Union High School District and
 Bakersfield City School District, Claimants
 Education Code Sections 33126, 33126.1, and 41409
 Statutes 1997, Chapter 912; Statutes 2000, Chapter 996; Statutes 2001, Chapters 159
 and 734; and Statutes 2002, Chapter 1168

Dear Mr. Scribner and Mr. Kiger:

On October 29, 2003, as part of comments on the draft staff analysis, the Commission received a request from claimant, Empire Union School District, to amend this test claim to add the Schools Mandate Group as a co-claimant and to designate the Schools Mandate Group as the lead claimant. The claimant's request to amend the test claim is denied. As described below, the Schools Mandate Group is not an eligible claimant for purposes of reimbursement under article XIII B, section 6 of the California Constitution and Government Code section 17500 et seq.

The Schools Mandate Group is a joint powers authority established pursuant to the Joint Exercise of Powers Act ("Act") in Government Code section 6500 et seq.¹ Under the Act, school districts and local agencies are authorized to enter into agreements to "jointly exercise any power common to the contracting parties."² The entity provided to administer or execute the agreement (in this case the Schools Mandate Group) may be a firm or corporation, including a nonprofit corporation, designated in the agreement.³ A joint powers authority is a separate entity from the

¹ According to the letter dated November 20, 2003, by the Schools Mandate Group to the Commission's Chief Legal Counsel, the Schools Mandate Group has been "legally established consistent with Government Code section 6500 et seq."

² Government Code section 6502.

³ Government Code section 6506.

parties to the agreement and is not legally considered to be the same entity as its contracting parties.⁴

According to the joint powers agreement in this case, the Schools Mandate Group was established "to permit the filing of test claims, incorrect reduction claims, parameters and guidelines amendments, requests for rulemaking, and any other related activities, including litigation and lobbying, that will assist the JPA and/or its member agencies to protect their right to full reimbursement for mandated costs under the State's mandate reimbursement program (Cal. Const. Art. XIII B, § 6; Gov. Code, § 17500 et seq.)." The Schools Mandate Group does not have the delegated authority to perform a school district's education-related activities.

The test claim legislation at issue in this case involves providing school accountability report cards. The Commission is required to determine whether the test claim legislation imposes a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution.

To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. as the "sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution."⁵ The Commission, like the court, is required to limit enforcement to the procedures established by the Legislature in Government Code section 17500 et seq.⁶

Government Code sections 17550 and 17551 authorize local agencies and school districts to file test claims seeking reimbursement pursuant to article XIII B, section 6. Government Code section 17519 defines "school district" to mean "any school district, community college district, or county superintendent of schools." Government Code section 17520 defines "special district" to include "joint powers agency." The term "special district" appears in the definition of "local agency,"⁷ but does not appear in the definition of "school district." In construing the mandate reimbursement statutes, the Commission must apply the definitions provided by the Legislature.⁸ Where a defined term is absent from one statute, yet appears in another code section within the same statutory scheme, the term cannot be read into that section in which it does not appear.⁹ Thus, based on the plain language of the statutes, the Schools Mandate Group, as a joint powers authority for contracting school districts, is not a claimant.

This conclusion is further supported by the courts' interpretation of article XIII B, section 6. In 1991, the California Supreme Court decided *Kinlaw v. State of California, supra*. In *Kinlaw*, medically indigent adults and taxpayers brought an action against the state alleging that the state violated article XIII B, section 6 by enacting legislation that shifted financial responsibility for

⁴ Government Code section 6507; 65 Opinions of the California Attorney General 618, 623 (1982).

⁵ Government Code section 17552.

⁶ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 334.

⁷ Government Code section 17518.

⁸ Government Code section 17510.

⁹ *Moncharsh v. Heily & Blasé* (1992) 3 Cal.4th 1, 26.

the funding of health care for medically indigent adults to the counties. The Supreme Court denied the claim, holding that the medically indigent adults and taxpayers lacked standing to prosecute the action and that the plaintiffs have no right to reimbursement under article XIII B, section 6.¹⁰ The court stated the following:

Plaintiffs' argument that they must be permitted to enforce section 6 as individuals because their right to adequate health care services has been compromised by the failure of the state to reimburse the county for the cost of services to medically indigent adults is unpersuasive. *Plaintiffs' interest*, although pressing, *is indirect* and does not differ from the interest of the public at large in the financial plight of local government. Although the basis for the claim that the state must reimburse the county for its costs of providing the care that was formerly available to plaintiffs under Medi-Cal is that AB 799 created a state mandate, plaintiffs have no right to have any reimbursement expended for health care services of any kind.¹¹ (Emphasis added.)

The Supreme Court's ruling in *Kinlaw* is relevant here. Like the plaintiffs in *Kinlaw*, the School Mandates Group, as a separate entity from the contracting school districts, is not directly affected by the test claim legislation. The Legislature imposed requirements on school districts, which may result in a reimbursable state-mandated program for school districts. But, the amended statutes do not impose any duties on the Schools Mandate Group, or any other joint powers authority. As expressed in an opinion of the California Attorney General, a joint powers authority "is simply not a city, a county, [a school district], or the state as those terms are normally used."¹² Thus, consistent with the *Kinlaw* decision, the School Mandates Group lacks standing in this case to act as a claimant.

In 1997, the Third District Court of Appeal decided *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976. Although Government Code section 17520 expressly includes redevelopment agencies in the definition of "special districts" that are eligible to file test claims with the Commission, the court found that redevelopment agencies are not subject to article XIII B, section 6 since they not bound by the spending limitations in article XIII B, and are not required to expend any "proceeds of taxes." The court stated the following:

Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "general revenues for the local entity."¹³

The Third District Court of Appeal affirmed the *Redevelopment Agency* decision in *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281, again finding that

¹⁰ *Kinlaw, supra*, 54 Cal.3d at pages 334-335.

¹¹ *Ibid.*

¹² 65 Opinions of the California Attorney General 618, 623 (1982).

¹³ *Redevelopment Agency, supra*, 55 Cal.App.4th at page 986.

redevelopment agencies are not entitled to claim reimbursement for state-mandated costs because they are not required to expend "proceeds of taxes."

In the present case, the Schools Mandate Group is also not subject to the appropriations limitation of article XIII B and does not expend any "proceeds of taxes" within the meaning of article XIII B. Therefore, the Schools Mandate Group is not entitled to reimbursement as an eligible claimant pursuant to article XIII B, section 6.

Please contact Katherine Tokarski, Commission Counsel, at (916) 323-3562 if you have any questions regarding the above.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

c. Mailing list

Commission on State Mandates

Original List Date: 3/21/2001
Last Updated: 10/8/2003
List Print Date: 03/04/2004
Claim Number: 00-TC-09
Issue: School Accountability Report Cards II

Mailing Information: Other

Mailing List

Related

00-TC-13 School Accountability Report Cards II (Amendment)
02-TC-32 School Accountability Report Card III

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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