

MINUTES

COMMISSION ON STATE MANDATES

State Capitol, Room 126
Sacramento, California
November 6, 2008

Present: Member Fred Klass, Chairperson
Representative of the Director of the Department of Finance
Member Francisco Lujano, Vice Chairperson
Representative of the State Treasurer
Member Cynthia Bryant
Director of the Office of Planning and Research
Member Richard Chivaro
Representative of the State Controller
Member Sarah Olsen
Public Member
Member J. Steven Worthley
County Supervisor
Absent: Member Paul Glaab
City Council Member

CALL TO ORDER AND ROLL CALL

Chairperson Klass called the meeting to order at 9:37 a.m.

APPROVAL OF MINUTES

Item 1 September 26, 2008

The September 26, 2008 hearing minutes were adopted by a vote of 6-0.

PROPOSED CONSENT CALENDAR

INFORMATIONAL HEARING ON STATEWIDE COST ESTIMATES PURSUANT TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (ACTION)

STATEWIDE COST ESTIMATE

Item 6 *Post Conviction: DNA Court Proceedings*, 00-TC-21, 01-TC-08
Penal Code Sections 1405 and 1417.9
Statutes 2000, Chapter 821 (SB 1342); Statutes 2001, Chapter 943 (SB 83)
County of Los Angeles, Claimant

Member Olsen made a motion to adopt item 6 on the consent calendar. With a second by Member Bryant, the motion carried by a vote of 6-0.

**APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA
CODE OF REGULATIONS, TITLE 2, SECTION 1181, SUBDIVISION (c)**

Item 2 Staff Report (if necessary)

There were no appeals to consider.

**INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF
REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (ACTION)**

Paula Higashi, Executive Director, swore in the parties and witnesses participating in the hearing.

PARAMETERS AND GUIDELINES

Item 3 *Graduation Requirements*, 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05
Education Code Section 51225.3, Statutes 1983, Chapter 498 (SB813)
San Diego Unified School District, Castro Valley Unified School District,
Clovis Unified School District, San Jose Unified School District, Fullerton
Joint Union High School District, Grossmont Union High School District,
Sweetwater Union High School District, Mountain View-Los Altos Hill
High School District and State Controller' Office, Co-Claimants

Chairperson Klass suggested that because of the complexity of this item, each of the 10 components should be presented separately, starting with component 2 and the vote should be held until the end of the discussion. Member Worthley concurred.

Chief Legal Counsel Camille Shelton presented this item. Ms. Shelton explained that this item addresses several proposals to amend the *Graduation Requirements* parameters and guidelines. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law.

These proposals attempt to clarify the reimbursable activities and propose the adoption of reasonable reimbursement methodologies (RRMs) in lieu of the actual costs claimed for the reimbursement of teacher salaries, acquiring or remodeling science classroom facilities, acquiring equipment, and for instructional materials and supplies.

Staff finds that only the proposed RRM for teacher salary costs satisfies the definition of a RRM in Government Code section 17518.5, and is consistent with the Court's ruling in the *San Diego Unified School District* case.

Ms. Shelton added that the proposals also attempt to clarify offsetting revenue and savings.

Ms. Shelton noted that the Commission also had before it a late filing received from the State Controller's Office (SCO), and a chart staff prepared with data on the reimbursement claims filed since 1995-96.

Parties were represented as follows: Art Palkowitz, San Diego Unified School District; David Scribner, Mountain View-Los Altos Hill High School District; Diana Halpenny with Kronick, Moskovitz, Tiedemann & Girard representing the Graduation Requirements Mandate Resolution Committee and Keith Petersen, representing Castro Valley Unified School District, Clovis Unified School District, San Jose Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, and Sweetwater Union High School District (referred to as the Castro Valley Schools), Lenin Del Castillo and Susan Geanacou,

Department of Finance; and Ginny Brummels, Chris Ryan, and Jim Spano, State Controller's Office.

Ms. Shelton stated that Issue 2 is: should the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants. Staff recommended that the Commission amend the parameters and guidelines as requested.

Keith Petersen, representing the Castro Valley schools, began with general comments, stating that this process has been going on for 13 years. The parameters and guidelines amendments have been well briefed, and therefore, he, for the most part, supports the staff recommendation.

Lenin Del Castillo, Department of Finance, stated that the amendments should not include county offices of education as eligible claimants. The programs offered by county offices tend to be temporary placements and, as such, they are not comprehensive high schools. For that reason, they should not be included as eligible claimants.

Chairperson Klass asked whether a student could take the second science course at both a county office of education and a school district.

Ms. Shelton explained that under the Education Code, the county office of education is the school district for homeless children. According to the statutes, those students must complete a regular high school program. The Legislature did not distinguish between unified school districts, high school districts, or county offices of education.

Ms. Shelton also stated that in 2005, the Legislature directed the Commission to amend the parameters and guidelines for this program to identify bond funding for construction of science facilities and specifically, in the language, included county offices of education. Therefore, the Legislature intended to apply the graduation requirement on all pupils attending either a county office of education or a unified school district.

Member Worthley added that in Tulare County, for example, the Department of Education is the teaching arm for children in custody.

Chairperson Klass asked if the methodology for determining the number of teachers based on the number of students had a double count in the formula.

Ms. Shelton explained that there is no double count. When kids are expelled, they sometimes go to a county office of education school temporarily during the period of expulsion, and then they return to the district. There are some funding statutes on how to identify the average daily attendance (ADA) and how that is handled.

Mr. Del Castillo stated that the methodology uses enrollment taken from the beginning of the year so there is indeed a chance that these kids could be double counted. They could attend a county office of education program for part of the year, and then they could return to the school district. He questioned how this methodology would take that into account.

Mr. Petersen responded that the funding is tied to the students. If a student is no longer in his home district but rather at a juvenile court school, there is no longer payment for attending at his home district.

Ms. Shelton noted that in the proposed modifications to the one-quarter class load method (issue 7), staff recommended that enrollment be determined using CBEDS data, where students are counted on one day in the year. Wherever that pupil is on that day is where they are counted.

Diana Halpenny, representing the Graduation Requirements Mandate Resolution Committee, concurred that the CBEDS "day" is what is used to avoid duplication of student counts.

Chairperson Klass stated that his questions were answered.

Ms. Shelton moved to Issue 3: should the Commission amend the parameters and guidelines to clarify that the activities of acquisition of additional space and remodeling existing space include planning, design, land, demolition, building construction, fixtures and facility rental. Staff recommended that the Commission adopt the request.

Chairperson Klass noted that there appears to be unanimity on this point.

Susan Geanacou, Department of Finance, countered that Finance did not file comments on this issue, but would be happy to file a request to amend in the future regarding the language involving the remodeling of space required for teaching the second year of science. Finance objects to the standard applied in the existing parameters and guidelines against which any remodeling is being measured "*essential to maintaining a level of instruction sufficient to meet college admission requirements.*" This "*college admission requirements*" language does not appear in the test claim statute or Education Code section 51225.3 and may impose a higher standard than what was intended by the Legislature.

Finance suggested that the language be removed, and may consider filing a request to amend in the future if action cannot be taken today. Chairperson Klass noted the meritorious point.

Ms. Shelton moved to Issue 4: should the Commission amend the parameters and guidelines to include the proposed RRM for claiming an increased facility cost for acquiring or remodeling space. Staff recommended that the Commission deny this request because it does not meet the definition of a RRM under Government Code section 17518.5.

Mr. Petersen stated that while he disagreed, he would provide no further argument at this time.

Ms. Shelton continued to Issue 5: should the Commission amend the parameters and guidelines to specify that acquisition of equipment includes the activities of planning, purchasing and placement of additional equipment and furniture. Staff recommended that the Commission adopt this request. [No testimony was provided on this item.]

Ms. Shelton moved to Issue 6: should the Commission amend the parameters and guidelines to include a proposed RRM for claiming increased costs for acquiring equipment and furniture. Staff recommended that the Commission deny this request since the proposal does not satisfy the definition of Government Code section 17518.5.

Mr. Petersen echoed his previous comments.

Ms. Shelton continued to Issue 7: should the Commission amend the parameters and guidelines to include the proposed RRM of the one-quarter class load method for claiming increased teacher salary costs. Staff found that the proposal does satisfy the definition of Government Code section 17518.5 and is consistent with the Court's decision in the *San Diego Unified School District* case. Ms. Shelton noted that this is the most disputed issue. It was proposed by San Diego Unified School District and the SCO. Staff recommended that the Commission adopt the modified proposal.

Mr. Petersen stated that he believes this is a reasonable cost accounting method and supports the staff recommendation. Ms. Halpenny and Mr. Scribner agreed with Mr. Petersen.

Mr. Palkowitz covered some historical parts of this program. From 1987 until now, there have been 2 lawsuits and 41 incorrect reduction claims. He cited a lack of uniformity throughout the state on how to claim these costs, and that the staff recommendation provides that clarity. The proposal will allow school districts to have confidence in what they claim. It also meets the intent of the legislation (AB 1222) requesting that RRMs be used when there is that opportunity.

Jim. Spano, SCO, stated the SCO supports the one-quarter class load methodology.

Ms. Geanacou reminded the members that the Commission does not have to amend the parameters and guidelines for the *Graduation Requirements* mandate.

Ms. Geanacou explained that the potential fiscal effect of rejecting the amendments would be to relieve the State of approximately \$3 billion in additional reimbursement to school districts for past years. Ms. Geanacou then addressed the substance of Issue 7 in that Article XIII B, Section 6 requires a new program or higher level of service for state reimbursement to be required. In applying Government Code section 17565, to allow reimbursement even when school districts do not hire additional teachers, illustrates that the section is not consistent with Section 6. Many school districts were offering at least two science classes well before the mandate was created. This shows that the second science course was not a new or higher level of service at the time that it was required.

Mr. Del Castillo stated that the one-quarter class load method does not meet the statutory requirements for establishing a RRM for several reasons: (1) it does not constitute sufficient evidence of actual costs because it is not a representative sample of claimants; (2) it includes county offices of education, and (3) it could provide a potential windfall for districts that re-file claims that were originally submitted based on actual cost information.

Mr. Petersen reiterated the idea that the proposed RRM is reasonable. He reminded the Commission that some of the opposition comments have to do with the test claim itself which was already decided and cannot be argued here. Mr. Petersen also questioned the alleged cost of \$3 billion being asserted by Finance.

Mr. Del Castillo explained that the \$3 billion number was calculated based on the assumption that all eligible claimants would file claims for reimbursement. Mr. Petersen requested time to refute that number if submitted as evidence.

Ms. Shelton then summarized the chart that staff created using the data from the SCO. The chart, broken down into two tables, highlights data from claims filed from 1995-96 through 2006-07. Table 1 is the amount the claimants requested and the total approved before the Court's decision in *San Diego Unified School District*. Between 1995-96 through 2003-04, 321 school districts (out of 417 high school districts and 58 county offices of education) filed claims averaging \$29 million with a 48% cost approval rate of \$14 million.

Table 2 is the data after the Court's judgment. Between 2004-05 through 2006-07, 293 school districts filed claims averaging \$91 million with a 99% cost approval rate of almost \$91 million.

Member Worthley questioned the relevance of cost here. The issue is: does this meet the mandatory requirements of being a mandate. Whether it cost billions of dollars or hundreds of dollars is not relevant. Ms. Shelton responded that the charts do not calculate total costs.

Member Worthley stated that parties appear to be arguing equity, which the Commission may not consider.

Ms. Shelton explained that the Commission may determine requests for amendment to the parameters and guidelines. If the Commission adopts the requests, the period of reimbursement is established by law. Because the claim was filed in 1996, the reimbursement period goes back to 1995-96. By law, all school districts and county offices of education would be able to file or re-file their claims with supporting documentation under penalty of perjury.

Ms. Shelton also stated that this methodology is just to determine the gross teacher salary costs. It does not include any offset calculations or audits performed by the SCO. It is based on actual numbers, actual enrollment, actual teacher salaries and actual number of teachers. It is not just a

unit cost. It does consider the variation of costs, and is cost efficient because it is using the district's actual numbers.

Mr. Palkowitz echoed Member Worthley's concern about the relevancy of the cost. He stated that failure by the Commission to decide on the RRM would result in numerous incorrect reduction claims and undoubtedly another lawsuit. Mr. Palkowitz also stated that having more than one science class was a discretionary option that school districts used to be competitive with other schools. However, it was only after the mandate was passed by legislation that it became a requirement for the schools to have and maintain two science classes.

Mr. Spano stated that, during the course of audits, he found a variety of different methodologies being used by different claimants in trying to determine what are reimbursable costs. The costs varied significantly from claimant to claimant. He believed that the proposed RRM is a reasonable methodology that schools collectively can use to determine reasonable cost.

Robert Miyashiro, representing the Education Mandated Cost Network, explained that this methodology satisfies all of the statutory criteria, and is based on districts' actual costs and CBEDS enrollment. It does not introduce any bias of high or low, but is tailored to reimburse districts for their costs. He urged the Commission to adopt this well reasoned methodology.

Member Bryant asked if the Court determined that the state would reimburse for two science classes, and that the only thing before the Commission is the requests to amend the parameters and guidelines. Ms. Shelton agreed. Member Bryant stated in that case, it would be helpful if issues were not raised that were already decided upon in the past, and are not before the Commission today.

Ms. Shelton responded that the Court decided the program was reimbursable, and whether an offset could be assumed because the school day and year had not increased. And the Court said "no." There has to be actual evidence that if the schools did reduce their school day or shift curriculum, it was the direct result of the mandate. Ms. Shelton then stated that the issue is whether or not to adopt the RRM. And what seems to be disputed is the offsetting revenue and savings. That part is not included in the RRM because the Court held that you cannot assume the schools take an offset.

Member Bryant responded that because of that, it seems like the RRM is an indirect method of reimbursing the mandate. The court is forcing the Commission to mix apples and oranges by not allowing a methodology for the offset.

Ms. Higashi explained that the law allows for the Commission to adopt a methodology but it is certainly a discretionary decision of the Commission. However, it would not be an actual cost claimed, but a methodology. The methodology is an option because it is a simpler, more cost efficient way of claiming and calculating cost which is time-saving for districts.

Member Bryant stated that she had concerns with the RRM.

Chairperson Klass stated that there was no change in the length of the day; no change in the number of teachers hired and no ultimate budget increase because, in almost every case, the school district substituted the additional science class for other classes. Therefore, he struggles with paying districts for costs that really did not occur in the first place. He finds it difficult to change the current approach to a RRM that would increase costs. He asked Ms. Shelton if, following the court decision, the number of claims increased. Ms. Shelton responded that actually, the number of claims decreased following the court decision, but the costs did increase. Chairperson Klass asked participants to respond.

Mr. Spano reiterated that without a RRM, every audit performed will be challenged by the schools and a backlog of incorrect reduction claims will occur.

Mr. Palkowitz stated that the SCO's previous theory that every time a science teacher is added there must be an offset is not what the school districts believed. The results were incorrect reductions and a court case.

Member Bryant asked for clarification that the Court did not direct the Commission to amend the parameters and guidelines. Ms. Shelton confirmed the Court did not direct the Commission to amend the parameters and guidelines. There are, however, statements in the Court's decision where the Court was frustrated with the parameters and guidelines and found them difficult to interpret.

Member Bryant asked for discussion on the issue of CBEDS versus ADA.

Mr. Palkowitz stated that CBEDS is what is considered an enrollment date. It is not a determining factor on how schools get paid. They get paid on the average daily attendance which is calculated every day, each attendance period. The ADA is a percentage of the enrollment where CBEDS is a ratio used in the hiring of teachers.

Ms. Halpenny added that CBEDS is a useful tool because it is a number that the district has to report to the State on a specified date that says what their enrollment is as of that date. It is an easily identifiable number. Districts are funded based on average daily attendance but staffed based on enrollment.

Mr. Petersen commented that the issue of money is forcing the discussion back to the test claim again. He pointed out that a vote to adopt this formula will not result in a \$3 billion demand on the Treasury. Getting paid is a problem schools have with the Legislature; not with parameters and guidelines. If this RRM is not adopted, his clients will continue to have slightly larger claims because he uses a slightly different formula. Therefore, while he does not agree with the formula 100 percent, he does support its uniformity.

Mr. Del Castillo stated that, since school districts are funded based on ADA, it would be appropriate that the methodology also be based on ADA.

Mr. Palkowitz pointed out that acquisition of instructional materials is based on CBEDS, so it would not be a unique method of funding.

Member Worthley clarified that while some may be dissatisfied, this program is already a reimbursable mandate. It would be inappropriate to deny a RRM because you disagree with the original decision. He recognized the opportunity to do good governance by making something more accurate and simpler.

Chairperson Klass rebutted by saying that if the only outcome of adopting this RRM is consistency with a high price tag, then he questions the validity of doing it.

Member Olsen stated that the issue boils down to whether school districts are going to continue to use their own formulas or uniformly use the RRM.

Ms. Shelton stated that what is driving the cost factor is the period of reimbursement, which is Issue 1 and has not been addressed yet.

Mr. Palkowitz responded that AB 1222 intended for RRMS to be developed.

Ms. Shelton added that the issue here is still the offsetting language that discusses a reduction in non-science classes resulting from an increase in science classes. The Court did address that language and held that it cannot be assumed that this occurred. And, if claimants are currently using a formula for reimbursement, it has not been adopted by the Commission.

Mr. Spano stated that if a district uses its own formula, it is incumbent on the SCO to determine whether or not the formula is reasonable. If there is disagreement, it comes back to the Commission for reevaluation. A standardized methodology would alleviate this process.

Member Olsen asked if a RRM was adopted could districts still claim actual costs. Ms. Shelton responded no, schools would have to use the RRM.

Member Olsen asked if that is why some districts would lose.

Mr. Palkowitz responded yes. But the RRM eliminates the need to keep documentation for long periods and provides uniform filing rules for all districts.

Mr. Del Castillo asked if there was authority for districts to claim reimbursement using formulas not approved by the Commission, and if so, why does the Commission need to adopt the RRM here today.

Mr. Petersen added that using a formula to claim reimbursement is a generally accepted cost-accounting principle and has been used for 25 years.

Ms. Shelton moved to Issue 8: should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of other science instruction personnel. Staff recommended that the Commission deny this request. [No testimony was provided on this item.]

Ms. Shelton continued to Issue 9: should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies, and include a RRM for the cost of the activity. Staff recommended that the Commission adopt the proposal to clarify the language, but deny the proposed RRM.

Mr. Palkowitz pointed out that, in San Diego's example, a RRM may be hard to use. However, he would like to think there would be a way to articulate a RRM that would take care of this one instance.

Mr. Spano stated the necessity to develop a RRM to determine cost for materials and supplies. Otherwise there will be a variety of methodologies being used by school districts resulting in more challenges, audits and incorrect reduction claims coming before the Commission.

Ms. Shelton responded that formulating a RRM for materials and supplies is different than the one-quarter class load method proposed for teachers in that materials and supplies end up being included for classes that are not state-mandated.

Member Olsen asked how the proposal speaks to the various requirements of the different types of science classes offered.

Ms. Shelton explained that the law only requires that the second science class be either a physical or biological science.

Ms. Shelton moved to Issue 10: should the Commission amend the offset section of the parameters and guidelines to include restricted resources and program funding identified by the California Department of Education School Accounting Manual to offset teacher salary costs and amend that section to identify funds appropriated to school districts from the Schiff-Bustamonte Standards Based Instructional Materials Program and the State Instructional Materials Fund Program. Also included is a request by Mountain View and Los Altos Hill High School Districts, to bring in language from the Court decision. Staff recommended that the Commission adopt these requests as stated and modified. The Department of Finance had issues dealing with the revenue apportionment funding to schools. Staff recommended that the Commission deny Finance's proposed language.

Mr. Del Castillo stated that the staff analysis indicates using revenue limit apportionments as an offset for graduation requirements would violate Article XIII B, Section 6 of the Constitution on the basis that it would require use of proceeds of local property taxes on a state-mandated program. He clarified that revenue limit apportionments are not entirely comprised of local property taxes but rather a combination with state aid being a 2-to-1 ratio with local property taxes.

Ms. Halpenny stated that whole purpose of the mandate process is to reimburse districts for costs imposed on them over and above the costs that they have to incur on an ongoing basis. The revenue limit is the money to fund those ongoing, regular operational expenses of the district. It would be a complete violation of the Constitution to require the use of revenue limit funds that districts have received as offsetting revenue for newly imposed state mandates.

Ms. Shelton added that the only way for the Commission to require a school district to take offsetting revenue and deduct that from their claim, is to comply with Government Code section 17556(e), which requires additional revenue specifically intended to fund the cost of the state mandate in order to deduct it. There hasn't been any appropriation made specifically for the *Graduation Requirements* program.

Ms. Shelton moved to Issue 1, explaining that staff's findings are divided into 2 issues: (1) the period of reimbursement for the proposals of San Diego Unified School District is 1995-96; and (2) the period of reimbursement for all of Castro Valley's requests is 1995-96.

Ms. Geanacou requested that any future reimbursement for this mandate, especially for teacher salaries, be for actual net increased costs experienced by the districts. She also stated that if the Commission does adopt a RRM for reimbursing teachers' salaries, Finance agrees with the Controller's prior comments on this issue, that in April 2007, San Diego Unified School District substantially modified their 1996 proposed methodology. Should the Commission adopt an RRM with respect to those two filings, reimbursement should occur prospectively only from the eligibility date driven by the later 2007 filing.

Ms. Shelton explained that while changes were made following the court decision in *San Diego Unified School District*, the basic one-quarter class load method was the same.

At 11:17 a.m. Chairperson Klass called for a five minute break. The hearing reconvened at 11:26 a.m.

Ms. Shelton presented the previously mentioned late filing by the SCO. The SCO proposed that the following language under Offsetting Revenues and Other Reimbursements be deleted: "If a school district has previously filed a reimbursement claim for costs incurred beginning January 1, 2005, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim. Staff recommended that this language be deleted. The SCO also proposed that language be added that all reimbursement claims should use the new RRM. Staff recommended that this language not be added because similar language is already in another section of the parameters and guidelines

Member Chivaro asked if staff was okay with deleting the strike-out language. Ms. Shelton stated that staff was okay with striking it out.

Chairperson Klass explained that at this point in the hearing, the remaining time will be reserved for Commission members to discuss points of view based on fact, not on what seems fair or seems equitable. He continued with his understanding, specifically of issue 7, that changing the

current process, which appears to be in compliance with the law, is not necessarily a more accurate process. It also comes with a large price tag because of its retroactivity and is not justifiable.

Member Lujano echoed Member Worthley's comments that the amendments actually clarify reimbursement activities and supports staff recommendations to approve.

Member Olsen also concurred with Member Worthley that making government simpler is a good idea. The issue of the actual price tag is not the issue before the Commission. She supports the staff recommendation.

Member Lujano moved to adopt the staff recommendation, including striking out the language proposed by the SCO. With a second by member Worthley, the staff recommendation to partially approve the proposed amendments to the parameters and guidelines was adopted by a vote of 4-2, with Members Bryant and Klass voting no.

STAFF REPORTS

Item 12 Chief Legal Counsel's Report (info)

Ms. Shelton discussed the upcoming hearings for two court cases.

Item 13 Executive Director's Report (info)

Ms. Higashi reported that the workload report filed with the Department of Finance is available on the Commission's web site. Also, there are currently two vacant staff counsel positions. While these vacancies have some salary savings, they could also cause longer determination times.

Ms. Higashi reported that the ambitious January 2009 agenda is tentative with a lot of community college district test claims, proposed parameters and guidelines and statewide cost estimates coming forward.

PUBLIC COMMENT

There was no public comment.

CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526 (action)

A. PENDING LITIGATION

1. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Sacramento Superior Court Case No. 03CS01432, [Behavioral Intervention Plans]
2. *California School Boards Association, Education Legal Alliance; County of Fresno; City of Newport Beach; Sweetwater Union High School District and County of Los Angeles v. State of California, Commission on State Mandates and Steve Westly, in his capacity as State Controller*, Third District Court of Appeal, Case No. C055700; [AB 138; Open Meetings Act, Brown Act Reform, Mandate Reimbursement Process I and II; and School Accountability Report Cards (SARC) I and II]
3. *Department of Finance v. Commission on State Mandates*, Third District Court of Appeal, Case No. C056833, [Peace Officer Procedural Bill of Rights]

4. *San Diego Unified School District v. Commission on State Mandates and California Department of Finance*, San Diego County Superior Court, Case No. 37-2007-00064077-CU-PT-CTL, [Emergency Procedures: Earthquake Procedures and Disasters]
5. *California School Boards Association, Education Legal Alliance, and Sweetwater Union High School Dist. v. State of California, Commission on State Mandates, and John Chiang, in his capacity as State Controller*, Sacramento County Superior Court, Case No. 07CS01399, [School Accountability Report Cards, SARC]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

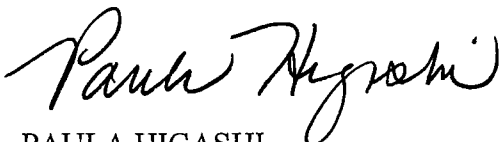
Hearing no further comments, Chairperson Klass adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

REPORT FROM CLOSED EXECUTIVE SESSION

At 12:41 p.m., Chairperson Klass reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda, and pursuant to Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

ADJOURNMENT

Hearing no further business, Chairperson Klass adjourned the meeting at 12:41 p.m.



PAULA HIGASHI
Executive Director