

COMMISSION ON STATE MANDATES

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January 13, 2010

Mr. Keith Petersen
SixTen & Associates
3270 Arena Boulevard, Suite 400-363
Sacramento, CA 95834

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

RE: Final Staff Analysis, Proposed Parameters and Guidelines, and Notice of Hearing
Cal Grants, 02-TC-28
Long Beach Community College District, Claimant
Education Code Section 69432.9, Subdivision (b)(3)(C)
Statutes 2000, Chapter 403 (SB 1644)
California Code of Regulations, Title 5, Sections 30007, 30023,
Subdivisions (a) and (d), and 30026

Dear Mr. Petersen:

The final staff analysis and proposed parameters and guidelines for this matter are enclosed.

Hearing

This test claim is set for hearing on **Friday, January 29, 2010**, at 9:30 a.m. in Room 447 of the State Capitol, Sacramento, California. 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.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

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

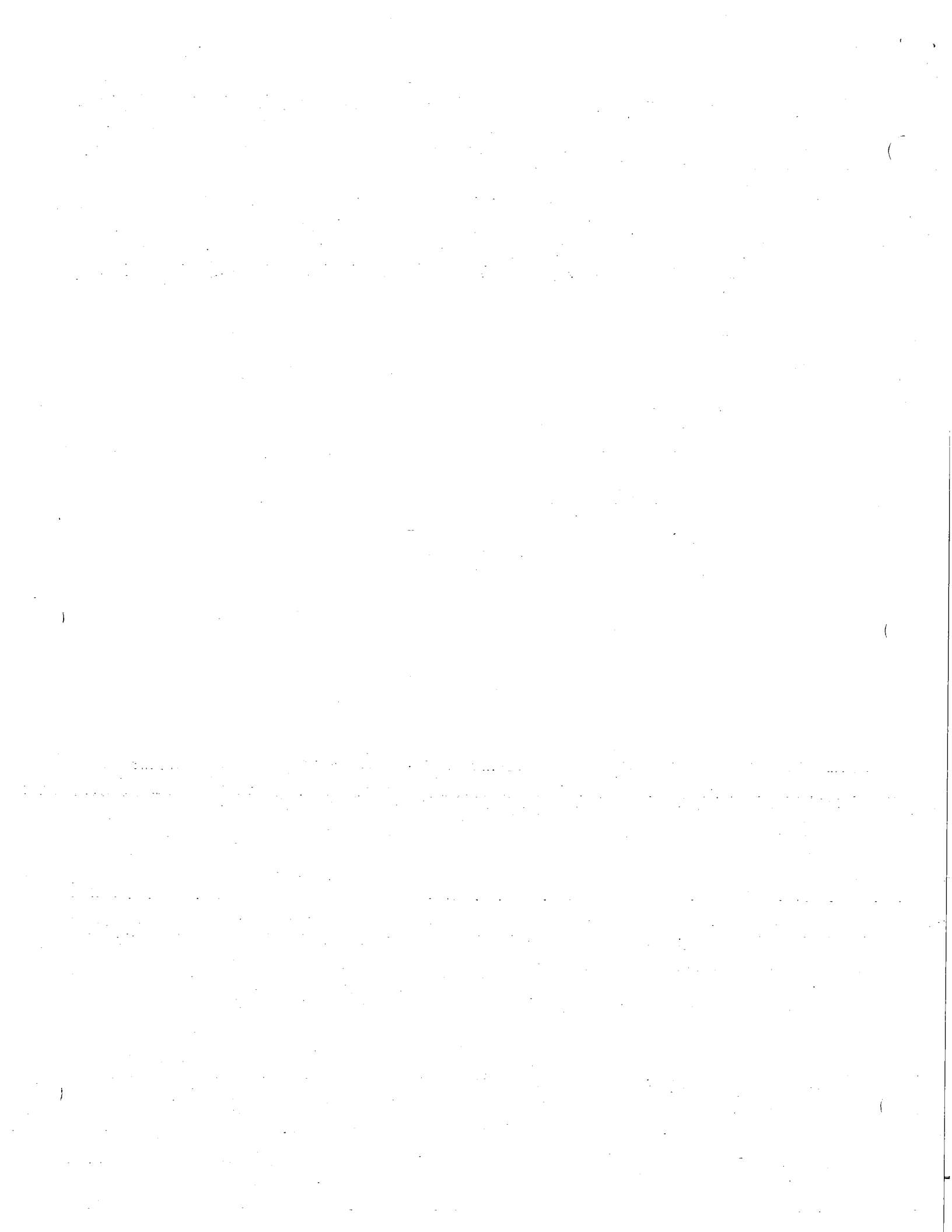
Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

Enclosures

j:mandates/2002/02tc28/corres/psgfsatrans



ITEM 13
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES

Education Code Section 69432.9, Subdivision (b)(3)(C)

Statutes 2000, Chapter 403 (SB 1644)

California Code of Regulations, Title 5, Sections 30007, 30023,
Subdivisions (a) and (d), and 30026

Cal Grants

02-TC-28

Long Beach Community College District, Claimant

EXECUTIVE SUMMARY

This test claim involves the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which provides funding for California residents based on financial need and academic merit for public or private postsecondary education.

On March 27, 2009, the Commission adopted a Statement of Decision, concluding that Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

On April 1, 2009, the Commission issued the Statement of Decision and draft parameters and guidelines, and on April 28, 2009, the claimant submitted comments on the draft parameters and guidelines. The Commission issued the draft staff analysis on October 13, 2009. Department of Finance submitted comments on the draft staff analysis on October 28, 2009.

Staff reviewed the comments received and made changes to the draft parameters and guidelines as follows:

Boilerplate Language

On April 28, 2009, the claimant submitted comments on the draft parameters and guidelines, objecting to the boilerplate language regarding source documentation standards, indirect cost rate language, and record retention requirements. However, claimant also stated that unless there was interest by the Commission in revisiting these sections of the boilerplate language, the parameters and guidelines can proceed since the boilerplate is consistent with past decisions. (Emphasis added.) Claimant did not object to the reimbursable activities.

Staff does not suggest any changes to the boilerplate language regarding source documentation standards, indirect cost rates or record retention at this time.¹

¹There are other sections of boilerplate language that are not in dispute, and are included in these proposed parameters and guidelines.

Offsetting Revenue Language

Currently, the annual Budget Act appropriates funds for community college district "administration of student financial aid." In the Statement of Decision, the Commission found that although community colleges may have received this funding, it does not have to be used for the *Cal Grants* program because the funds can be used on the administration of other student financial aid programs. The Commission directed that the Budget Act appropriation be identified as potential offsetting revenue, for deduction by community colleges that elect to use that revenue for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos *Cal Grant* Program.

On April 1, 2009, Commission staff issued proposed parameters and guidelines that included the following offsetting revenue language:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos *Cal Grant* Program must deduct that amount from the costs claimed.

On July 28, 2009, the 2009 State Budget Act was enacted. It now requires that funding provided for Student Financial Aid Administration must directly offset the costs of the *Cal-Grants* program and *Tuition Fee Waiver* (02-TC-21) program. Based on the budget language, Department of Finance filed comments requesting more restrictive language in Section VII. Offsetting Revenues and Reimbursements, that requires the appropriated funds to offset the costs of the *Cal Grants* program.

Staff disagrees with the Department of Finance's comments. The plain language of Item 6870-101-0001, paragraph (d)(3), as added for the 2009-2010 fiscal year, directs community college districts to use the funds appropriated under paragraph (d)(2) for the *Cal Grant* program *and* the *Tuition Fee Waiver* program, and does not require the districts to pay for the *Cal Grant* program first. Community college districts still have a choice regarding where to apply the money. Thus, a community college district can comply with the budget act language if all money appropriated to the district is used for the *Tuition Fee Waiver* program. There is no evidence in the record that the money appropriated in Item 6870-101-0001 is sufficient to cover the costs of both the *Tuition Fee Waiver* program and the *Cal Grants* program. Moreover, the 2009 budget act language does not apply to reimbursement claims filed for the initial reimbursement period, beginning July 1, 2001- June 30, 2002 through July 1, 2008-June 30, 2009.

Therefore, the language provided in Section VII of the proposed parameters and guidelines that "any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos *Cal Grant* Program must deduct that amount from the costs claimed" is legally correct, and remains in the proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed parameters and guidelines, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Claimant

Long Beach Community College District

Chronology

06/13/2003	Claimant files test claim with the Commission on State Mandates (Commission)
03/27/2009	Commission adopts Statement of Decision
04/01/2009	Commission issues Statement of Decision and draft parameters and guidelines
04/27/2009	Claimant files comments on draft parameters and guidelines
10/13/2009	Commission issues draft staff analysis
10/28/2009	Department of Finance submits comments on draft staff analysis

Summary of the Mandate

This test claim involves the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which was enacted by the Legislature in 2000 to address Cal Grant awards to students beginning in the 2001-2002 academic year. The Cal Grant program provides funding for California residents based on financial need and academic merit for public or private postsecondary education.

On March 27, 2009, the Commission adopted a Statement of Decision, concluding that the following activities required by Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

The Commission determined that these activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

The Commission further concluded that all other statutes and regulations pled in this test claim do not mandate a new program or higher level of service and, thus, are not reimbursable.

Procedural Background

On April 1, 2009, the Commission issued the Statement of Decision and draft parameters and guidelines.² On April 28, 2009, the claimant submitted comments on the draft parameters and guidelines.³ The Commission issued the draft staff analysis on October 13, 2009.⁴ Department of Finance submitted comments on the draft staff analysis on October 28, 2009.⁵

Discussion

Staff reviewed the comments received.

Boilerplate Language

Claimant did not object to the reimbursable activities. However, claimant objected to the boilerplate language regarding source documentation standards, indirect cost rate language, and record retention requirements.

Regarding source documentation language, claimant states the following:

For the record and preservation of appeal rights, the test claimant objects to the boilerplate language regarding source documents, contemporaneous documents and corroborating evidence. It is a standard of general application without independent statutory or regulatory basis. It is a standard which generally exceeds the documentation methods utilized in the usual course of business for local agencies and the standard required for substantiation of the use of, or application for, other state funds by local agencies. It is a standard imposed retroactively upon claimants without prior notice. These and other objections have been made before by local agency representatives in previous Commission proceedings. Notwithstanding, the standard has been adopted by the Commission as boilerplate for parameters and guidelines.⁶

Similar arguments are raised about the indirect cost rate language and record retention requirements.⁷

With respect to these objections, claimant further stated the following: *Unless there is some interest by the Commission to revisit these issues, the parameters and guidelines can proceed since the boilerplate is consistent with past decisions.*⁸ (Emphasis added.)

Staff does not suggest any changes to the boilerplate language regarding source documentation standards, indirect cost rates, or record retention at this time.⁹

Offsetting Revenue Language

During consideration of the test claim, Department of Finance and the Student Aid Commission argued that the test claim should be denied under Government Code section 17556, subdivision (e), because

² Exhibit A.

³ Exhibit B.

⁴ Exhibit C.

⁵ Exhibit D.

⁶ Exhibit B.

⁷ Exhibit B.

⁸ *Ibid.*

⁹ There are other sections of boilerplate language that are not in dispute, and are included in these proposed parameters and guidelines.

community colleges have received funds for student aid administration, including a budget augmentation in 2003-04, with a minimum additional allocation of \$50,000 per campus (6870-101-0001) for outreach and support services for “potential and current financial aid applicants.” The Department of Finance further argued that the community college general apportionment funding has increased from approximately \$1.6 billion in 2000-01 to approximately \$3 billion in 2008-09, and that this funding should be used for serving their students, including calculating a grade point average to obtain a Cal Grant award.

The Commission found that the line item appropriation identified (item 6870-101-0001, schedule (5)), is for local assistance to the Board of Governors of the California Community Colleges (Proposition 98) for “Student Financial Aid Administration.”¹⁰ The funds appropriated are for transfer by the State Controller to Section B of the State School Fund, and can be used on the administration of *other* student financial aid programs that are not included in this test claim. For example, the funds can be used for expenses incurred under title 5 of the California Code of Regulations, sections 58600 et seq., which have not been pled in this claim, that govern Student Financial Aid grants allocated by the Board of Governors to community college districts for students with financial need. The appropriations made in the Budget Acts did not require community colleges to use the funds specifically for the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program. Thus, the funds appropriated in line item 6870-101-0001 were not specifically intended to fund the costs of the test claim statutes and regulations. In addition, general apportionment funding to community colleges is not specifically intended to fund the *Cal Grants* program.

Although the Commission found that Government Code section 17556, subdivision (e), did not apply to deny the claim, the Commission directed that the appropriation in line item 6870-101-0001 of the Budget Act be identified as potential offsetting revenue, for deduction by community colleges that use that revenue for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

On April 1, 2009, Commission staff issued proposed parameters and guidelines that included the following offsetting revenue language:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed.

On July 28, 2009, the 2009 State Budget Act was enacted. It now requires that the funding provided under Item 6870-101-0001, schedule (5), is provided to directly offset the costs of the *Cal Grants* program (02-TC-28) and the *Tuition Fee Waivers* program (02-TC-21).¹¹ Item 6870-101-0001, paragraphs (d)(2) and (d)(3), as amended for the 2009-2010 budget year, states the following:

¹⁰ See Statutes 2001, chapter 106; Statutes 2002, chapter 379; Statutes 2003, chapter 157; Statutes 2004, chapter 208; Statutes 2005, chapter 38; Statutes 2006, chapter 47; Statutes 2007, chapter 171; and Statutes 2008, chapter 269.

¹¹ Statutes 2009, chapter 1, Fourth Extraordinary Session.

(d)(2) Of the amount appropriated in Schedule (5), not more than \$34,200,000 shall be for direct contact with potential and current financial aid applicants. Each CCC campus shall receive a minimum allocation of %50,000. The remainder of the funding shall be allocated to campuses based upon a formula reflecting full-time equivalent students (FTES) weighted by a measure of low-income populations as demonstrated by BOG fee waiver program participation within a district. It is the intent of the Legislature to the extent that funds are provided in this item, that all campuses provide additional staff resources to increase both financial aid participation and student access to low-income and disadvantaged students who must overcome barriers in accessing postsecondary education. Funds may be used for screening current students for possible financial aid eligibility and offering personal assistance to these students in accessing financial aid, providing individual help in multiple languages for families and students in filing out the necessary paperwork to apply for financial aid, and increasing financial aid staff to process additional financial aid forms.

(3) Funding provided to community college districts in paragraph (2) of this subdivision (d) is provided to directly offset any mandated costs claimed by community college districts pursuant to the Commission on State Mandates test claim 02-TC-28 (Cal Grants) and 02-TC-21 (Tuition Fee Waivers).

Based on the 2009 budget language, Department of Finance filed comments requesting more restrictive language in Section VII. Offsetting Revenues and Reimbursements as follows (Finance's proposed language reflected in underline and strikeout):

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. ~~€~~ Community colleges shall use the revenue specified ~~specified~~ from the appropriation in line item 6870-101-0001 of the Budget Act to offset the costs that result from the ~~for~~ the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

Staff disagrees with the Department of Finance's comments. The plain language of Item 6870-101-0001, paragraph (d)(3), as added for the 2009-2010 budget year, directs community college districts to use the funds appropriated under paragraph (d)(2) for the *Cal Grant* program **and** the *Tuition Fee Waiver* program, and does not require the districts to pay for the *Cal Grant* program first. Community college districts still have a choice regarding where to apply the money. Thus, a community college district can comply with the budget language if all money appropriated to the district is used for the *Tuition Fee Waiver* program. In addition, there is no evidence in the record that the money appropriated in Item 6870-101-0001 is sufficient to cover the costs of both the *Tuition Fee Waiver* program and the *Cal Grant* program. Moreover, the 2009 budget language does not apply to reimbursement claims filed for the initial reimbursement period, beginning July 1, 2001-June 30, 2002 through July 1, 2008-June 30, 2009.

Therefore, the language provided in Section VII. of the proposed parameters and guidelines that "any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed" is legally correct, and remains in the proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed parameters and guidelines, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

PROPOSED PARAMETERS AND GUIDELINES

Education Code Section 69432.9, Subdivision (b)(3)(C)

Statutes 2000, Chapter 403 (SB 1644)

California Code of Regulations, Title 5, Sections 30007, 30023,
Subdivisions (a) and (d), and 30026

Cal Grants
02-TC-28

Long Beach Community College District, Claimant

I. SUMMARY OF THE MANDATE

The test claim statute and regulations involve the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which was enacted by the Legislature in 2000 to address Cal Grant awards to students beginning in the 2001-2002 academic year. The Cal Grant program provides funding for California residents based on financial need and academic merit for public or private postsecondary education.

On March 27, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim statute and regulations imposes a partially reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

community colleges have received funds for student aid administration, including a budget augmentation in 2003-04, with a minimum additional allocation of \$50,000 per campus (6870-101-0001) for outreach and support services for “potential and current financial aid applicants.” The Department of Finance further argued that the community college general apportionment funding has increased from approximately \$1.6 billion in 2000-01 to approximately \$3 billion in 2008-09, and that this funding should be used for serving their students, including calculating a grade point average to obtain a Cal Grant award.

The Commission found that the line item appropriation identified (item 6870-101-0001, schedule (5)), is for local assistance to the Board of Governors of the California Community Colleges (Proposition 98) for “Student Financial Aid Administration.”¹⁰ The funds appropriated are for transfer by the State Controller to Section B of the State School Fund, and can be used on the administration of *other* student financial aid programs that are not included in this test claim. For example, the funds can be used for expenses incurred under title 5 of the California Code of Regulations, sections 58600 et seq., which have not been pled in this claim, that govern Student Financial Aid grants allocated by the Board of Governors to community college districts for students with financial need. The appropriations made in the Budget Acts did not require community colleges to use the funds specifically for the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program. Thus, the funds appropriated in line item 6870-101-0001 were not specifically intended to fund the costs of the test claim statutes and regulations. In addition, general apportionment funding to community colleges is not specifically intended to fund the *Cal Grants* program.

Although the Commission found that Government Code section 17556, subdivision (e), did not apply to deny the claim, the Commission directed that the appropriation in line item 6870-101-0001 of the Budget Act be identified as potential offsetting revenue, for deduction by community colleges that use that revenue for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

On April 1, 2009, Commission staff issued proposed parameters and guidelines that included the following offsetting revenue language:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed.

On July 28, 2009, the 2009 State Budget Act was enacted. It now requires that the funding provided under Item 6870-101-0001, schedule (5), is provided to directly offset the costs of the *Cal Grants* program (02-TC-28) and the *Tuition Fee Waivers* program (02-TC-21).¹¹ Item 6870-101-0001, paragraphs (d)(2) and (d)(3), as amended for the 2009-2010 budget year, states the following:

¹⁰ See Statutes 2001, chapter 106; Statutes 2002, chapter 379; Statutes 2003, chapter 157; Statutes 2004, chapter 208; Statutes 2005, chapter 38; Statutes 2006, chapter 47; Statutes 2007, chapter 171; and Statutes 2008, chapter 269.

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(d)(2) Of the amount appropriated in Schedule (5), not more than \$34,200,000 shall be for direct contact with potential and current financial aid applicants. Each CCC campus shall receive a minimum allocation of %50,000. The remainder of the funding shall be allocated to campuses based upon a formula reflecting full-time equivalent students (FTES) weighted by a measure of low-income populations as demonstrated by BOG fee waiver program participation within a district. It is the intent of the Legislature to the extent that funds are provided in this item, that all campuses provide additional staff resources to increase both financial aid participation and student access to low-income and disadvantaged students who must overcome barriers in accessing postsecondary education. Funds may be used for screening current students for possible financial aid eligibility and offering personal assistance to these students in accessing financial aid, providing individual help in multiple languages for families and students in filing out the necessary paperwork to apply for financial aid, and increasing financial aid staff to process additional financial aid forms.

(3) Funding provided to community college districts in paragraph (2) of this subdivision (d) is provided to directly offset any mandated costs claimed by community college districts pursuant to the Commission on State Mandates test claim 02-TC-28 (Cal Grants) and 02-TC-21 (Tuition Fee Waivers).

Based on the 2009 budget language, Department of Finance filed comments requesting more restrictive language in Section VII. Offsetting Revenues and Reimbursements as follows (Finance's proposed language reflected in underline and strikeout):

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. ~~€~~ Community colleges shall shall use the revenue specified specified from the appropriation in line item 6870-101-0001 of the Budget Act to offset the costs that result from the ~~for~~ the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

Staff disagrees with the Department of Finance's comments. The plain language of Item 6870-101-0001, paragraph (d)(3), as added for the 2009-2010 budget year, directs community college districts to use the funds appropriated under paragraph (d)(2) for the *Cal Grant* program *and* the *Tuition Fee Waiver* program, and does not require the districts to pay for the *Cal Grant* program first. Community college districts still have a choice regarding where to apply the money. Thus, a community college district can comply with the budget language if all money appropriated to the district is used for the *Tuition Fee Waiver* program. In addition, there is no evidence in the record that the money appropriated in Item 6870-101-0001 is sufficient to cover the costs of both the *Tuition Fee Waiver* program and the *Cal Grant* program. Moreover, the 2009 budget language does not apply to reimbursement claims filed for the initial reimbursement period, beginning July 1, 2001-June 30, 2002 through July 1, 2008-June 30, 2009.

Therefore, the language provided in Section VII. of the proposed parameters and guidelines that "any community college that uses the revenue from the appropriation in line item 6870-101-0001 of the Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed" is legally correct, and remains in the proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed parameters and guidelines, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

PROPOSED PARAMETERS AND GUIDELINES

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Statutes 2000, Chapter 403 (SB 1644)

California Code of Regulations, Title 5, Sections 30007, 30023,
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Cal Grants
02-TC-28

Long Beach Community College District, Claimant

I. SUMMARY OF THE MANDATE

The test claim statute and regulations involve the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which was enacted by the Legislature in 2000 to address Cal Grant awards to students beginning in the 2001-2002 academic year. The Cal Grant program provides funding for California residents based on financial need and academic merit for public or private postsecondary education.

On March 27, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim statute and regulations imposes a partially reimbursable state-mandated program upon community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

II. ELIGIBLE CLAIMANTS

Any "community college district," as defined in Government Code section 17519, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Long Beach Community College District filed the test claim on June 13, 2003, establishing eligibility for reimbursement on or after July 1, 2001. Therefore costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2001.

Actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code,

§ 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)

- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Any community college that uses the revenue from the appropriation in line item 6870-101-0001 of any Budget Act for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program must deduct that amount from the costs claimed.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated: 9/9/2009
List Print Date: 01/06/2010
Claim Number: 02-TC-28
Issue: Cal Grants

Agenda Mailing List

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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