

# CALIFORNIA STUDENT AID COMMISSION

OFFICE OF THE EXECUTIVE DIRECTOR



October 14, 2003

**RECEIVED**

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**COMMISSION ON  
STATE MANDATES**

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

Dear Ms. Higashi:

Thank you for providing the California Student Aid Commission ("Commission") the opportunity to comment on Claim 02-TC-28 from the Long Beach Community College District involving the Cal Grant Program. California Education Code ("EC") §66021.2 establishes the long-term Cal Grant policy to implement

*"the state's historic commitment to provide educational opportunity by ensuring both student access to and selection of an institution of higher education for students with financial need. ... (g). The implementation of the policy set forth in this section shall maintain a balance between the state's policy goals of ensuring student access to and selection of an institution of higher education for students with financial need and academic merit."*

It is important to note that the Cal Grant program is purely voluntary on the part of California postsecondary institutions and, as noted above, is a student program to promote choice and access. While the statutes establish numerous requirements upon the Commission to determine student eligibility and the Commission has adopted implementing regulations, [California Code of Regulations ("CCR") §§30000 *et seq.*], as well as information technology Business Rules and Requirements for its award processing, students will only receive payment for the award if they attend a "qualifying institution." [EC §69432.7(l)]

There are several parts of the Cal Grant program which make it clear that participation by a postsecondary institution is voluntary; institutions electing to participate in the Cal Grant program do it to attract financially needy students to their institution while providing a financial benefit to students already in attendance and an incentive to remain at the institution.



**Long-Term Cal Grant Policy**  
**EC §66021.2(f):**

*"(f) An institution of higher education in this state that participates in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not reduce its level of per capita need-based institutional financial aid to undergraduate students, excluding loans, below the total level awarded in the 2000-01 academic year."*

This section makes clear the policy that Cal Grant Awards supplement rather than replace existing institutional student aid. "Participates" clearly connotes the voluntary nature of the program for institutions. Any institution which disagrees with the program parameters or requirements need not participate in the program, albeit to the detriment of its students.

**Advance Payments**  
**EC §69432.8:**

*"The commission may determine that an advance payment is essential to ensure that funds provided pursuant to this chapter to **assist students** to enroll in postsecondary education are available at the time students enroll. ... Each institution shall disburse the funds in accordance with the provisions set forth in the **institutional agreement** between the commission and the institution."  
(Emphasis supplied.)*

Qualifying institutions do not automatically receive Cal Grant funds for students with awards attending their institution. They must enter into a contract (Institutional Participation Agreement or IPA) with the Commission before they receive any funds for their students. The IPA is an institutional agreement (entered into with the Commission) that they will comply with the statutory requirements of the program and maintain records for the Commission to audit for program compliance. Any institution not wishing to voluntarily participate in the Cal Grant program for its students will not sign an IPA. The Commission does not disburse funds to an institution that has not signed an IPA even though it is a "qualifying institution" pursuant to statute and regulation. That institution has elected not to participate in the program even though it could participate.

**Definitions – "Qualifying Institutions"**  
**EC §69432.7(l):**

*"Qualifying institution' means any of the following: ..."*

The use of the word "qualifying" is intentional and significant. It also demonstrates the voluntary nature of the Cal Grant Program for institutions.



**Appropriated Funds**

While not specifically for the Cal Grant Program, the claimant and Community Colleges did receive a budget augmentation for the administration of its student financial aid programs in the 2003-04 Budget Act.

**"6870-101-0001--** For local assistance, Board of Governors of the California Community Colleges (Proposition 98) . . . 2,189,054,000

"Schedule: ...

"(5) 20.10.005-Student Financial Aid Administration . . . 46,447,000

...

*"(b) Of the amount appropriate in Schedule (5) for financial aid administration and outreach, \$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 with the funds provided in this section that all California Community Colleges 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 these students personal assistance in accessing financial aid, providing individual help in multiple languages for families and students in filling out the necessary paperwork to apply for financial aid, and increasing financial aid staff to process additional financial aid forms.*

*"(c) Funds allocated to a community college district for financial aid personnel, outreach determination of financial need, and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 2001-02 fiscal year."*

If you have any questions or concerns, please feel free to contact me at (916) 526-8271.

Sincerely,



Diana Fuentes-Michel  
Executive Director



**COMMISSION ON STATE MANDATES**

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CALIF. STUDENT  
AID COMMISSION



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September 10, 2003

Ms. Diana Fuentes-Michel  
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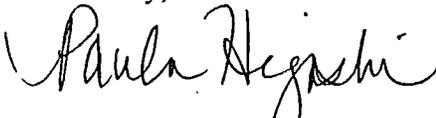
*And Interested Parties (See Enclosed Mailing List)*

Re: Notice of Complete Test Claim Filing and Schedule for Comments – *Cal Grants*;  
02-TC-28

On June 13, 2003, a test claim was filed on the above named program by SixTen and Associates, representing Long Beach Community College District, Claimant. Following initial review, the Commission staff found the test claim to be complete. The Commission sent the test claim to the Department of Finance, the State Controller's Office, the California Community Colleges, and interested parties for comment. It was brought to our attention that your organization may wish to comment on this claim. Therefore, the Commission is now requesting the Student Aid Commission 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,

  
PAULA HIGASHI  
Executive Director

Enclosures:

Notice of Complete Test Claim Filing and Schedule for Comments  
Copy of Test Claim  
Mailing List



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 69432.8, 69432.9, 69433, 69433.5, 69433.6, 69433.7, 69434, 69434.5, 69435, 69435.3, 69436, 69436.5, 69437, 69437.3, 69437.6, 69439, 69440, and 69514.6; as added and amended by Statutes 2001, Chapter 159, Statutes 2001, Chapter 8, and Statutes 2000, Chapter 403; and, California Code of Regulations, Title 5, Sections 30002, 30007, 30023, 30026, 30027, and 30032

Filed on June 13, 2003

By the Long Beach Community College District,  
Claimant

No. 02-TC-28

*Cal Grants*

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: Student Aid Commission**

On June 13, 2003, the Long Beach Community College 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 **October 10, 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: 9-10-03



PAULA HIGASHI, Executive Director

# Commission on State Mandates

Original List Date: 6/26/2003  
Last Updated:  
List Print Date: 09/10/2003  
Claim Number: 02-TC-28  
Issue: Cal Grants

Mailing Information: Completeness Determination

## 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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