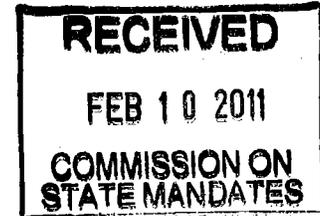




February 8, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



Dear Mr. Bohan:

We reviewed the Commission on State Mandates (Commission) September 15, 2010, draft staff analysis of the *Discrimination Complaint Procedures* test claim (02-TC-46) submitted by the Santa Monica Community College District, Los Rios Community College District, and West Kern Community College District.

We disagree with the Commission's conclusion that Government Code Section 11135(d)(2) imposes a reimbursable state-mandated activity because we believe that the plain language of the statute requires the compliance of "state governmental entities", not community colleges. The Commission notes that community colleges are included in the definition of "state governmental entities" based on the premise that Government Code Section 11135(d)(3) suggests that community colleges are subject to the provisions of Government Code Section 11135(d)(2). Specifically, that Section 11135(d)(3) refers to nongovernmental entities contracting with "state or local entities" and thus casts doubt on the simple meaning of "state governmental entities" as noted on Section 11135(d)(2). Because of this perceived inconsistency, the Commission reviewed the legislative committee staff analysis of the implementing legislation. The staff analysis summary of Section 11135(d)(2) refers to "state entities and state-funded entities" and thus the Commission concluded that the legislative intent of the phrase "state governmental entities" includes state-funded entities as well.

We do not believe there is any doubt in the meaning of "state governmental entities" and that it does not include community colleges. As reflected in Section 11135(d)(3), the Legislature would have included the reference to local entities in Section 11135(d)(2) if that was the intent. Secondly, we do not believe that legislative committee staff analysis is an appropriate basis for determining a reimbursable state-mandated activity when the plain language of the statute clearly identifies state governmental entities only. The legislative staff analysis appears to overreach in its attempt to summarize the bill since the plain language of the bill specifically refers to state governmental entities. Furthermore, the Section 11135(c)(2) goes to great lengths to clarify that the California State University (CSU) is subject to Section 11135(d)(2). It seems inconsistent that the Legislature would be so specific in Section 11135(c)(2) when referring to the CSU and then again in Section 11135(d)(3) when referring to state and local entities, but then be so imprecise in Section 11135(d)(2) when referring to state governmental entities. The fact that Section 11135(d)(2) only refers to state governmental entities when imposing a requirement and that Section 11135(d)(3) refers to state and local entities when imposing requirements on nongovernmental entities contracting with governmental entities could simply reflect the legislative intent to avoid a reimbursable state-mandated activity.

Mr. Drew Bohan
February 8, 2011
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As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your February 4, 2011 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Ed Hanson, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeannie Oropeza". The signature is written in a cursive style with a large initial "J".

Jeannie Oropeza
Program Budget Manager

Enclosure

Attachment A

DECLARATION OF ED HANSON
DEPARTMENT OF FINANCE
CLAIM NO. 02-TC-46

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the statutes, regulations and an executive order sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

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

2/8/11

at Sacramento, CA


Ed Hanson

PROOF OF SERVICE

Test Claim Name: Discrimination Complaint Procedures
Test Claim Number: 02-TC-46

I, the undersigned, declare as follows:

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

On 2/8/11, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7 Floor, for Interagency Mail Service, addressed as follows:

A-16
Mr. Drew Bohan, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates
Attention: Keith Petersen
3270 Arena Blvd., Suite 400-363
Sacramento, CA 95834

Ms. Harmeet Barkschat
Mandate Resource Services, LCC
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

B-08
Ms. Angie Teng
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

Ms. Jolene Tollenaar
MGT of America
2001 P Street, Suite 200
Sacramento, CA 95811

A-15
Ms. Jeannie Oropeza
Department of Finance
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Mr. William Duncan
West Kern Community College District
29 Emmons Park Drive
Taft, CA 93268

B-08
Ms. Jill Kanemasu
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

B-08

Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mr. Michael Johnston
Clovis Unified School District
1450 Herndon Ave
Clovis, CA 936110599

B-29

Mr. Paul Steenhausen
Legislative Analyst's Office
925 L Street, Suite 1000
Sacramento, CA 95814

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Mr. Mike Brown
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Mr. David E. Scribner
Scribner Consulting Group, Inc.
2200 Sunrise Blvd., Suite #240
Gold River, CA 95670

G-01

Mr. Erik Skinner
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730

B-08

Mr. Jay Lal
State Controller's Office
Division of Audits & Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

Mr. Chris Bonvenuto
Santa Monica Community College District, CA
1900 Pico Blvd.
Santa Monica, CA 90405-6511

G-01

Mr. Steve Bruckman
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

A-15

Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1280
Sacramento, CA 95814

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816

E-08

Ms. Carol Bingham
California Department of Education
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814

Ms. Cheryl Miller
CLM Financial Consultants, Inc.
1241 North Fairvale Avenue
Covina, CA 91722

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on 2/8/11 at Sacramento, California.

Annette Waite

Annette Waite