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Commission on
State Mandates

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April 4, 2013

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

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the proposed parameters and guidelines and statement of decision drafted by the Commission on State Mandates staff for the consolidated test claim 05-TC-04, 07-TC-06, and 08-TC-01, *Williams Case Implementation I, II, and III*, submitted by the San Diego County Office of Education and the Sweetwater Union High School District.

Finance believes that the following amendment to the proposed parameters and guidelines is necessary to ensure that the parameters and guidelines conform to the Commission's December 7, 2012, statement of decision on the test claim:

“Reimbursable Activities”

Section 1.d.: The parameters and guidelines should be amended to conform to the requirements of the test claim statute and the activities determined to be reimbursable in the statement of decision.

Paragraph (1) of subsection (a) of section 42127.6 of the Education Code, the test claim statute, reads, in part:

“A school district shall provide the county superintendent of schools with a copy of a study, report, evaluation, or audit that was commissioned by the district, the county superintendent, the Superintendent of Public Instruction, and state control agencies **and** that contains evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section 33127, or a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Section 42127.8...” (*emphasis added*)

In comments dated January 3, 2013, regarding the expedited draft parameters and guidelines, Finance requested that the draft subsection be amended to read:

- “d. Providing the county superintendent of schools, pursuant to Education Code sections 14051 and 41020:
 - i. A copy of a study, report, evaluation, or audit that was commissioned by the Superintendent of Public Instruction or a state control agency and contains

evidence that the school district is showing fiscal distress under the standards and criteria adopted in Education Code section 33127.

- ii. A copy of a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Education Code section 42127.8.

Reimbursement for this activity is not required to the extent the study, report, evaluation, or audit was commissioned at the discretion of the district or of the county office of education.

The eligible reimbursement period for these activities begins September 29, 2004.”

The proposed statement of decision states, regarding Finance’s suggested amendments:

“The suggested change, however, is written too narrowly to encompass all studies, reports, evaluations, or audits that might implicate the requirement of the test claim statute to forward a report to the county...No findings were made in the test claim statement of decision, nor can it be inferred from the plain language of the statute, that the only other studies, reports, evaluations, or audits that would trigger the requirement to provide a copy to the county superintendent are those commissioned by the Superintendent of Public Instruction or a state control agency. Finance’s proposed language suggests that no other reports implicating the requirements of the test claim statute are possible...”

This is not an accurate analysis of the test claim statute. The statute requires that a school district provide the county superintendent of schools with a copy of a study, report, evaluation, or audit **only** if that study, report, evaluation, or audit meets both of two conditions (excluding reports on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Education Code section 42127.8, which are addressed separately in the proposed parameters and guidelines):

1. The study, report, evaluation or audit was commissioned by one of four entities or groups of entities: (1) the school district, (2) the county superintendent, (3) the Superintendent of Public Instruction, or (4) state control agencies, **and**
2. The study, report, evaluation, or audit contains evidence that the school district is showing fiscal distress under the standards and criteria adopted in Education Code section 33127.

The Commission’s statement of decision specifies that providing a copy of a study, report, evaluation or audit is not reimbursable if that study, report, evaluation, or audit was commissioned by the school district or by the county superintendent. Therefore, a school district only is eligible for reimbursement for the costs of providing a copy of a study, report, evaluation, or audit if that study, report, evaluation, or audit was commissioned by one of two entities or groups of entities: the Superintendent of Public Instruction or state control agencies.

This is reflected in **d.i.** of the suggested language included in Finance’s January 3, 2013, comments. Finance requests that this language be included in the parameters and guidelines.

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Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, this document is being e-filed with the Commission on State Mandates and will not be otherwise served on persons that have provided an e-mail address for the mailing list.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'THOMAS TODD', with a long horizontal flourish extending to the right.

THOMAS TODD
Assistant Program Budget Manager