

March 3, 2014

**LATE FILING**

**RECEIVED**  
March 04, 2014  
*Commission on  
State Mandates*

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

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the draft staff analysis and proposed statement of decision by the Commission on State Mandates (Commission) staff for the test claim 10-TC-06, submitted by Twin Rivers Unified School District and respectfully submits the following comments.

Many requirements of the Parent Empowerment Act, the Open Enrollment Act, and Race to the Top (RTTT) overlap with federal requirements of the Elementary and Secondary Education Act (ESEA) Title I, Program Improvement and School Improvement Grant (SIG). Therefore requirements identified by the Commission staff as state-mandated should be reduced to reflect the true higher level of service required by the state. Finance also identifies ESEA Title I and SIG funding as offsetting revenues for the state activities that overlap with federal law.

**1. Parent Empowerment and Open Enrollment, Education Code sections 53300; 48354(b)(1) and 48356(d)**

***A. Many requirements of the Parent Empowerment Act and the Open Enrollment Act are already required of schools in federal Program Improvement, therefore ESEA Title I funding is an offsetting fund source.***

Parent Empowerment Act

The draft analysis does not acknowledge the overlapping requirements of federal Title I Program Improvement with the Parent Empowerment Act that requires, upon a parent petition, to implement one or more of the four interventions pursuant to Education Code section 53202(a)(1)-(4)<sup>1</sup> or the federally-mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal ESEA.

Though staff indicates that the ESEA does not have a parent petition process as part of the Title I grant funding, the schools that are eligible for parent petitions must be in corrective action pursuant to Education Code section 53300. Many of the intervention activities of the four models are duplicative of those required of schools in corrective action, and as schools continue to fail to make academic progress, are duplicative of those in restructuring status. Section 1116(b)(7)(C)(iv) of ESEA, requires that once a school is subject to corrective action, the local educational agency shall take at least one of a list of specified actions. Among those listed are: replacing school staff that are relevant to the failure to make adequate yearly progress;

<sup>1</sup> Turn around model; restart model; school closure; and transformation model.

instituting and fully implementing a new curriculum that is predicated on scientifically-based research and offers substantial promise of improving education achievement; and increasing class time. These corrective action interventions are all required of and consistent with the "turnaround model."

If a school continues to fail to make adequate yearly progress, the LEA shall establish an alternative governance structure pursuant to Section 1116(b)(8)(B) of ESEA. The LEA shall implement one of a list of alternative governance arrangements. Among them is reopening the school as a public charter school or entering into a contract with an entity, such as a private management company to operate the school which is consistent with the "restart model." Alternative governance pursuant to Section 1116(b)(8)(B)(v) of the ESEA also includes any other major restructuring of the school's governance arrangement that makes fundamental reforms to improve student academic achievement in the school which could apply to the four intervention models.

#### Open Enrollment Act

The activities that the draft staff analysis identifies as state-mandated programs related to the Open Enrollment Act do not take into consideration the public school choice requirements of the ESEA Title I [20 USC 6316(b)(E)].

Consistent with Section 1116(b)(1)(E) of the ESEA, the state Open Enrollment Act requires that on or before the first day of the school year, any district of residence identified by the State Department of Education as being a low-achieving school, shall provide the parents and guardians of all pupils with notification of the option to transfer to another public school. The extent to which schools are identified using federal criteria of low-achievement (which could overlap with state criteria), would reflect a requirement of federal law. Any other schools that are only identified by state criteria would reflect a requirement of the state. Thus, the increment that state law goes beyond federal law and imposes additional requirements reflects the true higher level of service required by the state.

In addition, federal regulations require that notifications sent to parents include information on how other schools compare in terms of academic achievement.<sup>2</sup> This federal requirement could reduce the workload required to fulfill the state requirement that the school district from which a student transfers, ensures that the student is transferring to a school with a higher Academic Performance Index score. Therefore, the increment that state law goes beyond federal law and imposes additional requirements reflects the true higher level of service required by the state.

Requirements identified by the Commission related to the Parent Empowerment Act and the Open Enrollment Act should be reduced to reflect the federal requirements already in place to reflect the true higher level of service required by the state. Also, federal Title I funding is an offsetting revenue source for the Parent Empowerment Act and the Open Enrollment Act because of the overlap in state and federal requirements. Schools that are eligible for school interventions pursuant to the Parent Empowerment Act are likely to be subject to corrective action and alternative governance practices as required by federal law. Further, notifications to parents with children in schools subject to corrective action are already required by federal law. As stated in the draft staff analysis, to the extent that a district receives any federal or grant

---

<sup>2</sup> 34 Code of Federal Regulations 200.37 (b)(1)

funding and applies those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district.<sup>3</sup>

**2. Race to the Top, Education Code section 53202(a) and (b)**

***A. Title I SIG is an offsetting revenue source for implementation of one of the four required intervention models for persistently lowest-achieving schools.***

Because the federal ESEA Title I SIG program has aligned school intervention requirements and definitions with RTTT, annual appropriations and one-time American Recovery and Reinvestment Act (ARRA) funds for SIG are offsetting revenues.

Both RTTT and SIG programs require the persistently lowest-achieving schools to implement one out of the same set of four intervention models. Therefore, if a school is identified by the State Department of Education as a persistently low-achieving school and required to implement a specified intervention model, the corresponding district or county would also be eligible to apply for a SIG. To the extent a school is awarded a SIG and that funding is used to implement an intervention model, those funds are required to be identified as offsetting revenue.

Funding for SIG is provided by an annual appropriation in the Budget Act in Item 6110-134-0890. The SIG program was also a recipient of ARRA funding. These appropriations, both ongoing and one-time, provide evidence that additional revenue has been appropriated to fund the costs of implementing specific interventions which have been identified by Commission staff as a state-mandated activity in this claim. Furthermore, the claimant has been awarded a portion of these offsetting revenues.<sup>4</sup>

The activities identified by Commission staff as imposing a state-mandated program with regard to the Parent Empowerment Act, the Open Enrollment Act, and RTTT, must be considered in the context of existing federal law to identify what is truly a state-imposed higher level of service. By applying identified offsetting revenues and accounting for federally mandated activities, it is questionable as to whether the test claim submitted by the claimant reaches the \$1,000 minimum claim amount that is required pursuant to Government Code section 17564(a).

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need 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 Anthony Crawford, Principal Program Budget Analyst, at (916) 445-0328.

Sincerely,



Thomas Todd  
Assistant Program Budget Manager

---

<sup>3</sup> Commission on State Mandates, "Draft Staff Analysis and Proposed Statement of Decision," page 47.

<sup>4</sup> <http://www.cde.ca.gov/sp/sw/t1/sigregion3.asp>.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 5, 2014, I served the:

**DOF Comments**

*Race to the Top*, 10-TC-06

Education Code Sections 48353 et al.

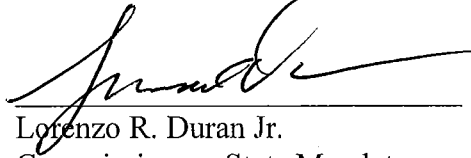
Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 March 5, 2014 at Sacramento, California.



Lorenzo R. Duran Jr.  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/28/14

**Claim Number:** 10-TC-06

**Matter:** Race to the Top

**Claimant:** Twin Rivers Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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.)

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Carol Bingham**, *California Department of Education (E-08)*

Fiscal Policy Division, 1430 N Street, Suite 5602, 1430 N Street, Suite 5602, Sacramento, CA 95814

Phone: (916) 324-4728

cbingham@cde.ca.gov

**Mike Brown**, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762

Phone: (916) 669-5116

mikeb@sia-us.com

**Allan Burdick**,

7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*  
895 La Sierra Drive, Sacramento, CA 95864  
Phone: (916)595-2646  
Bburgess@mgtamer.com

**Gwendolyn Carlos**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
gcarlos@sco.ca.gov

**Giny Chandler**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA  
Phone: (916) 323-3562  
giny.chandler@csm.ca.gov

**David Cichella**, *California School Management Group*  
3130-C Inland Empire Blvd., Ontario, CA 91764  
Phone: (209) 834-0556  
dcichella@csmcentral.com

**Marieta Delfin**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-0706  
mdelfin@sco.ca.gov

**Andra Donovan**, *San Diego Unified School District*  
Legal Services Office, 4100 Normal Street, Room 2148, 4100 Normal Street, Room 2148, San Diego, CA 92103  
Phone: (619) 725-5630  
adonovan@sandi.net

**Chris Ferguson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Ferguson@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Paul Golaszewski**, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8341  
Paul.Golaszewski@lao.ca.gov

**Ed Hanson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
ed.hanson@dof.ca.gov

**Mark Ibele**, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Mark.Ibele@sen.ca.gov

**Jill Kanemasu**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-9891

jkanemasu@sco.ca.gov

**Jillian Kissee**, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

jillian.kissee@dof.ca.gov

**Jennifer Kuhn**, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8332

Jennifer.kuhn@lao.ca.gov

**Jay Lal**, *State Controller's Office (B-08)*

Division of Accounting &amp; Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0256

JLal@sco.ca.gov

**Veronica Lanto**, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126-2736

Phone: (408) 535-6572

Veronica\_Lanto@sjusd.org

**Kathleen Lynch**, *Department of Finance (A-15)*

915 L Street, Suite 1280, 17th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

kathleen.lynch@dof.ca.gov

**Michelle Mendoza**, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403

Phone: (949) 440-0845

michellemendoza@maximus.com

**Yazmin Meza**, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Yazmin.meza@dof.ca.gov

**Robert Miyashiro**, *Education Mandated Cost Network*

1121 L Street, Suite 1060, Sacramento, CA 95814

Phone: (916) 446-7517

robertm@sscal.com

**Keith Nezaam**, *Department of Finance*

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-8913

Keith.Nezaam@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Christian Osmena**, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
christian.osmena@dof.ca.gov

**Arthur Palkowitz**, *Stutz Artiano Shinoff & Holtz*  
**Claimant Representative**  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@stutzartiano.com

**Keith Petersen**, *SixTen & Associates*  
P.O. Box 340430, Sacramento, CA 95834-0430  
Phone: (916) 419-7093  
kbsixten@aol.com

**Mark Rewolinski**, *MAXIMUS*  
625 Coolidge Drive, Suite 100, Folsom, CA 95630  
Phone: (949) 440-0845  
markrewolinski@maximus.com

**Sandra Reynolds**, *Reynolds Consulting Group, Inc.*  
P.O. Box 894059, Temecula, CA 92589  
Phone: (951) 303-3034  
sandrareynolds\_30@msn.com

**Kathy Rios**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
krios@sco.ca.gov

**Robert Roach**, *Twin Rivers Unified School District*  
3222 Winona Way, North Highlands, CA 95660  
Phone: (916) 566-1600  
rob.roach@twinriversusd.org

**Matthew Schuneman**, *MAXIMUS*  
900 Skokie Boulevard, Suite 265, Northbrook, IL 60062  
Phone: (847) 513-5504  
matthewschuneman@maximus.com

**Nicolas Schweizer**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
nicolas.schweizer@dof.ca.gov

**David Scribner**, *Max8550*  
2200 Sunrise Boulevard, Suite 240, Gold River, CA 95670  
Phone: (916) 852-8970



dscribner@max8550.com

**Steve Shields**, *Shields Consulting Group, Inc.*

1536 36th Street, Sacramento, CA 95816

Phone: (916) 454-7310

steve@shieldscg.com

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

**Meg Svoboda**, *Senate Office of Research*

1020 N Street, Suite 200, Sacramento, CA

Phone: (916) 651-1500

meg.svoboda@sen.ca.gov

**Jolene Tollenaar**, *MGT of America*

2001 P Street, Suite 200, Suite 200, Sacramento, CA 95811

Phone: (916) 443-9136

jolene\_tollenaar@mgtamer.com

**Jennifer Troia**, *Senate Budget and Fiscal Review Committee*

State Capitol, Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Jennifer.Troia@sen.ca.gov

**Brian Uhler**, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328

brian.uhler@lao.ca.gov