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Commission on
State Mandates

DEPARTMENT OF FINANCE
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July 20, 2015

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

Re: California Assessment of Student Performance and Progress (CAASPP)
Test Claim 14-TC-01

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the Commission's June 1, 2015 Draft Proposed Decision. While we concur that many of the code sections and regulations pled do not contain mandated activities, we disagree that costs incurred by local educational agencies from January 1, 2014 to June 30, 2014 were mandated by the state. Therefore, we respectfully assert that these costs are not reimbursable, for the following reasons:

- Chapter 489, Statutes of 2013, included a three-year period for local educational agencies to transition to computer-based assessments and specified that costs to administer the CAASPP be incurred up to the amount available for that purpose. Therefore, local educational agencies: (1) were not required to incur technology related costs in the first six months of this three-year transition period (from January 1, 2014 to June 30, 2014); and (2) were instructed to only incur costs from the funds available to administer the CAASPP.

- Chapter 20, Statutes of 2013, provided sufficient funds, as a matter of law, to cover any costs incurred by local educational agencies from January 1, 2014 to June 30, 2014 related to the state's testing system.

Chapter 489, Statutes of 2013, did not require local educational agencies to incur technology costs from January 1, 2014 to June 30, 2014 to implement the CAASPP. These statutes established the CAASPP system to *eventually* be administered exclusively on computers. However, local educational agencies are in complete compliance with the law by using the paper and pencil version of the CAASPP for the first three years it is administered. During this three year period, including from January 1, 2014 to June 30, 2014, administering the CAASPP on computers is optional. The following sections express clear intent that local educational agencies are not required to bear the financial burden of immediately implementing the CAASPP on computers before state funding is specifically provided for administering computer-based assessments:

Subdivision (e) of Education Code Section (ECS) 60640 reads:

"(e) The Superintendent shall make available a paper and pencil version of any computer-based MAPP assessment for use by pupils who are unable to access the

computer-based version of the assessment for a maximum of three years after a new operational test is first administered."

Paragraph (1) of subdivision (f) of ECS 60640 reads:

"(f)(1) From the funds available for that purpose, each local educational agency shall administer assessments to each of its pupils pursuant to subdivision (b)."

Chapter 489, Statutes of 2013, became effective January 1, 2014 and the CAASPP was first administered by local educational agencies as a practice test during the 2013-14 school year. Per subdivision (e) of ECS 60640, the Superintendent is required to offer a paper and pencil version of the assessment for local educational agencies that are unable to access the computer-based version until January 1, 2017. Further, statute prescribes that local educational agencies administer the CAASPP assessments from the funds available for that purpose. Therefore, any costs incurred by local educational agencies beyond what was provided for the purpose of administering CAASPP were voluntary and, therefore, should not be reimbursable.

If the Commission finds that local educational agencies were required to incur technology costs to administer the CAASPP on computers from January 1, 2014 to June 30, 2014, we argue that adequate funds were provided for this purpose by Chapter 20, Statutes of 2013.

Chapter 20, Statutes of 2013, provided sufficient funds, as a matter of law, to cover any costs incurred by local educational agencies from January 1, 2014 to June 30, 2014 related to the state's testing system. The following item, provision, and statutory appropriation of the 2013 Budget Act provided funding for local educational agencies to support costs for the CAASPP system:

Provision 1 of Item 6110-113-0001, which contains a $72.7 million General Fund local assistance appropriation for state assessments, reads:

"1. The funds appropriated in this item shall be for the pupil testing programs authorized by Chapter 3 (commencing with Section 48410) of Part 27 of Division 4 of Title 2 of the Education Code and ***Chapter 5 (commencing with Section 60600)***, Chapter 6 (commencing with Section 60800), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850) of Part 33 of Division 4 of Title 2 of the Education Code."

Section 85 of Chapter 48, Statutes of 2013, contains a $1.25 billion General Fund local assistance appropriation for local educational agencies. Paragraph (3) of subdivision (d) of this section, which specifies one of the allowable uses of these funds, reads:

"(3) Integration of these academic content standards through technology-based instruction for purposes of improving the academic performance of pupils, including, but not necessarily limited to, ***expenditures necessary to support the administration of computer-based assessments*** and provide high-speed, high-bandwidth Internet connectivity for the purpose of administration of computer-based assessments."

We disagree with the Commission staff finding that costs incurred between January 1, 2014 and June 30, 2014, to prepare for and administer the CAASPP via computers may be reimbursable. We assert that sufficient funding was provided in the 2013 Budget Act for these activities. Provision 1 of Item 6110-113-0001 explicitly references the statutes that were amended by

Chapter 489, Statutes of 2013 and, therefore, the $72.7 million appropriated in this item is explicitly provided to support the CAASPP. Further, the $1.25 billion appropriated by Section 85 of Chapter 48, Statutes of 2013, was available for these activities and, as asserted above, local educational agencies were required by statute to administer the CAASPP from funds available for that purpose.

If the Commission, despite our strong arguments above, finds that costs incurred by local educational agencies from January 1, 2014 to June 30, 2014 are reimbursable, we argue that the claimants have the burden to show that any costs cited were incurred solely to accommodate the CAASPP, and would not have otherwise been incurred had Chapter 489, Statutes of 2013, not passed.

Local educational agencies submitting claims should be required to: (1) demonstrate that technology related costs incurred were solely for the purpose of administering the CAASPP; and (2) provide evidence documenting a series of fiscal actions that were in response to the creation of the CAASPP and beyond what was already adopted in their 2013-14 local budgets.

Specifically, the claimants are seeking reimbursement for purchasing student devices, software, testing furniture, bandwidth improvements, and computer and tablet accessories, such as ear buds, mice, and keyboards. The claimants are also seeking reimbursement for staff training on the operation of the new devices purchased. If the claimants cannot clearly demonstrate that the items purchased are being used solely for the CAASPP, and do not exceed the minimum technological needs therein after making all other reasonable accommodations, we believe that the costs should not be reimbursable.

Further, the claimants may be seeking reimbursement for purchases that were already planned and would have been made regardless of the creation of the CAASPP. Per ECS 42127, governing boards of school districts must adopt their local budgets no later than July 1 of each year, with the budget and supporting data available for public review. For the 2013-14 fiscal year, county offices of education were required to approve, conditionally approve, or disapprove a school district's budget no later than August 15, 2013. School district budgets that were conditionally approved or disapproved were required to be revised and approved by the county offices of education no later than October 8, 2013. For the 2013-14 fiscal year, each of these school district budget deadlines were prior to the implementation of Chapter 489, Statutes of 2013. If the claimants cannot clearly demonstrate that the items purchased were added as an amendment to their budgets (and in response to passage of Chapter 489, Statutes of 2013), we believe such purchases would have been made even if the CAASPP was not established, and therefore, the costs should not be reimbursable.

If you have any questions regarding this letter, please contact Ian Johnson, Principal Program Budget Analyst for the Department of Finance, at (916) 445-0328.

Sincerely,

THOMAS TODD
Assistant Program Budget Manager

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 July 22, 2015, I served the:

Finance Comments
Request to Amend Parameters and Guidelines
Immunization Records - Pertussis, 14-PGA-01 (11-TC-02)
Health and Safety Code Section 120335
Statutes 2010, Chapter 434 (AB 354)
Desert Sands Unified School District, Requester

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 July 22, 2015 at Sacramento, California.

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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/8/15

Claim Number: 14-PGA-01 (11-TC-02)

Matter: Immunization Records - Pertussis

Requester: Desert Sands Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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Amber Alexander, *Department of Finance*
915 L Street, Sacramento, Ca
Phone: (916) 445-0328
Amber.Alexander@dof.ca.gov

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

Julia Blair, Senior Commission Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
julia.blair@csm.ca.gov

Mike Brown, *School Innovations & Advocacy*
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116

mikeb@sia-us.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) 323-0706
gcarlos@sco.ca.gov

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

Joshua Daniels, Attorney, *California School Boards Association*
3251 Beacon Blvd, West Sacramento, CA 95691
Phone: (916) 669-3266
jdaniels@csba.org

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

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

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

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, 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

Cheryl Ide, Associate Finance Budget Analyst, *Department of Finance*
Education Systems Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Cheryl.ide@dof.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

Jennifer Kuhn, Deputy, *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 & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

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

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Jameel Naqvi, Analyst, *Legislative Analyst's Office*

Education Section, 925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8331
Jameel.naqvi@lao.ca.gov

Keith Nezaam, *Department of Finance*
915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-8913
Keith.Nezaam@dof.ca.gov

Lehoa Nguyen, *California Department of Public Health*
1501 Capitol Ave., P.O. Box 997377, MS 0506, Sacramento, CA 95899-7377
Phone: (916) 440-7841
lehoa.nguyen@cdph.ca.gov

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

James Novak, Assistant Superintendent of Business Services, *Desert Sands Unified School District*
47-980 Dune Palms Road, La Quinta, CA 92253
Phone: (760) 771-8508
jim.novak@desertsands.us

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*
Requester Representative
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@sashlaw.com

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

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

rob.roach@twinriversusd.org

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

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 443-411
jolene_tollenaar@mgtamer.com

Brian Uhler, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
brian.uhler@lao.ca.gov

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjusd.org