

**LAW OFFICES OF ARTHUR M. PALKOWITZ**  
**12807 Calle de la Siena**  
**San Diego, CA 92130**  
**[law@artpalk.onmicrosoft.com](mailto:law@artpalk.onmicrosoft.com)**  
**Phone: 858.259.1055**

**RECEIVED**  
November 02, 2023  
**Commission on  
State Mandates**

November 2, 2023

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

Re: Test Claim: Free Application for Federal Student Aid  
(FAFSA) 22-TC-05  
Claimant: Fresno Unified School District

Dear Ms. Halsey:

Fresno Unified School District (“District” or “Claimant”) has reviewed the Department of Finance (“Finance”) comments dated October 6, 2023 in response to the Free Application for Federal Student Aid (FAFSA) Test Claim submitted to the Commission on State Mandates (“Commission”) by the Claimant.

Claimant objection to Finance comments dated October 6, 2023. Finance comments must not be relied upon by the Commission or included in the record due to the comments failing to comply with the applicable California Code of Regulations.

Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant’s personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If representations of fact are made, they must be supported with documentary evidence filed with the comments on the test claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.)

Claimant’s rebuttal comments below are not a waiver of the objections to Finance comments dated October 6, 2023.

**I. Response to Finance Concern 1.**

There is no requirement claimant’s test claim include a “fiscal analysis.” The amount of the statewide estimate may be addressed during the parameters and guidelines process.

To determine estimated costs Government Code section 17518.5 provides a “reasonable reimbursement methodology” as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514. Interested parties may survey or otherwise gather cost data to develop a formula, “representative sample of claimants” of the costs to implement the mandate in a cost-efficient manner” for the activities that were determined to be reimbursable by the Commission in the decision on the test claim, and the costs of reasonably necessary activities to comply with the mandate pursuant to section 1183.7(d) of these regulations.

Claimant is not requesting reimbursement, nor have they submitted costs for specific training, resources, and parental workshops. Specific training, resources, and parental workshops activities were not included in the statewide estimate.

Finance comments, “The Claimant does not provide sufficient evidence that existing state resources provided to LEAs, or accessible to LEAs through CSAC operated programs, related to financial aid outreach are inadequate. Further, Finance comments “claimed costs and related activities could be significantly reduced due to the pending release of a streamlined FAFSA form in 2024-25” may also be addressed during the parameters and guidelines process or by a request for mandate redeterminations that allege the state's liability for a mandate has been modified based on a subsequent change in law.

Since the claimant initially filed this test claim there would not have been “any other mandate claims filed by other LEAs or school districts related to AB 132.”

**II. Response to Finance Concern 2**

The new legislation AB 132, Education Code Section 51225.7 added the following mandated activities:

(b) Commencing with the 2022–23 school year, except as provided in subdivisions (c) and (d), the governing body of a local educational agency *shall* confirm that a pupil complies with at least one of the following:

(1) The pupil completes and submits to the United States Department of Education a Free Application for Federal Student Aid.

(2) If the pupil is exempt from paying nonresident tuition pursuant to Section 68130.5, the pupil completes and submits to the Student Aid Commission a form established pursuant to Section 69508.5 for purposes of the California Dream Act.

(c) The parent or legal guardian of the pupil, or the pupil if the pupil is a legally emancipated minor or 18 years of age or older, may opt out of the requirements of this section by filling out and submitting an opt-out form to the local educational agency. The Student Aid Commission shall make the opt-out form available to all local educational agencies pursuant to subdivision (f). (5 CCR § 30035, Appendix A.)

(d) If the local educational agency determines that a pupil is unable to complete a requirement of this section, the local educational agency shall exempt the pupil or, if applicable, the pupil's parent or legal guardian from completing and submitting a Free Application for Federal Student Aid, a form established pursuant to Section 69508.5 for purposes of the California Dream Act, or an opt-out form pursuant to subdivision (c). If the local educational agency exempts the pupil from having to complete the requirements of this section, the local educational agency shall complete and submit an opt-out form on the pupil's behalf. (5 CCR § 30035, Appendix A.)

None of the above activities were required under prior law contrary to Finance comments AB 132 is not substantially different than Education Code section 49600(d)(4) that stated the following: "Academic planning for access and success in higher education programs, including advisement on courses needed for admission to colleges and universities, standardized admissions tests, and financial aid."

Requiring a pupil to complete and submit the FAFSA form; or determining if the pupil is exempt; or that a pupil may opt out of the requirements is not the same as the prior law requiring developing pupil knowledge of financial aid planning for postsecondary education by providing pupils with financial aid information on FAFSA.

The requirements prior to AB 132 were not the same for traditional school counselor duties. Even if a school counselor was performing the activities mandated by AB 132 prior to its enactment, it was not required to. AB 132 changed discretionary activities to mandated activities. Furthermore, it is presumed the legislature would not enact a new law that was already required.

“In construing a statute, our task is to determine the Legislature’s intent and purpose for the enactment. (*People v. Tindall* (2000) 24 Cal.4th 767, 772, 102 Cal.Rptr.2d 533, 14 P.3d 207 (Tindall).) We look first to the plain meaning of the statutory language, giving the words their usual and ordinary meaning. (Ibid.) If there is no ambiguity in the statutory language, its plain meaning controls; we presume the Legislature meant what it said. (*California School Boards Assn. v. State of California* (2018) 19 Cal.App.5th 566, 584, as modified on denial of reh'g (Feb. 7, 2018))

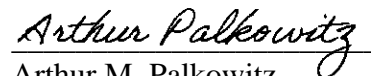
**III. Response to Finance Concern 3**

Finance contends with a new FAFSA form there *may* be a simplification of financial aid application process that *may* reduce the assistance needed to facilitate its completion. If and when that occurs, Finance may request at that time the Commission review the Parameters & Guidelines to determine if there are any offsetting revenue or any changes are appropriate. Additionally, a request for mandate redeterminations may allege the state's liability for a mandate has been modified based on a subsequent change in law.

A. Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

November 2, 2023

  
Arthur M. Palkowitz  
Representative for the Claimant

## 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 November 3, 2023, I served the:

- **Current Mailing List dated October 23, 2023**
- **Claimant's Rebuttal Comments filed November 2, 2023**

*Free Application for Federal Student Aid (FAFSA), 22-TC-05*  
Statutes 2021, Chapter 144, Section 10 (AB 132); Education Code Section 51225.7; Government Code Section 30035, Appendix A, Appendix B, Effective July 27, 2021  
Fresno 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 November 3, 2023 at Sacramento, California.



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

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 10/23/23

**Claim  
Number:** 22-TC-05

**Matter:** Free Application for Federal Student Aid (FAFSA)

**Claimant:** Fresno 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, § 1181.3.)

**Amber Alexander**, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

**Michael Alferes**, Fiscal and Policy Analyst, K-12, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95816

Phone: (916) 319-8332

michael.alferes@lao.ca.gov

**Lili Apgar**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-0254

lapgar@sco.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@comcast.net

**Keith Bray**, General Counsel/Chief of Staff, *California School Boards Association*  
3251 Beacon Blvd, West Sacramento, CA 95691  
Phone: (916) 669-3273  
kbray@csba.org

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

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 833-7775  
gburdick@mgtconsulting.com

**Edgar Cabral**, Fiscal and Policy Analyst, K-12, *Legislative Analyst's Office*  
925 L Street, Suite 100, Sacramento, CA 95816  
Phone: (916) 319-8332  
edgar.cabral@lao.ca.gov

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments,  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Veronica Causor-Lara**, Manager, Internal Audit, *San Jose Unified School District*  
855 Lenzen Avenue, San Jose, CA 95126  
Phone: (408) 535-6000  
vcausorlara@sjusd.org

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**Martina Dickerson**, Staff Finance Budget Analyst, *Department of Finance*  
Education, Department of Finance, Sacramento, CA 95814  
Phone: (916) 445-0328  
Martina.Dickerson@dof.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) 445-8918  
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

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

**Len Garfinkel**, General Counsel, *California Department of Education*  
1430 N Street, Sacramento, CA 95814  
Phone: (916) 319-0860  
lgarfinkel@cde.ca.gov

**Mike Gomez**, Revenue Manager, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3240  
mgomez@newportbeachca.gov

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@esm.ca.gov

**Tiffany Hoang**, Associate Accounting Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments,  
3301 C Street, Suite 740, Sacramento, CA 95816



Phone: (916) 323-1127  
THoang@sco.ca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA  
23236  
Phone: (804) 323-3535  
SB90@maximus.com

**Angelo Joseph**, Supervisor, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments,  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0706  
AJoseph@sco.ca.gov

**Lorena Jung**, *San Jose Unified School District*  
855 Lenzen Avenue, San Jose, CA 95126  
Phone: (408) 535-6000  
ljung@sjusd.org

**Shazleen Kahn**, Education Fiscal Policy Assistant, *California Department of Education*  
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814  
Phone: (916) 639-3197  
skhan@cde.ca.gov

**Doug Kimberly**, Superintendent, *Lake Elsinore Unified School District*  
545 Chaney Street, Lake Elsinore, CA 92530  
Phone: (951) 253-7000  
Doug.Kimberly@leusd.k12.ca.us

**Jennifer Kuhn**, Deputy, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8332  
Jennifer.kuhn@lao.ca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Audin Leung**, Student Leader, *Free the Period California*  
1 Shield Ave, Pierce Co-op TB14, Davis, CA 95616  
Phone: (415) 318-9343  
freetheperiod.ca@gmail.com

**Kristin Lindgren**, Deputy General Counsel, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3243

klindgren@csba.org

**Diego Lopez**, Consultant, *Senate Budget and Fiscal Review Committee*

1020 N Street, Room 502, Sacramento, CA 95814

Phone: (916) 651-4103

Diego.Lopez@sen.ca.gov

**Everett Luc**, Accounting Administrator I, Specialist, *State Controller's Office*

3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766

ELuc@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

Jill.Magee@csm.ca.gov

**Darryl Mar**, Manager, *State Controller's Office*

3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706

DMar@sco.ca.gov

**Tina McKendell**, *County of Los Angeles*

Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-0324

tmckendell@auditor.lacounty.gov

**Michelle Mendoza**, *MAXIMUS*

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

Phone: (949) 440-0845

michellemendoza@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8320

Lourdes.Morales@LAO.CA.GOV

**Marilyn Munoz**, Senior Staff Counsel, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-8918  
Marilyn.Munoz@dof.ca.gov

**Bob Nelson**, Interim Superintendent, *Fresno Unified School District*

**Claimant Contact**

2309 Tulare Street, Fresno, CA 93721  
Phone: (559) 457-3882  
Bob.Nelson@fresnounified.org

**Melissa Ng**, Staff Finance Budget Analyst, *Department of Finance*

Education, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
Melissa.Ng@dof.ca.gov

**Michelle Nguyen**, *Department of Finance*

Education Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Michelle.Nguyen@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*

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

**Arthur Palkowitz**, *Law Offices of Arthur M. Palkowitz*

**Claimant Representative**

12807 Calle de la Siena, San Diego, CA 92130  
Phone: (858) 259-1055  
law@artpalk.onmicrosoft.com

**Kirsten Pangilinan**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 322-2446  
KPangilinan@sco.ca.gov

**Roberta Raper**, Director of Finance, *City of West Sacramento*

1110 West Capitol Ave, West Sacramento, CA 95691  
Phone: (916) 617-4509  
robertar@cityofwestsacramento.org

**Seth Reddy**, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126  
Phone: (408) 535-6000  
sreddy@sjusd.org

**Sandra Reynolds**, President, *Reynolds Consulting Group, Inc.*  
P.O. Box 891359, Temecula, CA 92589-1359  
Phone: (888) 202-9442  
rcginc19@gmail.com

**Cindy Sconce**, Director, *MGT*  
Performance Solutions Group, 3600 American River Drive, Suite 150,  
Sacramento, CA 95864  
Phone: (916) 276-8807  
csconce@mgtconsulting.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Steve Shields**, *Shields Consulting Group, Inc.*  
1536 36th Street, Sacramento, CA 95816  
Phone: (916) 454-7310  
steve@shieldscg.com

**Natalie Sidarous**, Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: 916-445-8717  
NSidarous@sco.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

**Jolene Tollenaar**, *MGT Consulting Group*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328  
Brian.Uhler@LAO.CA.GOV

**Adam Whelen**, Director of Public Works, *City of Anderson*  
1887 Howard St., Anderson, CA 96007  
Phone: (530) 378-6640  
awhelen@ci.anderson.ca.us

**Colleen Winchester**, Senior Deputy City Attorney, *City of San Jose*  
200 East Santa Clara Street, 16th Floor, San Jose, CA 95113  
Phone: (408) 535-1987  
Colleen.Winchester@sanjoseca.gov

**Jacqueline Wong-Hernandez**, Deputy Executive Director for Legislative  
Affairs, *California State Association of Counties (CSAC)*  
1100 K Street, Sacramento, CA 95814  
Phone: (916) 650-8104  
jwong-hernandez@counties.org

**Elisa Wynne**, Staff Director, *Senate Budget & Fiscal Review Committee*  
California State Senate, State Capitol Room 5019, Sacramento, CA 95814  
Phone: (916) 651-4103  
elisa.wynne@sen.ca.gov

**Bruce Yonehiro**, Chief Counsel, *California Department of Education*  
1430 N Street, Sacramento, CA 95814-5901  
Phone: (916) 319-0860  
BYonehiro@cde.ca.gov

**Helmholt Zinser-Watkins**, Associate Governmental Program Analyst, *State  
Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments,  
3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-7876  
HZinser-watkins@sco.ca.gov