BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: San Diego Unified School District, Claimant	No. CSM-4453 Education Code Section 48980 Subdivisions (e) and (g) Chapter 1296, Statutes of 1993 Chapter 10, Statutes of 1990 Notification to Parents;. Pupil Attendance Alternatives

DECISION

The attached Amended Statement of Decision of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above-entitled matter.

This Decision shall become effective on February 23, 1995. IT IS SO ORDERED February 23, 1995.

Shelley Mateo, Interim Executive Director
Commission on State Mandates

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: San Diego Unified School District, Claimant	CSM-4453 Education Code Section 48980 Subdivisions (e) and (g) Chapter 1296, Statutes of 1993 Chapter 10, Statutes of 1990 *Notification to Parents: Pupil Attendance Alternatives*

AMENDED STATEMENT OF DECISION

This claim was heard by the Commission on State Mandates (Commission) on July 2 1, 1994, in Sacramento, California, during a regularly scheduled hearing.

Mr. Keith Petersen appeared on behalf of the San Diego Unified School District, Ms. Carol Miller appeared on behalf of the Education Mandated Cost Network, and Mr. James Apps appeared on behalf of the Department of Finance.

In addition, Education Code Section 48980, subdivision (e), was claimed in Interdistrict Transfer Renuests: Parent's Employment (CSM 4445) heard at a regularly scheduled hearing on January, 19, 199.5. At this later hearing, Mr. Keith Petersen appeared on behalf of the San Diego Unified School District, Ms. Carol Berg appeared on behalf of the Education Mandated Cost Network, and Mr. James Apps and Ms. Janet Finley appeared on behalf of the Department of Finance.

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

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ISSUE

Do the provisions of Education Code Section 48980, subdivisions (e) and (g), as added by Chapter 1296, Statutes of 1993 (Chapter 1296/93), and Chapter 10, Statutes of 1990 (Chapter 10/90), require school districts to implement a new program or provide a higher level of service in an existing program, within the meaning of Section 6, article XIIIB of the California Constitution and Government Code Section 175 14?

BACKGROUND AND FINDINGS OF FACT

The test claim was filed with the Commission on February 16, 1994, by the San Diego Unified School District.

The elements for filing a test claim, as specified in Section 1183 of Title 2 of the California Code of Regulations, were satisfied.

Chapter 10/90 added Education Code Section 48980, subdivision (d), which was later lettered as subdivision (e) as follows:

> "Until June 30, 1995, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204."

The Commission observed that Education Code Section 48980, subdivision (e), does contain a requirement for school districts to develop and include as part of the notification to parents or guardians an advisement of the availability of employment-based school attendance options.

The Commission found that the activities required in Education Code Section 48980, subdivision (e), were not required under prior law.

Chapter 1296/93 added Education Code Section 48980, subdivision (g), as follows:

> "The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district. That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict

> and intradistrict basis. That notification shall also include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commending with Section 5600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.
>
> "It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interest of California's pupils. "

The Commission observed that Education Code Section 48980, subdivision (g), does contain a requirement for school districts to include specific additional information as part of the annual notification to parents or guardians. However, the Commission found that subdivision Education Code Section 48980, subdivision (g), does not contain a requirement for school districts to develop the explanation of the current statutory attendance options. The California Department of Education is required to prepare this explanation and distribute it to the school districts.

The Commission noted that Section 48980, subdivision (g), does contain a requirement for school districts to develop and include as part of the notification, all current and statutory local attendance options including a description of all options which are unique to each district, a procedure for alternative attendance areas or programs, an application for requesting a change of attendance, and a description of the appeals process.

Further, the Commission found that Section 48980, subdivision (g), does not require the governing bodies of school districts to conduct an annual review of the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

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The Commission found that the activities required in Education Code Section 48980, subdivision (g), were not required under prior law.

At the January 19, 1995 hearing of Interdistrict Transfer Requests: Parent's Employment (CSM-4445), the Commission heard the following supplementary issue:

Supplementary Issue: Should the earlier filing date of December 17, 1993, be applied to Education Code section 48980, subdivision (e) ?

The Commission observed that Education Code section 48980, subdivision. (e), provides that the notification to parents and guardians shall also advise them of the availability of the employment-based school attendance options pursuant to subdivision (f) of section 48204. In CSM-44.53, the Commission determined that the reimbursable state mandated activities in Notification to Parents: Pupil Attendance Alternatives, relating to Education Code section 48980, subdivisions (e) and (g), were subject to the test claim filing date of February 22, 1994.

However, the Commission noted that Education Code section 48980, subdivision (e), was included in both CSM-44.53 and in CSM-444.5, and that the reimbursement period for the subdivision (e) activity should correspond to the earlier test claim filing date of December 17, 1993.

Accordingly, the Commission found that its original recommendation be modified and that the portion of Interdistrict Transfer Requests: Parent's Employment (CSM-4445) pertaining to Notification to Parents: Pupil Attendance Alternatives (CSM-44.53) should not be totally omitted from the hearing on CSM-4445. Rather, the Commission recognized that Education Code section 48980, subdivision (e), is subject to the December 17, 1993 filing date which permits eligible school districts to claim an additional year of reimbursement for the

subdivision (e) activity, (i.e., commencing on July 1, 1992 rather than July 1, 1993). Therefore, the Commission found that the statement of decision for Notification to Parents: Pupil Attendance Alternatives (CSM-44.53) pertaining to Education Code section 48980, subdivision (e), be clarified to the extent of indicating a test claim filing date of December 17, 1993.

APPLICABLE LAW RELEVANT TO THE DETERMINATION OF A REIMBURSABLE STATE MANDATED PROGRAM

Government Code Section 17500 and following, and § 6, article XIIIB of the California Constitution and related case law.

CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code Section 17500 and 17551, subdivision (a).

The Commission concludes that the provisions of Education Code Section 48980, subdivision (e), of Chapter 10190, do impose a new program or higher level of service in an existing program within the meaning of Section 6 of article XIIIB of the California Constitution and Government Code Section 17514 by requiring school districts to develop and include as part of the notification to parents or guardians an advisement of the availability of employment-based school attendance options. In addition, the Commission notes that subdivision (e) has specific implementation dates that sunset on June 30, 1995.

The Commission concludes that the provisions of Education Code Section 48980, subdivision (g), of Chapter 1296/93, do impose a new program or higher level of service in an existing program within the meaning of Section 6 of article XIIIB of the California Constitution and

Government Code Section 17514 by requiring school districts to provide or disseminate the notification to parents or guardians including information provided by the California Department of Education explaining the current statutory attendance options, and developing and including all current statutory and local attendance options which are unique to each district, and a procedure for alternative attendance areas or programs all as part of the annual notification, and to develop and distribute school district application forms for requesting a change of attendance, and a description of the appeals process for those applicants who are denied.

The Commission concludes that the provisions of Education Code Section 48980, subdivision (g), of Chapter 1296193, do not impose a new program or higher level of service in an existing program within the meaning of Section 6 of article XIIIB of the California Constitution and Government Code Section 17514 by requiring school districts to conduct an annual review of the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

The Commission further concludes, at its January 19, 199.5 hearing of the test claim entitled Interdistrict Transfers: Parent's Employment, that Education Code section 48980, subdivision (e), is subject to a filing date of December 17, 1993, which permits eligible school districts to claim an additional year of reimbursement for the subdivision (e) activity, (i.e., commencing on July 1, 1992 rather than July 1, 1993.).

Accordingly, costs incurred related to the aforementioned reimbursable state mandated programs contained in Education Code Section 48980, subdivisions (e) and (g), are costs mandated by the state and are subject to reimbursement within the meaning of Section 6, article XIIIB of the California Constitution. Therefore, the claimant is directed to submit

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parameters and guidelines, pursuant to Government Code Section 17557 and Title 2, California Code of Regulations, Section 1183.1, to the Commission for its consideration.

The foregoing conclusions pertaining to the requirements contained in Education Code Section 48980, subdivisions (e) and (g), are subject to the following conditions:

> The determination of a reimbursable state mandated program does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.
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> If the statewide cost estimate for this mandate does not exceed one million dollars ($1,000,000) during the first twelve (12) month period following the operative date of the mandate, the Commission shall certify such estimated amount to the State Controller's Office, and the State Controller shall receive, review, and pay claims from the State Mandates Claims Fund as claims are received. (Government Code Section 176 10.)

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: San Diego Unified School District, Claimant	No. CSM-4453 Education Code Section 48980 Subdivisions (e) and (g) Chapter 1296, Statutes of 19932 Chapter 10, Statutes of 1990 Notification to Parents: Pupil Attendance Alternatives

DECISION

The attached Proposed Statement of Decision of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above-entitled matter.

This Decision shall become effective on August 15, 1994.

IT IS SO ORDERED August 15, 1994,

Mary Ann Aguayo

Mary Ann Aguayo, Acting Executive Director
Commission on State Mandates

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of: San Diego Unified School District, Claimant	)	No. CSM-4453 Education Code § 48980 Subdivisions (e) and (g) Chapter 1296, Statutes of 1993 Chapter 10, Statutes of 1990 Notification to Parents: Pupil Attendance Alternatives

PROPOSED STATEMENT OF DECISION

This claim was heard by the Commission on State Mandates (Commission) on July 21, 1994, in Sacramento, California, during a regularly scheduled hearing.

Mr. Keith Petersen appeared on behalf of the San Diego Unified School District, Ms. Carol Miller appeared on behalf of the Education Mandated Cost Network, and Mr. James Apps appeared on behalf of the Department of Finance. Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

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Do the provisions of Education Code § 48980, subdivisions (e) and (g), as added by Chapter 1296, Statutes of 1993 (Chapter 1296/93), and Chapter 10, Statutes of 1990 (Chapter 10/90), require school districts to implement a new program or provide a higher level of service in an existing program, within the meaning of § 6, article XIIIB of the California Constitution and Government Code § 17514?

BACKGROUND AND FINDINGS OF FACT

The test claim was filed with the Commission on February 16, 1994, by the San Diego Unified School District.

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The elements for filing a test claim, as specified in § 1183 of Title 2 of the California Code of Regulations, were satisfied.

Chapter 10/90 added Education Code § 48980, subdivision (d), which was later lettered as subdivision (e) as follows:

> "Until June 30, 1995, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204."

The Commission observed that Education Code § 48980, subdivision (e), does contain a requirement for school districts to develop and include as part of the notification to parents or guardians an advisement of the availability of employment-based school attendance options.

The Commission found that the activities required in Education Code § 48980, subdivision (e), were not required under prior law.

Chapter 1296/93 added Education Code § 48980, subdivision (g), as follows:

> "The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district, That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. That notification shall also include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commending with Section 5600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.
>
> It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts

> and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interest of California's pupils."

The Commission observed that Education Code § 48980, subdivision (g), does contain a requirement for school districts to include specific additional information as part of the annual notification to parents or guardians. However, the Commission found that subdivision Education Code § 48980, subdivision (g), does not contain a requirement for school districts to develop the explanation of the current statutory attendance options. The California Department of Education is required to prepare this explanation and distribute it to the school districts.

The Commission noted that § 48980, subdivision (g), does contain a requirement for school districts to develop and include as part of the notification, all current and statutory local attendance options including a description of all options which are unique to each district, a procedure for alternative attendance areas or programs, an application for requesting a change of attendance, and a description of the appeals process.

Further, the Commission found that § 48980, subdivision (g), does not require the governing bodies of school districts to conduct an annual review of the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

The Commission found that the activities required in Education Code § 48980, subdivision (g), were not required under prior law.

APPLICABLE LAW RELEVANT TO THE DETERMINATION OF A REIMBURSABLE STATE MANDATED PROGRAM

Government Code § 17500 and following, and § 6, article XIIIB of the California Constitution and related case law.

CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code § 17500 and 17551, subdivision (a).

The Commission concludes that the provisions of Education Code § 48980, subdivision (e), of Chapter 1090, do impose a new program or higher level of service in an existing program within the meaning of § 6 of article XIIIB of the California Constitution and Government Code § 17514 by requiring school districts to develop and include as part of the notification to parents or guardians an advisement of the availability of employment-based school attendance options. In addition, the Commission notes that subdivision (e) has specific implementation dates that sunset on June 30, 1995.

The Commission concludes that the provisions of Education Code § 48980, subdivision (g), of Chapter 1296/93, do impose a new program or higher level of service in an existing program within the meaning of § 6 of article XIIIB of the California Constitution and Government Code § 17514 by requiring school districts to provide or disseminate the notification to parents or guardians including information provided by the California Department of Education explaining the current statutory attendance options, and developing and including all current statutory and local attendance options which are unique to each district, and a procedure for alternative attendance areas or programs all as part of the annual notification, and to develop and distribute school district application forms for requesting a change of attendance, and a description of the appeals process for those applicants who are denied.

The Commission concludes that the provisions of Education Code § 48980, subdivision (g), of Chapter 1296/93, do not impose a new program or higher level of service in an existing program within the meaning of § 6 of article XIIIB of the California Constitution and Government Code § 17514 by requiring school districts to conduct an annual review of the enrollment options

available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

Accordingly, costs incurred related to the aforementioned reimbursable state mandated programs contained in Education Code § 48980, subdivisions (e) and (g), are costs mandated by the state and are subject to reimbursement within the meaning of § 6, article XIIIB of the California Constitution. Therefore, the claimant is directed to submit parameters and guidelines, pursuant to Government Code § 17557 and Title 2, California Code of Regulations, § 1183.1, to the Commission for its consideration.

The foregoing conclusions pertaining to the requirements contained in Education Code § 48980, subdivisions (e) and (g), are subject to the following conditions:

> The determination of a reimbursable state mandated program does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.
>
> If the statewide cost estimate for this mandate does not exceed one million dollars ($1,000,000) during the first twelve (12) month period following the operative date of the mandate, the Commission shall certify such estimated amount to the State Controller's Office, and the State Controller shall receive, review, and pay claims from the State Mandates Claims Fund as claims are received. (Government Code § 17610.)

DECLARATION OF SERVICE BY MAIL

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 and business address is 14 14 K Street, Suite 315, Sacramento, California 95814.

On March 9, 1995, I served the attached Statement of Decision "Notification to Parent: Pupil Attendance Alternatives, " of the Commission on State Mandates by placing a true copy thereof in an envelope addresses to each of the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Mr. Keith Petersen
San Diego City Schools
4100 Normal Street, Room 3202
Sacramento, CA 95814

Mr. Jim Apps
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. J. Richard Whitmore
Department of Education
721 Capitol Mall, Room 524
Sacramento, CA 95814

Mr. Greg Geeting
State Board of Education
721 Capitol Mall, Room 532
Sacramento, CA 95814

Mr. Jeff Yee
State Controller's Office
3301 C Street, Room 503
Sacramento, CA 95814

Mr. Floyd Shimomura
Attorney General's Office
1515 K Street, Suite 511
Sacramento, CA 958 14

Ms. Carol Berg
Educated Mandated Cost Network
1127 1 lth Street, Suite 401
Sacramento, CA 95814

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 9, 1995, at Sacramento, California.

Elsa Delgado

Elsa Delgado

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