

ITEM 16

CHIEF LEGAL COUNSEL'S REPORT New Filings, Recent Decisions, Litigation Calendar

This public session report is intended only as an information item for the public.¹ Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Noticed Agenda.

New Filings

Castro Valley Unified School District v. Commission on State Mandates, et al.

County of Sacramento Superior Court, Case No. 03CS01568

CSM Case No. 03-L-04 [*Graduation Requirements*]

Date Filed: October 27, 2003

San Jose Unified School District v. Commission on State Mandates, et al.

County of Sacramento Superior Court, Case No. 03CS01569

CSM Case No. 03-L-05 [*Graduation Requirements*]

Date Filed: October 27, 2003

Clovis Unified School District v. Commission on State Mandates, et al.

County of Sacramento Superior Court, Case No. 03CS01702

CSM Case No. 03-L-09 [*Graduation Requirements*]

Date Filed: November 25, 2003

These actions challenge the Commission's decisions for incorrect reduction claims entitled, *Graduation Requirements*. The Commission found that that the State Controller's Office had properly reduced the claims. The underlying test claim decisions concern Education Code section 51225.3 (Stats. 1983, ch. 498) and the requirement for science instruction in schools.

¹ Based on information available as of January 9, 2004. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

Recent Decisions

County of San Bernardino v. Commission on State Mandates, et al.

Second District Court of Appeal, Case No. B163801
CSM Case No. 02-L-04 [*Property Tax Administration*]

The case involves two separate challenges to the Commission's test claim decisions concerning property tax administration. The court in an unpublished decision filed on December 2, 2003, upheld the Commission's decisions.

State of California Department of Finance v. Commission on State Mandates, et al.

County of Sacramento Superior Court, Case No. 02CS00994
CSM Case No. 02-L-01 [*School Bus Safety II*]

The Commission approved a reimbursable state mandate for safety activities for school districts transporting children by school bus. The Department of Finance filed a writ challenging the correctness of the Commission's decision. After hearing on December 11, 2003, the superior ruled that most safety related activities related to school bus transportation are not state mandated because the underlying activity of school bus transportation is voluntary. The court remanded the case to the Commission to determine "whether the federal Individuals with Disabilities Education Act (IDEA) or any other federal law requires school districts to transport any students, and, if so, whether the School Bus Safety II test claim statutes mandate a higher level of service or new program beyond federal requirements for which there are state mandated costs."

County of San Diego v. Commission on State Mandates, et al.

Fourth District Court of Appeal, Case No. D039471
County of San Diego Superior Court, Case No. GIC762953
CSM No. 01-L-16 [*San Diego MIA*]

This case involves the Medically Indigent Adult (MIA) legislation, on remand from the California Supreme Court in *County of San Diego v. State of California* (1997) 15 Cal.4th 68. In an unpublished decision filed September 24, 2003, the court of appeal ruled that the County of San Diego was owed \$3.4 million in unfunded mandates. The County and the Department of Finance filed separate petitions for review. The California Supreme Court denied the petitions for review on December 17, 2003, and the decision is final.

Litigation Calendar

There are no cases scheduled for hearing.