

ITEM 4
PROPOSED DECISION
AND

PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3 as Added by Statutes 1983, Chapter 498
(SB 813);

As Alleged to be Modified by Education Code Section 42238.24, Statutes 2010,
Chapter 724 (AB 1610)

Graduation Requirements

11-PGA-03 (CSM-4181A)

Department of Finance, Requester

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EDMUND G. BROWN JR. • GOVERNOR

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Exhibit A

July 25, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Mr. Bohan:

As authorized by Government Code section 17557, subdivision (d), paragraph (1), and paragraph (2), provision (B), the Department of Finance respectfully requests the Commission on State Mandates to amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (CSM 4435 Graduation Requirements) to reflect the addition of Education Code section 42238.24 by Chapter 724 of the Statutes of 2010 (AB 1610, Assembly Budget). Education Code section 42238.24 requires that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefit costs incurred for courses required by the state. *Further, we request that the effective date for the period of reimbursement resulting from adoption of these amendments reflect the enactment date of the governing statute, which was October 19, 2010.*

Specifically, we propose amending the parameters and guidelines to include the following language regarding the offset and reimbursement of teacher salary and benefit costs, instructional materials costs, and supplies costs, in section IX, Offsetting Revenues and Other Reimbursements as follows:

"IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

~~Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation~~

~~Requirements program from claims submitted for the period beginning January 1, 2005.~~

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)), including total science teachers costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be indentified and deducted from this claim for reimbursement:

- State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372;
- State funds provided pursuant to Ed. Code section 2550 et seq.;
- Funding provided in the annual Budget Act for any educational purpose as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009));
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004));
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.);
- And other state and federal funds provided for instructional purposes.

The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility."

If you have any questions regarding this letter, please contact Ryan Storm, Assistant Program Budget Manager at (916) 445-0328.

Sincerely,



Nicolas Schweizer
Program Budget Manager

cc: Mr. Jim Soland, Legislative Analyst, Legislative Analyst's Office

Commission on State Mandates

Original List Date: 8/1/2011
Last Updated: 8/10/2011
List Print Date: 08/10/2011
Claim Number: 11-PGA-03
Issue: Graduation Requirements

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

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.)

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**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano 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 August 11, 2011, I served the:

Notice of Complete Filing and Schedule for Comments

Request to Amend Parameters and Guidelines

Graduation Requirements, 11-PGA-03 (CSM-4435)

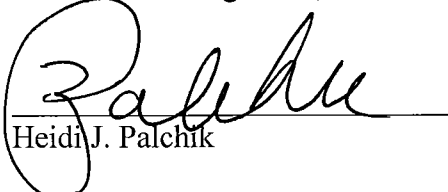
Education Code Sections 51225.3 and 42238.24

Statutes 1983, Chapter 498; Statutes 2010, Chapter 724

Department of Finance, Requestor

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 August 11, 2011 at Sacramento, California.


Heidi J. Palchik

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 51225.3;

Statutes 1983, Chapter 498;

Filed on December 10, 1985,

By the Santa Barbara Unified School District,
Claimant.

NO. CSM 4181 A, 04-PGA-30, 05-PGA-05,
06-PGA-05

Graduation Requirements

ADOPTION OF PARAMETERS AND
GUIDELINES AMENDMENT PURSUANT TO
GOVERNMENT CODE SECTION 17557, AND
CALIFORNIA CODE OF REGULATIONS,
TITLE 2, SECTION 1183.2.

(Adopted on November 6, 2008)

(Corrected on December 18, 2008)

CORRECTED PARAMETERS AND GUIDELINES AMENDMENT

On November 6, 2008, the Commission on State Mandates adopted the attached Parameters and Guidelines Amendment for the *Graduation Requirements* program. On December 18, 2008, the adopted Parameters and Guidelines Amendment was corrected to delete references to filing estimated reimbursement claims, because pursuant to Statutes 2008, chapter 6 (AB 8), estimated claims are no longer authorized. The period of reimbursement for this parameters and guidelines amendment begins on January 1, 2005.

Paula Higashi, Executive Director

Dated: December 18, 2008

Adopted: 03/23/88
Amended: 08/24/88
Amended: 01/24/91
Amended: 12/09/05
Amended: 11/6/08
Corrected: 12/18/08

PARAMETERS AND GUIDELINES AMENDMENT

(CSM 4181 A, 04-PGA-30, 05-PGA-05, 06-PGA-05)

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements

EFFECTIVE FOR REIMBURSEMENT CLAIMS FOR INCREASED COSTS BEGINNING JANUARY 1, 2005

I. SUMMARY OF THE MANDATE

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.

II. ELIGIBLE CLAIMANTS

The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

III. AMENDMENT TO THE PARAMETERS AND GUIDELINES

The parameters and guidelines amendment adopted on November 6, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, to replace the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. The parameters and guidelines amendment also clarifies the activities of supplying the new science class, acquiring and remodeling additional space, and acquiring additional equipment, which may be claimed using the actual cost claiming method. Finally, this parameters and guidelines amendment adds language regarding the reimbursement of teacher salary costs to Section X, Offsetting Savings, consistent with the court's ruling in *San Diego Unified School District v. Commission on State Mandates*, Sacramento County Superior Court Case No. 03CS01401; and identifies funds appropriated from restricted resources specifically to pay teacher salary costs and instructional materials in Section IX, Offsetting Revenue and Other Reimbursements.

IV. PERIOD OF REIMBURSEMENT

The period of reimbursement for this parameters and guidelines amendment begins on January 1, 2005.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

1. A school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

V. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

- A. Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space necessary for the mandated additional year of science instruction, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
- B. Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for the mandated additional year of science instruction.
- C. Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction essential to maintaining a level of instruction sufficient to meet college admission requirements.
- D. Increased cost to school district for staffing the new science class mandated. Reimbursement for this activity is based on the reasonable reimbursement methodology identified in Section XII of these parameters and guidelines.
Reimbursement is not required for other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants).
- E. Increased cost for supplying the new science class mandated with science instructional materials (textbooks, materials, and supplies).

VI. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section V. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price

after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VII. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY (Teacher Salary Costs)

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, subdivision (b), and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222)) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VIII. RECORD RETENTION

A. Actual Costs

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described below, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

For this program, supporting documentation shall include the following:

1. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
2. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.
3. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.
4. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.
5. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.

B. Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

X. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by

using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

XI. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the amended parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the amended parameters and guidelines adopted by the Commission.

XII. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

XIII. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.



Exhibit C

JOHN CHIANG
California State Controller
Division of Accounting and Reporting

September 9, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Request to Amend Parameters and Guidelines,
Graduation Requirements, CSM-4435
Education Code Sections 51225.3 and 42238.24
Chapter 498, Statutes 1983; Chapter 724, Statutes 2010
Department of Finance, Requestor

Dear Mr. Bohan:

We have reviewed the request made by the Department of Finance to amend the Parameters and Guidelines (P's and G's) for Graduation Requirements to include the addition of Education Code section 42238.24 (Chapter 724, Statutes 2010).

The State Controller's Office (SCO) concurs with the majority of amendments requested. Additionally, we propose minor changes to be consistent with the format of the overall P's and G's. Proposed additions are underlined and deletions are indicated with strikethrough.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Education Code section 55 42238 et seq. (as amended by Stats. 2010, ch. 724 Chapter 724, Statutes 2010, (AB 1610, § 16, eff. Oct. 19, 2010) effective October 19, 2010), including total science teachers costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Education Code section 51225.3 (as amended by Stats. 1983, ch. 498 Chapter 498, Statutes 1983), that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be ~~identified~~ identified and deducted from this claim for reimbursement:

- State funds apportioned to districts and county offices of education from the State School Fund pursuant to Education Code section 41372, subdivisions (a) and (b);

Mr. Drew Bohan
September 9, 2011
Page 2

- State funds provided pursuant to Education Code section 2550 et seq. (Chapter 2, Statutes 2009, effective July 28, 2009);
- Funding provided in the annual Budget Act for any educational purpose as specified in Education Code ~~§section~~ 42605, subdivision (a) (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009) Added by Chapter 12, Statutes 2009, effective February 20, 2009). This section was subsequently amended by Chapters 12 and 328, Statutes 2009;
- ~~Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004);~~

COMMENT: SCO recommends deleting the above bullet. The funds appropriated from the Schiff-Bustamante Standards-Based Instruction Materials Program under Education Code section 60450 et seq. was repealed effective January 1, 2004. Therefore, this appropriation will not impact claims for the Graduation Requirements program beginning October 19, 2010 and forward.

- Funds appropriated from the State Instructional Materials Fund (Education Code, §§ sections 60240 et seq.). This is a continuous appropriation that was amended by Chapter 900, Statutes 2004, effective September 29, 2004;
- And other state and federal funds provided for instructional purposes.

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010.~~

COMMENT: SCO recommends deleting the above paragraph. Instead, we will amend the claiming instructions beginning fiscal year (FY) 2010-11 to specify that reimbursements received effective October 19, 2010, related to this program, should be specifically identified and offset against the claim submitted.

If you have any questions, please contact Ellen Solis at (916) 323-0698, or email at esolis@sco.ca.gov.

Sincerely,



JAY LAL, Manager
Local Reimbursement Section

Commission on State Mandates

Original List Date: 8/1/2011
Last Updated: 9/8/2011
List Print Date: 09/12/2011
Claim Number: 11-PGA-03
Issue: Graduation Requirements

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

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.)

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COMMISSION ON STATE MANDATES

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SACRAMENTO, CA 95814
PHONE: (916) 323-3562
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E-mail: csminfo@csm.ca.gov

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano 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 September 12, 2011, I served the:

State Controller Comments

Request to Amend Parameters and Guidelines
Graduation Requirements, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, Requestor

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 September 12, 2011 at Sacramento, California.

A handwritten signature in black ink, appearing to read 'Heidi J. Palchik', written over a horizontal line. The signature is enclosed in a large, hand-drawn circle.

Heidi J. Palchik



RECEIVED
April 20, 2020
**Commission on
State Mandates**

Exhibit D

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WILLIAM B. TUNICK
Attorney at Law
wtunick@DWKesq.com

San Francisco

April 20, 2020

VIA DROP BOX

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

Re: Comments of California School Boards Association
Request to Amend Parameters and Guidelines
Graduation Requirements Program, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, Requester
Our file 1101-10320

Dear Ms. Halsey:

Our firm represents the California School Boards Association and its Education Legal Alliance ("CSBA") which seeks to submit comments in response to the Commission on State Mandate's December 20, 2019 "Request for Simultaneous Comment on the Request to Amend Parameters and Guidelines and the Application of the Court's Opinion in *California School Boards' Association [CSBA III] v. State of California* issued December 20, 2019."

I. BACKGROUND

CSBA is a member-driven association composed of nearly 1,000 K-12 school district governing boards and county boards of education throughout California. CSBA supports local board governance and advocates on behalf of school districts and county offices of education. The Education Legal Alliance of CSBA helps to ensure that local school boards retain the authority to fully exercise the responsibilities vested in them by law to make appropriate policy and fiscal decisions for their local education agencies. The Education Legal Alliance represents CSBA's members by addressing legal issues of statewide concern to school districts and county offices of education. The Education Legal Alliance's activities include joining in litigation where the interests of public education are at stake. Relevant here, CSBA, through its ELA was a petitioner in the *CSBA III* litigation.

In its July 25, 2011 letter, the Department of Finance ("DOF") stated:

The Department of Finance respectfully requests the Commission on State Mandates to amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (CSM 4435 Graduation Requirements) ["Parameters and Guidelines"] to reflect the addition of Education Code section 42238.24 by Chapter 724 of the Statutes of 2010 (AB 1610, Assembly Budget). Education Code section 42238.24 requires that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefit costs incurred for courses required by the state. *Further, we request that the effective date for the period of reimbursement resulting from adoption of these amendments reflect the enactment date of the governing statute, which was October 19, 2010.*

DOF proposed that Paragraph IX of the Parameters and Guidelines, be amended to read:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)), including total science teacher costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), that are funded by restricted resources as identified in the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372;
- State funds provided pursuant to Ed. Code section 2550 et seq.;
- Funding provided in the annual Budget Act for any educational purposes as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12 (SB 4, § 15, eff. Feb. 20, 2009));
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructions Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, §71, eff. Jan 1, 2004));

- Funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.);
- And other state and federal funds provided for instructional purposes.

The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduations Requirements program from claim submitted for the period beginning October 19, 2010.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any received by the school district or county office to construct the new science facility.

As noted in DOF's request, the amendments were based on the enactment of Education Code section 42238.24 ("Section 42238.24"), which states:

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 shall be offset by the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, and the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act. The proportion of the school district's current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.

Consideration of these amendments was put on hold when CSBA brought a legal challenge regarding the validity of Section 42238.24.

II. ARGUMENT

As the Commission is aware, the facial constitutional challenges to Section 42238.24 were eventually decided by the California Supreme Court in late 2019. (*CSBA v. State of California* (2019) 8 Cal.5th 713 ["*CSBA III*"].) In upholding the constitutionality of Section 42238.24, the Court described the statute as "requiring a portion of state funding provided annually to local education agencies to be used prospectively as 'offsetting revenues'" and as "designating previously non-mandate education funding as restricted funding at the start of the next fiscal year to satisfy the state's obligation to reimburse school districts for these two mandates." (*Id.*, at p. 719.) It concluded that the Legislature had authority to designate funding as "offsetting" "as long as its chosen method is consistent with Proposition 98 and other constitutional guarantees." (*Id.* at p. 727.)

Given the language of Section 42238.24 and the Court's holding in *CSBA III*, CSBA provides the following comments on DOF's proposed amendments:

1. The Parameters And Guidelines Should Conform To Section 42238.24's Language

As noted above, Section 42238.24 allows for offsetting revenue to include two sources of revenue:

- "the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;" and,
- "the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act."

CSBA submits that the Parameters and Guidelines should be amended to reflect this language. However, the amendments submitted by DOF take a broader approach.

The proposed language includes funds apportioned from the State School Fund pursuant to Education Code section 41372.¹ Section 41372, however, is not included in the article – Article 2 – in which Section 42238.24 is found. Given the interconnected complexities of this portion of the Education Code, it is possible that there is overlap between the funding referenced in Article 2 and section 41372. Nonetheless, the language of the Parameters and Guidelines should follow the language of Section 42238.24 – which does not reference Education Code section 41372 – as it is the statutory language which is the basis for the amendments.

The proposed language also includes "other state and federal funds provided for instructional purposes." Again, however, this is beyond the scope of the impact of Section 42238.24 or the ruling in *CSBA III*. Section 42238.24 is very specific as to the two sources of revenue which should be considered offsetting, a characteristic the California Supreme Court recognized in describing the statute as "requiring a *portion of state funding* provided annually to local education agencies to be used prospectively as 'offsetting revenues.'" (*CSBA III, supra*, 8 Cal.5th at p. 719, emphasis added.) DOF's proposed expansive language is not justified by the enactment of Section 42238.24 and should not be part of the amendments.²

2. The Parameters And Guidelines Should Clarify That Funding From The Education Protection Account Shall Not Be Considered Offsetting

While *CSBA III* addressed the primary constitutional challenge to Section 42238.24, it did not decide a related issue regarding designation of funding from the Education Protection Account ("EPA") as offsetting revenue under Section 42238.24. As the opinion of the First District Court of Appeal explained, during the litigation, the State indicated in a discovery response that "[EPA] revenues are potentially offsetting" for the Graduation Requirements

¹ In the State Controller Office's ("SCO") comments of September 9, 2011, SCO suggests revising this reference to subdivisions (a) and (b) of Education Code section 41372.

² CSBA also agrees with SCO's suggestion to remove reference to the Schiff-Bustamante Standards-Based Instruction Materials Program.

mandate. CSBA then sought to amend its petition to add this matter to the pending litigation; the superior court did not allow the amendment. However, on appeal, the Court of Appeal reversed on this point, directing that CSBA be allowed to amend its petition to include this argument.

As the matter was only recently remanded to the superior court for further proceedings and given the current court closures, there has not been an opportunity for CSBA to amend its petition or for the superior court to resolve this question.³ However, it is clear from the language of the Constitution that EPA funding cannot be considered as offsetting revenue and given the State's prior statements to the contrary CSBA seeks inclusion of a provision in the Parameters and Guidelines to clarify that such funds shall not be considered offsetting, even given Section 42238.24.

The EPA was created through the addition of section 36 to article XIII of the California Constitution with the adoption of Proposition 30 in 2012. Subdivision (e)(1) of section 36 created the "Education Protection Account ... to receive and disburse the revenues derived from the incremental increases in taxes imposed by [that] section,..." The constitutional provision also specified the use for the EPA funds:

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account for education shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction,...

(Cal. Const., art. XIII, § 36, subd. (e).) While the California Supreme Court did not have an opportunity to rule on the designation of EPA funds as offsetting, it specifically noted that the Legislature had authority to designate funding "as long as its chosen method is consistent with Proposition 98 and other constitutional guarantees." (*CSBA III, supra*, 8 Cal.5th. at p. 727, emphasis added.) Subdivision (e) of section 36 is such a "constitutional guarantee." It explicitly requires that the use of EPA funds be left to the discretion of locally elected governing boards. While *CSBA III* may have held that the State may commandeer a portion of "otherwise unrestricted" education funding through the legislative process (*id.* at p. 724), it explicitly prohibits the State from doing the same with funds which are to be used at the discretion of local education agencies under constitutional dictate.

Accordingly, it is important that the Parameters and Guidelines specify that EPA funds are not offsetting, or at a minimum, not to include overly expansive language in the Parameters and Guidelines that creates ambiguity regarding the nature of EPA funds.

³ For this reason, CSBA would support deferring any decision on amendment of the Parameters and Guidelines until the superior court proceedings are complete. However, it has not sought a postponement as the Commission previously denied a similar request from DOF.

3. Changes In Offsetting Revenue Should Be Effective With The 2011-12 Fiscal Year

Section 42238.24 was enacted by Assembly Bill No. 1610. It was signed by the Governor on October 19, 2010, and went into effect immediately as urgency legislation. (Stats. 2010, ch. 724.) DOF's amendments suggest that the calculation of the funding listed in Section 42238.24 as offsetting the costs of the mandate should begin that same day, October 19, 2010. However, *CSBA III* suggests a different result.

CSBA III reviewed the history of both Assembly Bill No. 1610 and Senate Bill No. 856 (Stats. 2010, ch. 719) which were both signed and became effective on October 19, 2010. However, in describing the statutes, the California Supreme Court said:

In 2010, during a period of economic recession, the Legislature enacted two statutes requiring a portion of state funding provided annually to local education agencies to be used prospectively as "offsetting revenues" under Government Code section 17557, subdivision (d)(2)(B) to satisfy two existing state reimbursement mandates. (Ed. Code, §§ 42238.24 [Graduation Requirements], 56523, subd. (f) [Behavioral Intervention Plans].) These statutes designate previously non-mandate education funding as restricted funding *at the start of the next fiscal year* to satisfy the state's obligation to reimburse school districts for these two mandates.

(*CSBA III, supra*, 8 Cal.5th at p. 719, emphasis added.) This statement indicates the Court's understanding that the change effected by Section 42238.24 would take effect with the 2011-12 fiscal year – "the next fiscal year" after enactment of the two statutes. Thus, the Parameters and Guidelines should indicate that Section 42238.24 should not impact claims for costs incurred prior to the 2011-12 fiscal year or count as offsetting funds received prior to that fiscal year.

4. The Amendments Should Be Limited To Revisions Warranted By Section 42238.24

While the majority of the revisions suggested by DOF appear based on the enactment of Section 42238.24, DOF's amendments also include other revisions which do not appear to be based on the change in statute. CSBA objects to these additional revisions.

III. CONCLUSION

Based on the above reasons and the SCO's comments, CBSA respectfully urges the Commission to adopt the following amendment to Paragraph IX of the Parameters and Guidelines to reflect the enactment of Section 42238.24⁴:

⁴ CSBA's suggested language incorporates language which is found in the current version of the Parameters and Guidelines and to which CSBA otherwise objects; however, CSBA has not proposed revision of those provisions as it would be beyond the scope of the amendments on which the Commission has sought comment, with the exception of the deletion of funding which was repealed in 2009 as noted by SCO's comments.

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Education Code sections 42238 et seq. (Chapter 724, Statutes 2010, effective October 19, 2010), including total science teacher salary costs, related indirect costs of providing the second science course, and instructional materials costs of supplying the second science course, as required by Education Code section 51225.3 (Chapter 498, Statutes 1983), that are funded by restricted resources as identified in the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned pursuant to Article 2 (commencing with section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2;
- State funds provided pursuant to Education Code sections 2550 et seq.;
- Funding provided in the annual Budget Act for any educational purposes as specified in Education Code section 42605, subdivision (a) (added by Chapter 12, Statutes 2009, effective February 20, 2009). This section was subsequently amended by Chapters 12 and 328, Statutes 2009.
- Funds appropriated from the State Instructional Materials Fund (Education Code, sections 60240 et seq.). This is a continuous appropriation that was amended by Chapter 900, Statutes 2004, effective September 29, 2004.

Funds allocated from the Education Protection Account (Cal. Const., art. XIII, § 36, subd. (e)) shall not be deducted from any claim for reimbursement.

For claims submitted for the period beginning July 1, 2011, the State Controller's Office (SCO) will adjust the claims for reimbursements received after July 1, 2011.

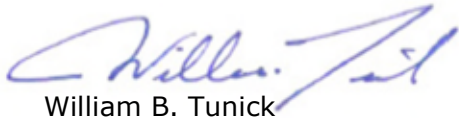
If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any received by the school district or county office to construct the new science facility.

Heather Halsey
April 20, 2020
Page 8

CSBA appreciates the Commission's consideration of its comments and suggested revisions.

Sincerely,

DANNIS WOLIVER KELLEY

A handwritten signature in blue ink, appearing to read "William B. Tunick", is written over the printed name.

William B. Tunick
WBT:ah

cc: Interested Parties via CSM's Electronic Filing Mailing List

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 April 24, 2020, I served the:

- **Notice of Inactive Status issued April 24, 2020**
- **Mr. William B. Tunick's Comments on behalf of the California School Boards Association (CSBA) on the Request for Simultaneous Comment filed April 20, 2020**
- **Mr. Christian M. Keiner's Comments on behalf of School Districts on the Request for Simultaneous Comment filed April 20, 2020**
- **Finance's Request to Place Matter on Inactive Status filed April 17, 2020**

Request to Amend Parameters and Guidelines
Graduation Requirements, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, 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 April 24, 2020 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/24/20

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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Sacramento

April 20, 2020

VIA DROP BOX

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

Re: Comments of Castro Valley Unified School, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Poway Unified School District; and San Jose Unified School District Request to Amend Parameters and Guidelines Graduation Requirements, 11-PGA-03 (CSM-4435) Education Code Sections 51225.3 and 42238.24 Statutes 1983, Chapter 498; Statutes 2010, Chapter 724 Department of Finance, Requester Our file 3313-10320

Dear Ms. Halsey:

Our firm represents San Jose Unified School District; Clovis Unified School District; Grossmont Union High School District; Poway Unified School District; Castro Valley Unified School and Fullerton Joint Union High School District, (collectively "Districts" or "Claimants"), the test claimants in this matter. The Districts submit the following comments, pursuant to the Commission's letter dated December 20, 2019. These comments incorporate the recitation of facts and assertion of law set forth in the complete file in this matter.

I. BACKGROUND

This matter involving requested amendments to the Parameters and Guidelines is back before the Commission, by way of comment letter dated December 20, 2019. In its original July 25, 2011 letter requesting amendments to the Parameters and Guidelines adopted, November 6, 2008, and corrected on December 18, 2008, the Department of Finance stated:

www.DWKesq.com

The Department of Finance respectfully requests the Commission on State Mandates to amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (CSM 4435 Graduation Requirements) to reflect the addition of Education Code section 42238.24 by Chapter 724 of the Statutes of 2010 (AB 1610, Assembly Budget). Education Code section 42238.24 require that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefit costs incurred for courses required by the state. Further, we request that the effective date for the period of reimbursement resulting from adoption of these amendments reflect the enactment date of the governing statute, which was October 19, 2010. (emphasis in original)

Specifically, we propose amending the parameters and guidelines to include the following language regarding the offset and reimbursement of teacher salary and benefit costs, instructional materials costs, and supplies costs, in section IX, Offsetting Revenues and Other Reimbursements as follows:

The Department of Finance then stated:

The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010. (Underline in original.)

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

The Department of Finances' current comments regarding its previous request to amend the Parameters and Guidelines are now due April 20, 2020.

II. ARGUMENT

1. The California Supreme Court Decision in *California School Boards Association (CSBA) v. State of California* (2019) 8 Cal.5th 713.

The Commission requested comment upon the impact of CSBA, (*California School Boards Assn. v. State of California* (2019) 8 Cal.5th 713) ("*CSBA III*"), upon this Department of Finance request to amend the Parameters and Guidelines.

The Districts herein incorporate Section II.1-3 of the Comments of the California School Board Association, filed this same date, into this Comment.

2. Local Bonds are Not "Offsetting Revenues"

a. Offsetting Revenues Are Limited to State and Federal Funds.

The Districts request clarification in the adopted Parameters and Guidelines regarding the status of local bond funds as "offsetting revenue." By definition, offsetting revenues should be limited to State and Federal funds. The 2008 Parameters and Guidelines for this mandate, as it relates to offsetting revenues, provides as follows:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science classrooms and labs teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats, 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.

If the school district or county office submits a valid reimbursement claim for a new science classrooms and labs facility, the reimbursement shall be reduced by the amount of *state bond funds*, if any, received by the school district or county office to construct the new science classrooms and labs facility.

(Parameters and Guidelines, p. 8, emphasis added.)

None of the above categories of eligible offsets include local funds, such as local bond proceeds. Rather, the categories specifically include:

- federal, state, and block grants;
- total science classrooms and labs teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual ["CSAM"];
- funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 with instructional materials ["Schiff-Bustamante Program"];
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 with instructional materials and supplies ["SIMF"];
- other state funds;
- *State bond funds*, if any, received by the school district or county office to construct the new science classrooms and labs facility. (emphasis added)

Nevertheless, in at least one matter,¹ the Controller took the position local bond funds were "other state funds" for purposes of offsetting. However, the above language clearly and unambiguously directs that offsets must come from federal or state sources. When the language is clear and unambiguous, there is no need for construction and courts should not indulge in it. (*People v. Benson* (1998) 18 Cal. 4th 24, 30; *Droeger v. Friedman, Sloan & Ross* (1991) 54 Cal. 3d. 26, 38 ("When the language of a statute is clear, its plain meaning should be followed"); *Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 547 ("When the statutory language is clear and unambiguous, there is no need for interpretation and the court must apply the statute as written.")) None of the above categories expressly or by implication touch upon local bond revenues. To be precise, *local* bond revenues are not: (i) federal, state, and block grants, (ii) restricted resources as indicated by the CSAM, (iii) Schiff-Bustamante Program funds, (iv) SIMF funds, (v) other State funds, or (vi) State bond funds.

Such restricted resources must be federal or State resources, as further described below. And, while, state-mandated budget and financial reporting standards require bond proceeds to be accounted for in restricted accounts (e.g., the "Building Fund" (Fund 21) and the "Bond Interest and Redemption Fund" (Fund 51), each held by the County), the account code, which is specified

¹ *Grossmont Requirements*, 16-4435-I-56, Education Code section 51225.3; Statutes 1983, Chapter 498; Fiscal Years: 2008-2009 and 2009-2010, Grossmont Union High School District, Claimant.

by the State, and used for the local bond proceeds is not determinative of mandate reimbursement at issue here. Any other interpretation flies in the face of statutory construction.

Local bond revenues, are proceeds received from purchasers of general obligation bonds, issued under the authority of the State Constitution “for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the [school] district.” (Cal. Const., art. XIII A, sec. 1, subd. (b)(3).), commonly known as “Proposition 39 Bonds.” Proposition 39 was approved by California voters in 2000 as a vehicle to provide school districts with a financing source, the repayment of which was supported by an *ad valorem* tax on all taxable property within the jurisdiction of the school district, to pay for voter-approved projects. Prop 39 Bonds are approved upon a 55% positive vote of the electorate. (*Id.*) Prop 39 Bonds may only be issued by a school district in exchange for certain accountability and transparency requirements mandated by the State Constitution, including that all projects must be on the voter-approved “bond project list” and that a community oversight committee reviews performance and financial audits of such expenditures. (*Id.* at subd. (b)(3)(B).) It is true that the improvement of school facilities for additional science classes may be within the permitted scope of projects under the Constitution, however, Prop 39 Bonds were never intended as a replacement for subvention from the State. To decide to the contrary robs the local community of its rights to local control and accountability required by Article XIII A of the Constitution.

b. Local Bonds are “Proceeds of Taxes” Restricted to Capital Projects Approved By the Electorate.

On the one hand, local governments are given the power to raise local revenues through taxation but are also limited in the amount of tax revenues that can be generated. On the other hand, mindful of the limited sources of local tax revenues, Article XIII B, section 6, prevents the State from redirecting the limited pot of local tax revenues to fulfill State mandates. This is precisely why, in 2008, the Commission amended the parameters and guidelines for the Graduation Requirements mandate: to make sure that proceeds of taxes were not pulled into the calculus of offsetting revenues. In its findings, the Commission stated that “such an interpretation [i.e., use of proceeds of taxes to offset] would require the local school districts to use proceeds of taxes on a state-mandated program. This violates the purpose of article XIII B, section 6 [which] was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local spending in other areas.” Commission, Revised Final Staff Analysis [relating to 2008 Amendments to the Parameters and Guidelines], pp. 53-54.)

Case law makes clear that the only locally-derived amounts permitted to be included in the calculus of offsetting revenues are where a local agency can levy assessments or fees. (*County of Fresno v. State of California*, 53 Cal.3d 482, 487). Of course, local bonds are neither fees nor assessments.

Rather, local bonds are a financing vehicle, permitted by the State Constitution, whereby the local agency raises funds for capital expenditures approved by the voters, the repayment of which is secured by proceeds of taxes – the *ad valorem* tax to be exact. The *ad valorem* tax,

much like local property taxes, are locally-derived sources of revenue and are therefore considered proceeds of taxes that are not derived from the State.

Finally, the Education Code states that “[w]hen collected, all taxes levied shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district ... and shall be used for the payment of the principal and interest of the bonds and for no other purpose.” (Ed. Code, § section 15251, subd. (a).) Even if the *ad valorem* tax was deemed to be something other than proceeds of taxes, the statute does not permit it to be used for any purpose other than retirement of local bonds; and, as established above, the State Constitution does not permit the bonds to be ultimately spent on anything other than the capital projects approved by the voters within the local tax base.

While local bonds are not subject to Constitutional spending limitations, they are in fact otherwise limited by the Constitution and statute. The Constitution provides that Prop 39 bonds, may only be spent on the scope of projects approved by the voters, and statute provides that such bonds may only be issued up to the statutory bonding capacity for a school district and are subject to tax rate limitations. (Cal. Const., art. XIII A, sec. 1(b)(3), art. XVI, sec. 18(b); Ed. Code, § 15268.)

Local bond revenue is simply not “reimbursement for this mandate from any source” because, unlike state bond revenue, it must be repaid by the District tax base, a local source. A “reimbursement” that has to be repaid is not a reimbursement. The audit report does not state a legal basis which would allow local property tax proceeds to be considered an offset to reimburse Claimant for construction costs to accommodate and implement the State-mandated increased instructional programs such as the Graduation Requirement mandate

III. CONCLUSION

The Districts hereby submit these Comments pursuant to the Commission’s December 20, 2019 letter.

IV. CERTIFICATION

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

Sincerely,

DANNIS WOLIVER KELLEY



Christian M. Keiner

CMK:fh

cc: Interested Parties via CSM’s Electronic Filing Mailing List

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 April 24, 2020, I served the:

- **Notice of Inactive Status issued April 24, 2020**
- **Mr. William B. Tunick's Comments on behalf of the California School Boards Association (CSBA) on the Request for Simultaneous Comment filed April 20, 2020**
- **Mr. Christian M. Keiner's Comments on behalf of School Districts on the Request for Simultaneous Comment filed April 20, 2020**
- **Finance's Request to Place Matter on Inactive Status filed April 17, 2020**

Request to Amend Parameters and Guidelines
Graduation Requirements, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, 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 April 24, 2020 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/24/20

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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March 3, 2021

VIA DROP BOX

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State of California Commission on State Mandates
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Re: Comments of California School Boards Association
Request to Amend Parameters and Guidelines
Graduation Requirements Program, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, Requester
Our file 1101-10320

Dear Ms. Halsey:

Our firm represents the California School Boards Association and its Education Legal Alliance ("CSBA") which seeks to submit comments in response to the Commission on State Mandate's February 26, 2021 "Request for Simultaneous Comment on the Request to Amend Parameters and Guidelines and the Application of the Court's Opinion and Judgment in *California School Boards' Association (CSBA) v. State of California* ["CSBA III"]."

I. BACKGROUND

CSBA is a member-driven association composed of nearly 1,000 K-12 school district governing boards and county boards of education throughout California. CSBA supports local board governance and advocates on behalf of school districts and county offices of education. The Education Legal Alliance of CSBA helps to ensure that local school boards retain the authority to fully exercise the responsibilities vested in them by law to make appropriate policy and fiscal decisions for their local education agencies. The Education Legal Alliance represents CSBA's members by addressing legal issues of statewide concern to school districts and county offices of education. The Education Legal Alliance's activities include joining in litigation where the interests of public education are at stake. Relevant here, CSBA, through its ELA was a petitioner in the *CSBA III* litigation.

In its July 25, 2011 request, the Department of Finance ("DOF") stated:

The Department of Finance respectfully requests the Commission on State Mandates to amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (CSM 4435 Graduation Requirements) ["Parameters and Guidelines"] to reflect the addition of Education Code section 42238.24 by Chapter 724 of the Statutes of 2010 (AB 1610, Assembly Budget). Education Code section 42238.24 requires that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefit costs incurred for courses required by the state. *Further, we request that the effective date for the period of reimbursement resulting from adoption of these amendments reflect the enactment date of the governing statute, which was October 19, 2010.*

DOF proposed that Paragraph IX of the Parameters and Guidelines, be amended to read:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)), including total science teacher costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), that are funded by restricted resources as identified in the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372;
- State funds provided pursuant to Ed. Code section 2550 et seq.;
- Funding provided in the annual Budget Act for any educational purposes as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12 (SB 4, § 15, eff. Feb. 20, 2009));
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructions Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, §71, eff. Jan 1, 2004));

- Funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.);
- And other state and federal funds provided for instructional purposes.

The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduations Requirements program from claim submitted for the period beginning October 19, 2010.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any received by the school district or county office to construct the new science facility.

As noted in DOF's request, the amendments were based on the enactment of Education Code section 42238.24 ("Section 42238.24"), which states:

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 shall be offset by the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, and the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act. The proportion of the school district's current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.

Consideration of these amendments was put on hold when CSBA brought a legal challenge regarding the validity of Section 42238.24.

II. ARGUMENT

As the Commission is aware, the facial constitutional challenges to Section 42238.24 were eventually decided by the California Supreme Court in late 2019. (*CSBA v. State of California* (2019) 8 Cal.5th 713 [*"CSBA III"*]). In upholding the constitutionality of Section 42238.24, the Court described the statute as "requiring a portion of state funding provided annually to local education agencies to be used prospectively as 'offsetting revenues'" and as "designat[ing] previously non-mandate education funding as restricted funding at the start of the next fiscal year to satisfy the state's obligation to reimburse school districts for these two mandates." (*Id.*, at p. 719.) It concluded that the Legislature had authority to designate funding as "offsetting" "so long as its chosen method is consistent with Proposition 98 and other constitutional guarantees." (*Id.*, at p. 726.)

This holding was reduced to a judgment entered in Alameda County Superior Court on February 1, 2021 ("Judgment") pursuant to a stipulation between the parties. (Attachment 1.) The Judgment stated:

- (1) Judgment on the second cause of action is entered in favor of respondents pursuant to the ruling by the California Supreme Court.
- (2) In accordance with the Parties' stipulation, EPA funding is not offsetting revenue for the Graduation Requirements mandate under Education Code section 42238.24.
- (3) The first cause of action is dismissed with prejudice.
- (4) The third and fourth causes of action are dismissed without prejudice.

Given the language of Section 42238.24, the Court's holding in *CSBA III*, and the Judgment, CSBA provides the following comments on DOF's proposed amendments:

1. The Parameters And Guidelines Should Conform To Section 42238.24's Language

As noted above, Section 42238.24 allows for offsetting revenue to include two sources of revenue:

- "the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;" and,
- "the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act."

CSBA submits that the Parameters and Guidelines should be amended to reflect this language. However, the amendments submitted by DOF take a broader approach.

The proposed language includes funds apportioned from the State School Fund pursuant to Education Code section 41372.¹ Section 41372, however, is not included in the article – Article 2 – in which Section 42238.24 is found. Given the interconnected complexities of this portion of the Education Code, it is possible that there is overlap between the funding referenced in Article 2 and section 41372. Nonetheless, the language of the Parameters and Guidelines should follow the language of Section 42238.24 – which does not reference Education Code section 41372 – as it is the statutory language which is the basis for the amendments.

The proposed language also includes "other state and federal funds provided for instructional purposes." Again, however, this is beyond the scope of the impact of Section 42238.24 or the ruling in *CSBA III*. Section 42238.24 is very specific as to the two sources of revenue which should be considered offsetting, a characteristic the California Supreme Court recognized in describing the statute as "requiring *a portion of state funding* provided

¹ In the State Controller Office's ("SCO") comments of September 9, 2011, SCO suggests revising this reference to subdivisions (a) and (b) of Education Code section 41372.

annually to local education agencies to be used prospectively as 'offsetting revenues.'" (*CSBA III*, *supra*, 8 Cal.5th at p. 719, emphasis added.) DOF's proposed expansive language is not justified by the enactment of Section 42238.24 and should not be part of the amendments.²

2. Consistent With The Judgment The Parameters And Guidelines Should Clarify That Funding From The Education Protection Account Shall Not Be Considered Offsetting

While the Court's holding in *CSBA III* addressed the primary constitutional challenge to Section 42238.24, it did not decide a related issue regarding designation of funding from the Education Protection Account ("EPA") as offsetting revenue under Section 42238.24. Instead, this matter was remanded with direction that CSBA be allowed to amend its petition to include this argument.

Upon remand, the parties reached a stipulation which noted:

Although DOF initially identified EPA funding as "potentially offsetting revenue" for the Graduation Requirements mandate during discovery, respondents State of California, DOF, and State Controller, now agree that for purposes of this and any future dispute regarding the Graduation Requirements mandate, EPA funding is not offsetting revenue under Education Code section 42238.24.

Consistent with this stipulation, the Judgment stated: "EPA funding is not offsetting revenue for the Graduation Requirements mandate under Education Code section 42238.24."

Given the language of the Judgment, the Parameters and Guidelines must specify that EPA funds are not offsetting revenue.

3. Changes In Offsetting Revenue Should Be Effective With The 2011-12 Fiscal Year

Section 42238.24 was enacted by Assembly Bill No. 1610. It was signed by the Governor on October 19, 2010, and went into effect immediately as urgency legislation. (Stats. 2010, ch. 724.) DOF's amendments suggest that the calculation of the funding listed in Section 42238.24 as offsetting the costs of the mandate should begin that same day, October 19, 2010. However, *CSBA III* suggests a different result.

CSBA III reviewed the history of both Assembly Bill No. 1610 and Senate Bill No. 856 (Stats. 2010, ch. 719) which were both signed and became effective on October 19, 2010. However, in describing the statutes, the California Supreme Court said:

In 2010, during a period of economic recession, the Legislature enacted two statutes requiring a portion of state funding provided annually to local

² CSBA also agrees with SCO's suggestion to remove reference to the Schiff-Bustamante Standards-Based Instruction Materials Program.

education agencies to be used prospectively as “offsetting revenues” under Government Code section 17557, subdivision (d)(2)(B) to satisfy two existing state reimbursement mandates. (Ed. Code, §§ 42238.24 [Graduation Requirements], 56523, subd. (f) [Behavioral Intervention Plans].) These statutes designate previously non-mandate education funding as restricted funding *at the start of the next fiscal year* to satisfy the state’s obligation to reimburse school districts for these two mandates.

(*CSBA III, supra*, 8 Cal.5th at p. 719, emphasis added.) This statement indicates the Court’s understanding that the change effected by Section 42238.24 would take effect with the 2011-12 fiscal year – “the next fiscal year” after enactment of the two statutes. Thus, the Parameters and Guidelines should indicate that Section 42238.24 should not impact claims for costs incurred prior to the 2011-12 fiscal year or count as offsetting funds received prior to that fiscal year.

4. The Amendments Should Be Limited To Revisions Warranted By Section 42238.24

While the majority of the revisions suggested by DOF appear based on the enactment of Section 42238.24, DOF’s amendments also include other revisions which do not appear to be based on the change in statute. CSBA objects to these additional revisions.

III. CONCLUSION

Based on the above reasons and the SCO’s comments, CSBA respectfully urges the Commission to adopt the following amendment to Paragraph IX of the Parameters and Guidelines to reflect the enactment of Section 42238.24³:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grant funding listed below, and pursuant to Education Code sections 42238 et seq. (Chapter 724, Statutes 2010, effective October 19, 2010), including total science teacher salary costs, related indirect costs of providing the second science course, and instructional materials costs of supplying the second science course, as required by Education Code section 51225.3 (Chapter 498, Statutes 1983), that are funded by restricted resources as identified in the California Department of Education California School

³ CSBA’s suggested language incorporates language which is found in the current version of the Parameters and Guidelines and to which CSBA otherwise objects; however, CSBA has not proposed revision of those provisions as it would be beyond the scope of the amendments on which the Commission has sought comment, with the exception of the deletion of funding which was repealed in 2009 as noted by SCO’s comments.

Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned pursuant to Article 2 (commencing with section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2;
- State funds provided pursuant to Education Code sections 2550 et seq.;
- Funding provided in the annual Budget Act for any educational purposes as specified in Education Code section 42605, subdivision (a) (added by Chapter 12, Statutes 2009, effective February 20, 2009). This section was subsequently amended by Chapters 12 and 328, Statutes 2009.
- Funds appropriated from the State Instructional Materials Fund (Education Code, sections 60240 et seq.). This is a continuous appropriation that was amended by Chapter 900, Statutes 2004, effective September 29, 2004.

Funds allocated from the Education Protection Account (Cal. Const., art. XIII, § 36, subd. (e)) shall not be deducted from any claim for reimbursement.

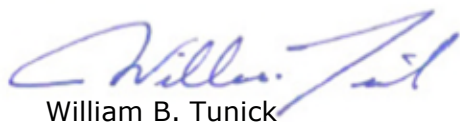
For claims submitted for the period beginning July 1, 2011, the State Controller's Office (SCO) will adjust the claims for reimbursements received after July 1, 2011.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any received by the school district or county office to construct the new science facility.

CSBA appreciates the Commission's consideration of its comments and suggested revisions.

Sincerely,

DANNIS WOLIVER KELLEY



William B. Tunick
WBT:ah

Attachment

cc: Interested Parties via CSM's Electronic Filing Mailing List

ATTACHMENT 1



22812814

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FILED
ALAMEDA COUNTY

FEB 01 2021

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

5 Attorneys for Petitioners
6 CALIFORNIA SCHOOL BOARDS ASSOCIATION, BUTTE
COUNTY OFFICE OF EDUCATION and SAN DIEGO
7 UNIFIED SCHOOL DISTRICT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF ALAMEDA

10 CALIFORNIA SCHOOL BOARDS
11 ASSOCIATION, et al,

12 Petitioners,

13 v.

14 STATE OF CALIFORNIA, et al.,

15 Respondents.

Case No. RG11554698

JUDGMENT FOLLOWING
STIPULATION

Dept: 17

Judge: The Honorable Frank Roesch

Action Filed: January 6, 2011

Exempt from filing fees pursuant to Gov.
Code, § 6103.

1 The parties hereby stipulate as follows:

2 This case was filed on January 6, 2011. The operative third amended petition and
3 complaint was filed February 3, 2014, pleading four causes of action. This Court entered
4 judgment in favor of respondents on all causes of action on April 13, 2016.

5 Petitioners appealed. On January 16, 2018, the Court of Appeal affirmed in part and
6 reversed in part. *California School Boards Association v. State of California* (2018) 19 Cal.
7 App.5th 566. The Court of Appeal affirmed the Superior Court's decision on the second cause of
8 action, upholding the challenged legislation. However, the Court of Appeal reinstated the third
9 and fourth causes of action. And the Court held that Petitioners should have been granted leave
10 to amend the first cause of action to allege that identifying Education Protection Account (EPA)
11 funding as an offset under Education Code 42238.24 violates article XIII, section 36 of the
12 California Constitution. This issue arose for the first time during discovery when respondent
13 Department of Finance (DOF) identified EPA funds as "potentially offsetting revenue" under
14 Education Code 42238.24 in February 2015.

15 Petitioners filed a petition for review. The California Supreme Court affirmed the decision
16 of the Court of Appeal, holding that judgment was properly entered in favor of respondents on the
17 second cause of action. *California School Boards Association v. State of California* (2019) 8
18 Cal.5th 713.


19 This matter is now before this court on remand. The parties have met and conferred and
20 have reached an agreement to resolve the entirety of the remainder of this case.

21 Although DOF initially identified EPA funding as "potentially offsetting revenue" for the
22 Graduation Requirements mandate during discovery, respondents State of California, DOF, and
23 State Controller, now agree that for purposes of this and any future dispute regarding the
24 Graduation Requirements mandate, EPA funding is not offsetting revenue under Education Code
25 section 42238.24. Accordingly, Petitioners have agreed to dismiss with prejudice their first cause
26 of action. Petitioners will also dismiss without prejudice their third and fourth causes of action,
27 which will resolve the remainder of this case.
28

1 Dated: January 25, 2021

Respectfully Submitted,

2
3 XAVIER BECERRA
Attorney General of California

4 

5 SETH E. GOLDSTEIN
6 Deputy Attorney General
7 *Attorneys for Defendants and Respondents*
8 *State of California, Department of*
9 *Finance, and California State Controller*

10 COMMISSION ON STATE MANDATES

11 

12 CAMILLE SHELTON
13 *Attorneys for Defendants and Respondents*
14 *Commission on State Mandates*

15 DANNIS WOLIVER KELLEY

16 WILLIAM B. TUNICK
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18 *California School Boards Association, and*
19 *its Education Legal Alliance, San Diego*
20 *Unified School District, and Butte County*
21 *Office of Education*

22 CALIFORNIA SCHOOL BOARDS ASSOCIATION
23 AND ITS EDUCATION LEGAL ALLIANCE

24 KEITH BRAY
25 *General Counsel for California School*
26 *Board Association and Director of its*
27 *Education Legal Alliance*

28 SAN DIEGO UNIFIED SCHOOL DISTRICT

ANDRA GREENE
General Counsel for San Diego Unified
School District

1 Dated: January 25, 2021

Respectfully Submitted,

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Attorney General of California

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7 *State of California, Department of*
8 *Finance, and California State Controller*

9 COMMISSION ON STATE MANDATES

10 *Camille Shelton*
CAMILLE SHELTON
11 *Attorneys for Defendants and Respondents*
12 *Commission on State Mandates*

13 DANNIS WOLIVER KELLEY

14 *William B. Tunick*
WILLIAM B. TUNICK
15 *Attorneys for Plaintiffs and Petitioners*
16 *California School Boards Association, and*
17 *its Education Legal Alliance, San Diego*
18 *Unified School District, and Butte County*
19 *Office of Education*

20 CALIFORNIA SCHOOL BOARDS ASSOCIATION
AND ITS EDUCATION LEGAL ALLIANCE

21 KEITH BRAY
22 *General Counsel for California School*
23 *Board Association and Director of its*
24 *Education Legal Alliance*

25 SAN DIEGO UNIFIED SCHOOL DISTRICT

26 *Andra M. Greene*
ANDRA GREENE
27 *General Counsel for San Diego Unified*
28 *School District*

1 Dated: January 25, 2021

Respectfully Submitted,

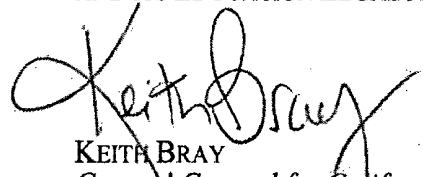
2 XAVIER BECERRA
Attorney General of California

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6 Deputy Attorney General
7 *Attorneys for Defendants and Respondents*
8 *State of California, Department of*
9 *Finance, and California State Controller*

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18 KEITH BRAY
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22 SAN DIEGO UNIFIED SCHOOL DISTRICT

23 ANDRA GREENE
24 *General Counsel for San Diego Unified*
25 *School District*

26 BUTTE COUNTY OFFICE OF EDUCATION

27 MARY SAKUMA
28 *Butte County Superintendent of Schools*

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BUTTE COUNTY OFFICE OF EDUCATION

Mary Sakuma
MARY SAKUMA
Butte County Superintendent of Schools

SAN JOAQUIN COUNTY OFFICE OF
EDUCATION


James Mousalimas
JAMES A. MOUSALIMAS
*San Joaquin County Superintendent of
Schools*

CASTRO VALLEY UNIFIED SCHOOL DISTRICT

PARVIN AHMADI
Superintendent

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CASTRO VALLEY UNIFIED SCHOOL DISTRICT


PARVIN AHMADI
Superintendent

~~PROPOSED~~ JUDGMENT

Accordingly, pursuant to the stipulation of the parties, IT IS ORDERED, ADJUDGED,
AND DECREED that:

(1) Judgment on the second cause of action is entered in favor of respondents pursuant to the ruling by the California Supreme Court.

(2) In accordance with the Parties' stipulation, EPA funding is not offsetting revenue for the Graduation Requirements mandate under Education Code section 42238.24.

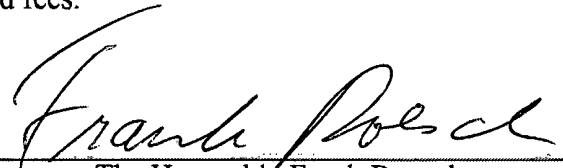
(3) The first cause of action is dismissed with prejudice.

(4) The third and fourth causes of action are dismissed without prejudice.

(5) Each party will bear their own costs and fees.

Dated:

Feb 1, 2021



The Honorable Frank Roesch

CLERK'S CERTIFICATE OF MAILING

RE: RG11554698 California School Boards Association et al vs State of California et al

I certify that the following is true and correct: I am the Clerk of the above-named court and not a party to this cause. I served this **Judgment**, by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Oakland, California, following standard court practices.

Dated: 02/01/2021

Chad Finke
Executive Officer/Clerk of the Superior
Court

By  _____
Param Bir, Deputy Clerk

Seth E. Goldstein Esq.,
Office of the Attorney General
1300 I Street, Suite 125
Sacramento CA 95244

Camille Shelton Esq.,
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento CA 95814

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 4, 2021, I served the:

- **Mr. William B. Tunick's Comments on behalf of the California School Boards Association on the Request for Simultaneous Comment filed March 3, 2021**
- **Mr. Christian M. Keiner's Comments on behalf of School Districts on the Request for Simultaneous Comment filed March 3, 2021**

Request to Amend Parameters and Guidelines
Graduation Requirements, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, 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 March 4, 2021 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/3/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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Ed Hanson, *Department of Finance*

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Exhibit G

Gavin Newsom ■ Governor

915 L Street ■ Sacramento CA ■ 95814-3706 ■ www.dof.ca.gov

March 3, 2021

RECEIVED
March 03, 2021
**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 respectfully submits the following comments in response to the Commission on State Mandates's, "Request for Simultaneous Comment on the Request to Amend Parameters and Guidelines and the Application of the Court's Opinion and Judgment and the Stipulation of the Parties in *California School Boards' Association (CSBA) v. State of California*" issued February 16, 2021.

On December 19, 2019, the California Supreme Court issued its decision in *California School Boards' Association (CSBA) v. State of California* (2019) 8 Cal.5th 713. The court held that the offsetting revenue requirements of Education Code section 42238.24 to pay for state mandates does not violate the California Constitution, and remanded the remaining issues to the lower court. On February 1, 2021, the case was resolved in its entirety with the stipulation of the parties that Education Protection Account funds are not offsetting revenues under section 42238.24 for the Graduation Requirements mandate.

Accordingly, the Parameters and Guidelines should be amended to include the requirements of section 42238.24.

If you have any questions regarding this letter, please contact Amber Alexander, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,

CHRIS FERGUSON
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 March 3, 2021, I served the:

- **Finance's Comments on the Request for Simultaneous Comment filed March 3, 2021**

Request to Amend Parameters and Guidelines

Graduation Requirements, 11-PGA-03 (CSM-4435)

Education Code Sections 51225.3 and 42238.24

Statutes 1983, Chapter 498; Statutes 2010, Chapter 724

Department of Finance, 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 March 3, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 2/16/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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Sacramento

March 3, 2021

VIA DROP BOX

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

Re: Comments of Castro Valley Unified School, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Poway Unified School District; and San Jose Unified School District Request to Amend Parameters and Guidelines Graduation Requirements, 11-PGA-03 (CSM-4435) Education Code Sections 51225.3 and 42238.24 Statutes 1983, Chapter 498; Statutes 2010, Chapter 724 Department of Finance, Requester Our file 3313-10320

Dear Ms. Halsey:

Our firm represents San Jose Unified School District; Clovis Unified School District; Grossmont Union High School District; Poway Unified School District; Castro Valley Unified School and Fullerton Joint Union High School District, (collectively "Districts" or "Claimants"), the test claimants in this matter. The Districts submit the following comments, pursuant to the Commission's letter dated February 16, 2021. These comments incorporate the recitation of facts and assertion of law set forth in the complete file in this matter.

I. BACKGROUND

In its original July 25, 2011 letter requesting amendments to the Parameters and Guidelines adopted, November 6, 2008, and corrected on December 18, 2008, the Department of Finance stated:

The Department of Finance respectfully requests the Commission on State Mandates to amend the parameters and guidelines for Chapter 498 of the Statutes of 1983 (CSM 4435 Graduation

Requirements) to reflect the addition of Education Code section 42238.24 by Chapter 724 of the Statutes of 2010 (AB 1610, Assembly Budget). Education Code section 42238.24 require that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefit costs incurred for courses required by the state. Further, we request that the effective date for the period of reimbursement resulting from adoption of these amendments reflect the enactment date of the governing statute, which was October 19, 2010. (emphasis in original)

Specifically, we propose amending the parameters and guidelines to include the following language regarding the offset and reimbursement of teacher salary and benefit costs, instructional materials costs, and supplies costs, in section IX, Offsetting Revenues and Other Reimbursements as follows:

The Department of Finance then stated:

The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010. (Underline in original.)

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

II. ARGUMENT

1. The California Supreme Court Decision in *California School Boards Association (CSBA) v. State of California* (2019) 8 Cal.5th 713.

The Commission requested comment upon the impact of CSBA, (*California School Boards Assn. v. State of California* (2019) 8 Cal.5th 713) ("*CSBA III*"), upon this Department of Finance request to amend the Parameters and Guidelines. The Districts herein incorporate Section II.1-3 of the Comments of the California School Board Association, filed this same date, into this Comment.

2. Local Bonds are Not "Offsetting Revenues"

a. Offsetting Revenues Are Limited to State and Federal Funds.

The Districts request clarification in the adopted Parameters and Guidelines regarding the status of local bond funds as "offsetting revenue." By definition, offsetting revenues should be limited

to State and Federal funds. The 2008 Parameters and Guidelines for this mandate, as it relates to offsetting revenues, provides as follows:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science classrooms and labs teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats, 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.

If the school district or county office submits a valid reimbursement claim for a new science classrooms and labs facility, the reimbursement shall be reduced by the amount of *state bond funds*, if any, received by the school district or county office to construct the new science classrooms and labs facility.

(Parameters and Guidelines, p. 8, emphasis added.)

None of the above categories of eligible offsets include local funds, such as local bond proceeds. Rather, the categories specifically include:

- federal, state, and block grants;
- total science classrooms and labs teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual ["CSAM"];

- funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 with instructional materials ["Schiff-Bustamante Program"];
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science classrooms and labs course mandated by Education Code section 51223.5 with instructional materials and supplies ["SIMF"];
- other state funds;
- *State bond funds*, if any, received by the school district or county office to construct the new science classrooms and labs facility. (emphasis added)

Nevertheless, in at least one matter,¹ the Controller took the position local bond funds were "other state funds" for purposes of offsetting. However, the above language clearly and unambiguously directs that offsets must come from federal or state sources. When the language is clear and unambiguous, there is no need for construction and courts should not indulge in it. (*People v. Benson* (1998) 18 Cal. 4th 24, 30; *Droeger v. Friedman, Sloan & Ross* (1991) 54 Cal.3d 26, 38 ("It is axiomatic that in the interpretation of a statute where the language is clear, its plain meaning should be followed")) (quoting *Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal.3d 152, 155); *Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 547 ("When statutory language is clear and unambiguous, there is no need for interpretation, and we must apply the statute as written.")). None of the above categories expressly or by implication touch upon local bond revenues. To be precise, *local* bond revenues are not: (i) federal, state, and block grants, (ii) restricted resources as indicated by the CSAM, (iii) Schiff-Bustamante Program funds, (iv) SIMF funds, (v) other State funds, or (vi) State bond funds.

Such restricted resources must be federal or State resources, as further described below. And, while, state-mandated budget and financial reporting standards require bond proceeds to be accounted for in restricted accounts (e.g., the "Building Fund" (Fund 21) and the "Bond Interest and Redemption Fund" (Fund 51), each held by the County), the account code, which is specified by the State, and used for the local bond proceeds is not determinative of mandate reimbursement at issue here. Any other interpretation flies in the face of statutory construction.

Local bond revenues are proceeds received from purchasers of general obligation bonds issued under the authority of the State Constitution "for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters

¹ *Graduation Requirements*, 16-4435-I-56, Education Code section 51225.3; Statutes 1983, Chapter 498; Fiscal Years: 2008-2009 and 2009-2010, Grossmont Union High School District, Claimant.

of the [school] district" (Cal. Const., art. XIII A, sec. 1, subd. (b)(3)), commonly known as "Proposition 39 Bonds." Proposition 39 was approved by California voters in 2000 as a vehicle to provide school districts with a financing source, the repayment of which was supported by an *ad valorem* tax on all taxable property within the jurisdiction of the school district, to pay for voter-approved projects. Prop 39 Bonds are approved upon a 55% positive vote of the electorate. (*Id.*) Prop 39 Bonds may only be issued by a school district in exchange for certain accountability and transparency requirements mandated by the State Constitution, including that all projects must be on the voter-approved "bond project list" and that a community oversight committee reviews performance and financial audits of such expenditures. (*Id.* at subd. (b)(3)(B)-(D).) It is true that the improvement of school facilities for additional science classes may be within the permitted scope of projects under the Constitution, however, Prop 39 Bonds were never intended as a replacement for subvention from the State. To decide to the contrary robs the local community of its rights to local control and accountability required by Article XIII A of the Constitution.

b. Local Bonds are "Proceeds of Taxes" Restricted to Capital Projects Approved By the Electorate.

On the one hand, local governments are given the power to raise local revenues through taxation but are also limited in the amount of tax revenues that can be generated. On the other hand, mindful of the limited sources of local tax revenues, Article XIII B, section 6, prevents the State from redirecting the limited pot of local tax revenues to fulfill State mandates. This is precisely why, in 2008, the Commission amended the parameters and guidelines for the Graduation Requirements mandate: to make sure that proceeds of taxes were not pulled into the calculus of offsetting revenues. In its findings, the Commission stated that "such an interpretation [i.e., use of proceeds of taxes to offset] would require the local school districts to use proceeds of taxes on a state-mandated program. This violates the purpose of article XIII B, section 6 [which] was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local spending in other areas." Commission, Revised Final Staff Analysis [relating to 2008 Amendments to the Parameters and Guidelines], pp. 53-54.)

Case law makes clear that the only locally-derived amounts permitted to be included in the calculus of offsetting revenues are where a local agency can levy assessments or fees. (*County of Fresno v. State of California*, 53 Cal.3d 482, 487). Of course, local bonds are neither fees nor assessments.

Rather, local bonds are a financing vehicle, permitted by the State Constitution, whereby the local agency raises funds for capital expenditures approved by the voters, the repayment of which is secured by proceeds of taxes – the *ad valorem* tax to be exact. The *ad valorem* tax, much like local property taxes, are locally-derived sources of revenue and are therefore considered proceeds of taxes that are not derived from the State.

Finally, the Education Code states that "[w]hen collected, all taxes levied shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district ... and shall be used for the payment of the principal and interest of the bonds and for no other purpose." (Ed. Code, § section 15251, subd. (a).) Even if the *ad valorem* tax was deemed to be something other than proceeds of taxes, the statute does not permit it to be used

for any purpose other than retirement of local bonds; and, as established above, the State Constitution does not permit the bonds to be ultimately spent on anything other than the capital projects approved by the voters within the local tax base.

While local bonds are not subject to Constitutional spending limitations, they are in fact otherwise limited by the Constitution and statute. The Constitution provides that Prop 39 bonds, may only be spent on the scope of projects approved by the voters, and statute provides that such bonds may only be issued up to the statutory bonding capacity for a school district and are subject to tax rate limitations. (Cal. Const., art. XIII A, sec. 1(b)(3), art. XVI, sec. 18(b); Ed. Code, § 15268.)

Local bond revenue is simply not "reimbursement for this mandate from any source" because, unlike state bond revenue, it must be repaid by the District tax base, a local source. A "reimbursement" that has to be repaid is not a reimbursement. The audit report does not state a legal basis which would allow local property tax proceeds to be considered an offset to reimburse Claimant for construction costs to accommodate and implement the State-mandated increased instructional programs such as the Graduation Requirement mandate

III. CONCLUSION

The Districts hereby submit these Comments pursuant to the Commission's February 16, 2021 letter.

IV. CERTIFICATION

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

Sincerely,

DANNIS WOLIVER KELLEY



Christian M. Keiner

CMK:fh

cc: Interested Parties via CSM's Electronic Filing Mailing List

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 4, 2021, I served the:

- **Mr. William B. Tunick's Comments on behalf of the California School Boards Association on the Request for Simultaneous Comment filed March 3, 2021**
- **Mr. Christian M. Keiner's Comments on behalf of School Districts on the Request for Simultaneous Comment filed March 3, 2021**

Request to Amend Parameters and Guidelines
Graduation Requirements, 11-PGA-03 (CSM-4435)
Education Code Sections 51225.3 and 42238.24
Statutes 1983, Chapter 498; Statutes 2010, Chapter 724
Department of Finance, 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 March 4, 2021 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/3/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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May 20, 2021

Exhibit I

Mr. Ed Hanson
Department of Finance
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Decision and Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Hearing

Graduation Requirements, 11-PGA-03 (CSM-4181A)

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);

As Alleged to be Modified by Education Code Section 42238.24;

Statutes 2010, Chapter 724 (AB 1610)

Department of Finance, Requester

Dear Mr. Hanson:

The Draft Proposed Decision and Parameters and Guidelines Amendment for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision and Parameters and Guidelines Amendment no later than **5:00 pm on June 10, 2021**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Mr. Hanson
May 20, 2021
Page 2

Hearing

This matter is set for hearing on **Friday, July 23, 2021** at 10:00 a.m. via Zoom. The Proposed Decision and Parameters and Guidelines Amendment will be issued on or about July 9, 2021.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list and so that detailed instructions regarding how to participate as a witness in this meeting on Zoom can be provided to them. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey", with a stylized flourish at the end.

Heather Halsey
Executive Director

ITEM ____
DRAFT PROPOSED DECISION
AND
PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498
(SB 813);

As Alleged to be Modified by Education Code Section 42238.24; Statutes 2010,
Chapter 724 (AB 1610)

Graduation Requirements

11-PGA-03 (CSM-4181A)

Department of Finance, Requester

EXECUTIVE SUMMARY

I. Summary of the Mandate

On January 22, 1987, the Commission adopted the Decision approving the *Graduation Requirements*, CSM-4181A, Test Claim. The test claim statute, Education Code section 51225.3, as added by Statutes 1983, chapter 498, increased the number of science courses required for high school graduation from one course to two courses. The Commission determined that the test claim statute constituted a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least one additional course in a biological or physical science before receiving a high school diploma. The Commission adopted Parameters and Guidelines on March 23, 1988, and has amended them many times. The last amendment was adopted November 6, 2008, and corrected on December 18, 2008, for costs incurred beginning January 1, 2005.

On July 25, 2011, the Department of Finance (Finance) filed the Request for Parameters and Guidelines Amendment alleging that Education Code section 42238.24 specifies offsetting revenues for teacher salary and benefit costs and to suggest other language changes.¹

The request was stayed pending resolution of *California School Boards Association v. State of California*.² In that case, the California School Boards Association (CSBA) and several school districts challenged the constitutionality of Education Code section 42238.24 as an offset for the *Graduation Requirements* program, arguing that the state may not identify pre-existing education funding as mandate payment, but must instead allocate additional funding to satisfy its mandate

¹ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

² *CSBA v. State of California* (2019) 8 Cal.5th 713.

reimbursement obligation under article XIII B, section 6.³ In 2019, the California Supreme Court found that the state does not violate article XIII B, section 6, or the separation of powers provision of the California Constitution when it directs the use of general education funding it already provides to school districts and county offices of education as offsetting revenue for the purpose of reimbursing state-mandated programs.⁴

On February 1, 2021, the Alameda County Superior Court resolved the remaining issues in the case on remand by entering judgment following a stipulation of the parties that Education Protection Account (EPA) funding from Proposition 30 is not offsetting revenue under Education Code section 42238.24.⁵

II. Procedural History

On July 25, 2011, Finance filed the Request for Parameters and Guidelines Amendment.⁶ On September 9, 2011, the State Controller's Office (Controller) filed comments on Finance's Request for Parameters and Guidelines Amendment and proposed additional language.⁷ On September 26, 2011, the Graduation Requirements Mandate Resolution Committee filed a request for postponement of the proceeding on the ground that Education Code section 42238.24 was the subject of a court challenge in *CSBA v. State of California*.⁸ On June 19, 2012, Commission staff placed the matter on inactive status pending the resolution of the court case. On December 19, 2019, the California Supreme Court issued its opinion in *CSBA v. State of California* (2019) 8 Cal.5th 713. On December 20, 2019, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion to the request. On April 17, 2020, Finance requested the matter be again placed on inactive status because of additional disputed issues pending before the court on remand. On April 20, 2020, CSBA and San Jose Unified School District, Clovis Unified School District, Grossmont Union High School District, Poway Unified School District, Castro Valley Unified School District, and Fullerton Joint Union High School District (School Districts) filed comments on the request.⁹ On

³ *CSBA v. State of California* (2019) 8 Cal.5th 713, 724-725.

⁴ *CSBA v. State of California* (2019) 8 Cal.5th 713, 726-730.

⁵ Exhibit X, *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁶ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

⁷ Exhibit C, Controller's Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

⁸ The Committee consists of San Jose Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Norwalk-LaMirada Unified School District, Poway Unified School District, and Sweetwater Union High School District.

⁹ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020; Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

April 24, 2020, Commission staff returned the matter to inactive status, upon request from Finance.

On February 1, 2021, judgment was entered, concluding the litigation.¹⁰ On February 16, 2021, Commission staff removed the matter from inactive status and requested simultaneous comments on the Request for Parameters and Guidelines Amendment and the application of the Court's opinion and judgment in *CSBA v. State of California*. On March 3, 2021, CSBA, Finance, and the School Districts filed comments.¹¹ On May 20, 2021, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment.¹²

III. Discussion

A. The Commission's Consideration of Finance's Request for Parameters and Guidelines Amendment Is Limited, Pursuant to Section 1183.17 of the Commission's Regulations, to the Offset Requirements in Section 42238.24, and Does Not Include Finance's Other Proposed Changes Which Were Submitted Without an Explanation of Why They Are Required.

At the time Finance filed the request in 2011, California Code of Regulations, title 2, former section 1183.2 required a request for parameters and guidelines amendment to include the proposed language and "a narrative explaining why the amendment is required." Finance requested to amend the parameters and guidelines to include the offset identified in Education Code section 42238.24, explaining that "Education Code section 42238.24 requires that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefits costs incurred for courses required by the state" but Finance also included additional proposed changes in its language mark-up without explanation. Therefore, the Commission will not consider proposed language beyond the proposed inclusion of Education Code section 42238.24.

B. Proposed Changes to the Parameters and Guidelines Made in the Comments Filed by the School Districts and the Controller Regarding Local Bond Funds and Instructional Material Funding Go Beyond Finance's Request and Have Not Been Pled in a Request for Parameters and Guidelines Amendment. Therefore, These Proposed Changes Are Not Properly Before the Commission.

¹⁰ Exhibit X, Judgment in *CSBA v. State of California*, Alameda County Superior Court Case No. RG11554698.

¹¹ Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit G, Finance's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit H, School Districts' Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

¹² Exhibit I, Draft Proposed Decision and Parameters and Guidelines Amendment, issued May 20, 2021.

The School Districts and the Controller have requested additional amendments to the Parameters and Guidelines in their comments on Finance’s request.¹³ These requests go beyond the scope of Finance’s Request for Parameters and Guidelines Amendment and cannot be considered without these parties filing requests for parameters and guidelines amendment pursuant to California Code of Regulations, title 2, section 1183.17(c).

C. Education Code Section 42238.24 Requires That the Proportion of the School District’s Current Expense of Education That Is Required to Be Expended on Salaries of Classroom Teachers Shall First Fund the Salary and Benefit Costs of High School Teachers Teaching State-Required Courses for High School Graduation, Pursuant to Education Code Section 51225.3(a)(1), Including the Second Science Course Mandated by Education Code Section 51225.3(a)(1)(C) Before Funding Other Educational Expenses.

Education Code section 42238.24 provides as follows:

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state funding received from any of the items listed in Section 42605* that are contained in the annual Budget Act. The proportion of the school district’s current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 *shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.*¹⁴

The plain language of section 42238.24 requires that the costs relating to the salaries and benefits of teachers to provide the courses required by 51225.3 shall be offset by specified state funding. The last sentence of Education Code section 42238.24 requires that “The proportion of the school district’s current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 shall *first* be allocated to fund the teacher salary costs incurred to provide the courses required by the state.” Section 41372(b) requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to expend 55 percent, of their “current expense of education” on the salaries of classroom teachers for grades 9 through 12.¹⁵ Thus, Education Code section 42238.24 imposes an additional requirement on districts to *first* fund the salary and benefit costs of high school teachers teaching the courses required by Education Code

¹³ Exhibit H, School Districts’ Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

¹⁴ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

¹⁵ Education Code section 41372(b).

section 51225.3 from the 50 and 55 percent allocation of state funding apportioned to the district.¹⁶

The courses specified in Education Code section 51225.3(a)(1) include the additional science course mandated in the *Graduation Requirements* program, but also other courses required by state law for high school graduation. These include the 13 minimum general education classes required, two of which are physical education and, all of which must be year-long courses. Most public California schools require between 22 and 26 year-long courses for graduation, so the state-required classes make up approximately 50-59 percent of the courses needed to graduate.¹⁷ As a result of this mandatory offset, very rarely would a school district have costs for the teachers' salaries and benefits to provide any of the state-required courses, including the mandated second science course, that exceed the applicable 50-55 percent of their current cost of education. Thus, under section 42238.24, only after all of the specified state funds have been expended exclusively for the teachers' salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers' salaries and benefits costs be claimed for the mandated second science course

There are three funding sources identified in section 42238.24 that are required to be applied first to the salary and benefit costs of teachers providing the courses required by section 51225.3, and that must be offset from the *Graduation Requirements* program. The first is "the amount of state funding apportioned to the district pursuant to this article," which refers to the article in which section 42238.24 appears (Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code, beginning with section 42238 et seq.). These code sections set forth a method for determining the state apportionments of general revenue to districts based upon computed revenue limits per unit of average daily attendance (ADA) less property tax revenues received.

The second source of funding identified addresses funding for county offices of education in Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1. However, the correct reference should be *Article 3* (and not "Article 2") of Chapter 12 of Part 2 of Division 1 of Title 1 which, in 2010, included sections 2550-2558.6. These code sections, as they existed when section 42238.24 was enacted in 2010, prescribed a method of determining state apportionments of general revenue to county offices of education providing instructional services based generally on computed revenue limits per unit of ADA, less property tax revenues received, and included categorical funding for specific expenses.

Education Code section 42238.24 also requires an offset of "the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act." Education Code section 42605, in 2010, stated that, "recipients of funds from the [specified 39 budget act] items may use funding received ... for any educational purpose."¹⁸ These budget act

¹⁶ Education Code 51225.3(a)(2) allows districts to impose "[o]ther coursework requirements adopted by the governing board of the school district" as a condition of high school graduation.

¹⁷ Exhibit X, California Department of Education, High School Graduation Frequently Asked Questions, page 1.

¹⁸ Education Code section 42605, as amended by Statutes 2010, chapter 328.

items were appropriations for categorical programs for fiscal years 2008-2009 through 2012-2013. Education Code section 42605 was repealed in 2013.¹⁹

Finally, Finance requests that the Commission include the following sentence in the Parameters and Guidelines: “State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372” as an offsetting revenue.²⁰ Finance has not explained this request. However, based on the plain language of section 41372 and as analyzed in the Proposed Decision, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount designated by the county superintendent of schools as the deficiency shall be made “unavailable” to the district from the apportionments made to the district after April 15 of that fiscal year, unless an exemption is granted, and the designated amount not exempted shall be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year. In such a case, a school district will be required to first spend more (up to the full the amount of the deficiency) than 50 or 55 percent of their state funding on teacher salaries and benefits for the courses required by the state, including the science course mandated in the *Graduation Requirements* program, and would have a larger offset in the next fiscal year if the district failed to comply with the required expenditures identified in Education Code section 41732 and 42238.24 in the prior fiscal year.

Therefore, with the exception of EPA funding provided by article XIII, section 36 of the California Constitution (which is not offsetting revenue within the meaning of section 42238.24), the following funds are required by Education Code section 42238.24 to be identified as mandatory offsetting revenue, reducing any costs claimed for teachers’ salaries and benefits incurred for the *Graduation Requirements* program:

- For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teachers’ salaries and benefits costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teachers’ salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers’ salaries and benefits costs be claimed for the mandated second science course;
- For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only

¹⁹ Statutes 2013, chapter 47.

²⁰ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

after all of these funds have been expended exclusively for the teachers' salaries and benefits costs for the (currently 13) state required courses, may any additional remaining teachers' salaries and benefits costs be claimed for the mandated second science course; and

- The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to *first* fund the teachers' salaries and benefits costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teachers' salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers' salaries and benefits costs be claimed for the mandated second science course.

D. Although the Parameters and Guidelines Should Reflect the Requirements of Education Code Section 42238.24, Finance's Proposed Language Is Overbroad and Inconsistent with the Plain Language of Education Code Section 42238.24.

Finance requests that Education Code section 42238.24 be identified as offsetting revenue, however, some of Finance's proposed language is overbroad and inconsistent with the plain language of section 42238.24.

Finance's request to include any funding "pursuant to Ed. Code §§ 42238 et seq." and "State funds provided pursuant to Ed. Code section 2550 et seq." as offsetting revenue does not track the plain language of Education Code section 42238.24 and is overly broad.

Furthermore, as phrased, the proposed language does not limit the required offset to teachers' salaries and benefits, but rather proposes to identify the above funding as general offsetting revenue for "the current expense of education."²¹

Accordingly, this language is not added to the Parameters and Guidelines.

E. Staff Recommends that the Parameters and Guidelines Be Amended to Identify the Offsetting Revenues Required by Education Code Section 42238.24 For Teachers' Salaries and Benefits Costs, Beginning October 19, 2010.

Based on the above analysis, staff recommends that the Commission amend Section IX. of the Parameters and Guidelines as follows:

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants shall be identified and deducted from this claim.;

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

²¹ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

- †Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): by restricted resources as identified by the California Department of Education California School Accounting Manual;
 - A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining for teacher salary and benefits costs be claimed for the mandated second science course;
 - B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course; and
 - C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional

remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is *not* offsetting revenue within the meaning of Education Code section 42238.24.²²

- ~~f~~Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials; and funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; ~~and other state funds, shall be identified and deducted from this claim.~~

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 January 1, 2005.~~

- If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

In addition, other non-substantive amendments are made to the Parameters and Guidelines to reflect this Decision and to update the boilerplate language in Section IV. Period of Reimbursement.

Government Code section 17557(d)(1) establishes the period of reimbursement for parameters and guidelines amendments as follows:

A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and *on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year.*²³

²² CSBA v. State of California, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

²³ Emphasis added.

Applying the statute to the instant case, Finance filed its Request for Parameters and Guidelines Amendment on July 25, 2011, “to reflect the addition of Education Code section 42238.24....”²⁴ The next claiming deadline was in February 2012 for fiscal year 2010-2011.²⁵ The filing date of July 25, 2011 is before the February 2012 claiming deadline for fiscal year 2010-2011, thus establishing “reimbursement eligibility for *that* fiscal year.” However, Education Code section 42238.24 was not in existence at the start of fiscal year 2010-2011, having become effective on October 19, 2010.²⁶ Accordingly, the Parameters and Guidelines Amendment requiring claimants to offset teachers’ salaries and benefits costs pursuant to Education Code section 42238.24 begins on the effective date of Education Code section 42238.24, October 19, 2010.

IV. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines Amendment to partially approve the Request for Parameters and Guidelines Amendment and authorize staff to make any technical, non-substantive changes to the Proposed Decision and Parameters and Guidelines Amendment following the hearing.

²⁴ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 1.

²⁵ Government Code section 17560(a).

²⁶ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Section 51225.3; as
Added by Statutes 1983, Chapter 498
(SB 813);

As Alleged to be Modified by
Education Code Section 42238.24;
Statutes 2010, chapter 724 (AB 1610)

Filed on July 25, 2011

By the Department of Finance, Requester

Case No.: 11-PGA-03 (CSM-4181A)

Graduation Requirements

DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.

(Adopted July 23, 2021)

DECISION

The Commission on State Mandates (Commission) heard and decided this Parameters and Guidelines Amendment (PGA) during a regularly scheduled hearing on July 23, 2021. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision and Parameters and Guidelines Amendment by a vote of [vote count will be included in the adopted Decision], as follows:

| Member | Vote |
|--|------|
| Lee Adams, County Supervisor | |
| Jeannie Lee, Representative of the Director of the Office of Planning and Research | |
| Gayle Miller, Representative of the Director of the Department of Finance, Chairperson | |
| Sarah Olsen, Public Member | |
| Spencer Walker, Representative of the State Treasurer | |
| Jacqueline Wong-Hernandez, Representative of the State Controller, Vice-Chairperson | |

I. Summary of the Mandate and Background

On January 22, 1987, the Commission adopted its Decision approving the *Graduation Requirements*, CSM 4181A, test claim. Education Code section 51225.3, as added by the test claim statute, Statutes 1983, chapter 498, increased the number of science courses required for high school graduation from one course to two courses. The Commission determined that the test claim statute constituted a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least one additional course in a biological or physical science before receiving a high school diploma.

The Commission adopted the Parameters and Guidelines March 23, 1988, and has amended them many times. As relevant to this request, the offset paragraph in the Parameters and Guidelines adopted in 1988 stated the following:

Any savings the Claimant experiences as a direct result of this statute must be deducted from the cost claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim.²⁷

On December 9, 2005, the Commission amended the offset paragraph of the Parameters and Guidelines pursuant to Statutes 2004, chapter 895, section 17 (AB 2855), for costs incurred beginning January 1, 2005 (the effective date of the bill). AB 2855 provided that “if the school district or county office of education submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.” Thus, the offset paragraph was amended to add the following language as required by the 2004 statute: “If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.”²⁸

The last amendment was adopted November 6, 2008 and corrected in December 18, 2008 for costs incurred beginning January 1, 2005. This amendment clarified that county offices of education are eligible claimants because they provide instructional services for certain groups of students; added a reasonable reimbursement methodology for claiming increased teacher salary costs; and identified categorical funding sources as offsetting revenues for teacher salary and material and supply costs.²⁹ As last amended, the Parameters and Guidelines, Section IX. Offsetting Revenue and Other Reimbursements, specify as follows:

²⁷ Exhibit X, Parameters and Guidelines for *Graduation Requirements*, CSM 4181A, adopted March 23, 1988.

²⁸ Exhibit X, Proposed Parameters and Guidelines Amendment for *Graduation Requirements*, 04-PGA-30, adopted December 9, 2005.

²⁹ Exhibit X, Revised Final Staff Analysis, Proposed Amendments to Parameters and Guidelines for *Graduation Requirements*, CSM 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05 as Modified by Staff, adopted November 6, 2008.

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005. If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.³⁰

On July 25, 2011, the Department of Finance (Finance) filed a Request for Parameters and Guidelines Amendment for the *Graduation Requirements* program to add Education Code section 42238.24 as offsetting revenue for teachers' salaries and benefits costs and to suggest other language changes. Education Code section 42238.24 became effective on October 19, 2010, and states the following:

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state funding received from any of the items listed in Section 42605* that are contained in the annual Budget Act. The proportion of the school district's current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 *shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.*³¹

³⁰ Exhibit B, Parameters and Guidelines Amendment for *Graduation Requirements*, 05-PGA-05, 06-PGA-05, adopted December 18, 2008.

³¹ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. (Emphasis added.)

The request was stayed pending resolution of *California School Boards Association v. State of California*. In that case, the California School Boards Association (CSBA) and several school districts challenged the constitutionality of Education Code section 42238.24 as an offset for the *Graduation Requirements* program, arguing that the state may not “‘identify pre-existing education funding as mandate payment’ but must instead allocate ‘additional funding’ to satisfy its mandate reimbursement obligation under article XIII B, section 6, and that the treatment of these funds as offsetting revenues ‘allows the State to eliminate a mandate obligation without actually providing any payment by simply identifying existing funding and designating it offsetting revenues.’”³² Ultimately, the California Supreme Court, in 2019, found that the state does not violate article XIII B, section 6, or the separation of powers provision of the California Constitution when it directs the use of general education funding it already provides to school districts and county offices of education as offsetting revenue for the purpose of reimbursing state-mandated programs.³³

On February 1, 2021, the Alameda County Superior Court, on remand of *CSBA v. State of California*, resolved the remaining issues in the case by entering judgment following a stipulation of the parties that Education Protection Account (EPA) funding from Proposition 30 is not offsetting revenue under Education Code section 42238.24.³⁴ This judgment is binding on the Commission and is discussed in the analysis below.

In 2012, the Legislature adopted the mandate block grant system as an alternative to filing reimbursement claims with the State Controller’s Office (Controller).³⁵ Beginning in fiscal year 2013-2014, the *Graduation Requirements* program became part of the mandate block grant system.³⁶

II. Procedural History

On July 25, 2011, Finance filed a Request for Parameters and Guidelines Amendment.³⁷ On September 9, 2011, the Controller filed comments on Finance’s request, in which it proposed

³² *CSBA v. State of California* (2019) 8 Cal.5th 713, 724-725; CSBA also included a challenge to Government Code section 17557(d)(2)(B), as amended in 2010 (Statutes 2010, chapter 719, SB 856), which allows a parameters and guidelines amendment to “[u]pdate offsetting revenues and offsetting savings that apply to the mandated program and do not require a new legal finding that there are no costs mandated by the state pursuant to subdivision (e) of Section 17556.” The court found that Government Code section 17557(d)(2)(B) facially constitutional. *CSBA v. State of California* (2019) 8 Cal.5th 713, 730-732.

³³ *CSBA v. State of California* (2019) 8 Cal.5th 713, 726-730.

³⁴ Exhibit X, *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court Case No. RG11554698.

³⁵ Government Code section 17581.6(a), as added by Statutes 2012, chapter 38, effective June 27, 2012; amended by Statutes 2012, chapter 575, effective September 26, 2012.

³⁶ Former Government Code section 17581.6(e)(19) (as amended by Statutes 2013, chapter 48, effective July 1, 2013); currently at Government Code section 17581.6(f)(23).

³⁷ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

additional language.³⁸ On September 26, 2011, the Graduation Requirements Mandate Resolution Committee filed a request for postponement of the proceeding on the ground that Education Code section 42238.24 was the subject of a court challenge in *CSBA v. State of California*.³⁹ On June 19, 2012, Commission staff placed the matter on inactive status pending the resolution of the court case. On December 19, 2019, the California Supreme Court issued its opinion in *CSBA v. State of California* (2019) 8 Cal.5th 713. On December 20, 2019, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion to the request. On April 17, 2020, Finance requested the matter be again placed on inactive status because of additional disputed issues on remand of *CSBA v. State of California*. On April 20, 2020, CSBA and the School Districts (San Jose Unified School District, Clovis Unified School District, Grossmont Union High School District, Poway Unified School District, Castro Valley Unified School District, and Fullerton Joint Union High School District) filed comments on the request.⁴⁰ On April 24, 2020, Commission staff returned the matter to inactive status.

On February 1, 2021, judgment was entered in *CSBA v. State of California*, concluding the litigation.⁴¹ On February 16, 2021, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion and judgment in *CSBA v. State of California*. On March 3, 2021, CSBA, Finance, and the School Districts filed comments.⁴² On May 20, 2021, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment.⁴³

³⁸ Exhibit C, Controller's Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

³⁹ The Committee consists of San Jose Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Norwalk-LaMirada Unified School District, Poway Unified School District, and Sweetwater Union High School District.

⁴⁰ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020; Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

⁴¹ Exhibit X, *CSBA v. State of California*, Judgement Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁴² Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit G, Finance's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit H, School Districts' Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

⁴³ Exhibit I, Draft Proposed Decision and Parameters and Guidelines Amendment issued May 20, 2021.

III. Party Positions

A. Department of Finance, Requester

Finance filed a Request for Parameters and Guidelines Amendment pursuant to Government Code section 17557(d)(2)(B) for the *Graduation Requirements* program to include the offset identified in Education Code section 42238.24, and proposed the following language changes:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

~~Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual; funds appropriated to school districts from the Schiff Bustamante Standards Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.~~

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grants funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)) including total science teacher salary costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned to school districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372;
- State Funds provided pursuant to Ed. Code section 2550 et seq.

- Funding provided in the annual Budget for any educational purpose as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009));
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials;
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies;
- And other state and federal funds provided for instructional services., shall be identified and deducted from this claim.

The State Controller’s Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005 October 19, 2010.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.⁴⁴

On March 3, 2021, Finance filed comments stating, “On February 1, 2021, the case was resolved in its entirety with the stipulation of the parties that Education Protection Account funds are not offsetting revenues under section 42238.24 for the Graduation Requirements mandate. Accordingly, the Parameters and Guidelines should be amended to include the requirements of section 42238.24.”⁴⁵

B. State Controller’s Office

On September 9, 2011, the Controller filed comments on Finance’s Request for Parameters and Guidelines Amendment. In its comments on the proposed amendment, the Controller concurred with the request and proposed some additional changes to the language. The Controller proposed deleting the reference to the Schiff-Bustamante Standards-Based Instructional Materials Program explaining that Education Code section 60450 et seq., the statutes which delineated the program, had been repealed effective January 1, 2004, thus there would be no further appropriation requiring offset. The Controller also proposed deleting, “The State Controller’s Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning

⁴⁴ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

⁴⁵ Exhibit G, Finance’s Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021.

January 1, 2005 October 19, 2010,” noting that the Controller will amend the claiming instructions for fiscal year 2010-2011 to reflect the new offset for Education Code section 42238.24.⁴⁶ The majority of the Controller’s proposed changes were to citation style, removing abbreviations in favor of complete words.

C. California School Boards Association

On April 20, 2020, in response to the Commission’s First Request for Simultaneous Comment, CSBA filed comments on Finance’s Request for Parameters and Guidelines Amendment in light of the California Supreme Court’s decision in *CSBA v. State of California*. CSBA asserted that the language proposed by Finance is too broad and objected to any language that was outside the scope of Education Code section 42238.24 which only provides for two sources of offsetting revenue: “the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;” and, “the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.”⁴⁷ CSBA also argued that the funds provided through the EPA are not offsetting revenue because the California Constitution prohibits the use of those funds to pay costs incurred by the Legislature, Governor, or state agencies. CSBA reasoned that the use of the funds as offsetting revenue would violate a constitutional guarantee and the Parameters and Guidelines must state that EPA funds are not offsetting revenue.⁴⁸ Citing the California Supreme Court’s analysis of the legislative history of Education Code section 42238.24 that it would take effect *the next fiscal year*, CSBA concluded that the Parameters and Guidelines Amendment would take effect in fiscal year 2011-2012.⁴⁹ CSBA agreed with the deletion of the Schiff-Bustamante Standards-Based Instructional Materials Program as proposed by the Controller.⁵⁰ Finally, the CSBA included its own proposed offset language.⁵¹

On March 3, 2021, CSBA filed comments in response to the Commission’s Second Request for Simultaneous Comment on Finance’s Request for Parameters and Guidelines Amendment in light of the California Supreme Court’s decision and the superior court’s judgment on the stipulation of the parties in *CSBA v. State of California*. CSBA reasserted all its prior arguments

⁴⁶ Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011, page 2.

⁴⁷ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 3-4, 6.

⁴⁸ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 4-5.

⁴⁹ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, page 6, citing *CSBA v. State of California* (2019) 8 Cal.5th 713, 719.

⁵⁰ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, page 4, footnote 2.

⁵¹ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, page 6.

noting that the use of EPA funds as offsetting revenue was now resolved and the Parameters and Guidelines must reflect the exclusion of EPA funds.⁵²

D. School Districts

On April 20, 2020, in response to the Commission's First Request for Simultaneous Comment, the School Districts filed comments on Finance's Request for Parameters and Guidelines Amendment.⁵³ The School Districts incorporated and agreed with CSBA's comments asserting overbroad proposed language, the exclusion of EPA funds as offsetting revenue, and the effective date of fiscal year 2011-2012. The School Districts requested clarification regarding local bond funds as offsetting revenue.⁵⁴ Pointing to an audit by the Controller of the *Graduation Requirements* claim of Grossmont Union High School District where the Controller had characterized local bonds as state funds requiring an offset without any legal basis, the School Districts asserted that the plain language of the offset language in the Parameters and Guidelines excludes local bond funds, thus offsetting revenue should be limited to state and federal funds.⁵⁵ Relying on the Commission's Revised Final Staff Analysis from the 2008 amendment to the *Graduation Requirements* Parameters and Guidelines, the School Districts argued that local bonds are the proceeds of taxes because the local bond funds are secured by the ad valorem tax and, in any case, they may only be spent on voter-approved projects.⁵⁶ The School Districts conclude that local bond funds cannot be reimbursement within the meaning of the offset language because the bonds are debt that must be repaid.⁵⁷

On March 3, 2021, the School Districts filed comments in response to the Commission's Second Request for Simultaneous Comment. Again, the School Districts incorporated CSBA's comments and reasserted their argument that local bond funds are not offsetting revenue.⁵⁸

IV. Discussion

A. The Commission's Consideration of Finance's Request for Parameters and Guidelines Amendment Is Limited, Pursuant to Section 1183.17 of the

⁵² Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

⁵³ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

⁵⁴ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, page 3.

⁵⁵ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, pages 3-4, 6.

⁵⁶ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, pages 5-6.

⁵⁷ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, pages 5-6.

⁵⁸ Exhibit H, School Districts' Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

Commission’s Regulations, to the Offset Requirements in Section 42238.24, and Does Not Include Finance’s Other Proposed Changes Which Were Submitted Without Explanation for Why They Are Required.

At the time Finance filed this request in 2011, and as the law exists today, all requests to amend parameters and guidelines must include the proposed language and “a narrative explaining why the amendment is required.”⁵⁹

As indicated above, Finance filed the Request for Parameters and Guidelines Amendment to include the offset identified in Education Code section 42238.24 with respect to teacher salary costs. However, Finance’s proposed language does more than simply add the offset language in Education Code section 42238.24. Finance proposes the following changes to the offsetting revenue paragraph in the Parameters and Guidelines, including changes relating to material and supply costs:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS



- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials;
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies;
- And other state and federal funds provided for instructional services, shall be identified and deducted from this claim.⁶⁰

Finance, however, has not provided “a narrative explaining why the[se] amendment[s] [are] required” in accordance with the Commission’s regulations. Therefore, the Commission will not consider the above proposed language.

B. Proposed Changes to the Parameters and Guidelines Made in the Comments Filed by the School Districts and the Controller Regarding Local Bond Funds and Instructional Material Funding Go Beyond Finance’s Request and Have Not Been Pled in a Request for Parameters and Guidelines Amendment. Therefore, These Proposed Changes Are Not Properly Before the Commission.

As indicated above, the School Districts and the Controller have requested additional amendments to the Parameters and Guidelines in their comments on Finance’s request.

⁵⁹ California Code of Regulations, title 2, former section 1183.2 (as amended by Register 2010, No. 44); currently in section 1183.17(a).

⁶⁰ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

Specifically, the School Districts request that the Parameters and Guidelines be amended to clarify that *local* bond funds not be identified and deducted as offsetting revenue.⁶¹ The Controller requests amendments to the instructional materials funding identified as offsetting revenue in the Parameters and Guidelines.⁶²

These requests go beyond the scope of Finance’s Request for Parameters and Guidelines Amendment and cannot be considered without these parties filing a request for Parameters and Guidelines Amendment. California Code of Regulations, title 2, section 1183.17(c) states the following:

The addition or substitution of requesters and supporting declarations based on the original facts alleged in an existing parameters and guidelines amendment request is not an “amendment.” *However, new proposals for amendments must be filed as a new parameters and guidelines amendment request.*⁶³

Although the School Districts and the Controller propose language changes that go beyond the scope of Finance’s request, none have filed a request for parameters and guidelines amendment. Therefore, these proposed changes are not properly before the Commission and cannot be considered as part of this item.

C. Education Code Section 42238.24 Requires That the Proportion of the School District’s Current Expense of Education That Is Required To Be Expended on Salaries of Classroom Teachers Shall First Fund the Salary and Benefit Costs of High School Teachers Teaching State-Required Courses for High School Graduation, Pursuant to Education Code Section 51225.3(a)(1), Including the Second Science Course Mandated by Education Code Section 51225.3(a)(1)(C) Before Funding Other Educational Expenses.

Education Code section 42238.24 provides as follows:

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state funding received from any of the items listed in Section 42605* that are contained in the annual Budget Act. The proportion of the school district’s current expense of education that is required to be expended for payment of the salaries of classroom teachers

⁶¹ Exhibit H, School Districts’ Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021.

⁶² Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

⁶³ California Code of Regulations, title 2, former section 1183.2 (as amended by Register 2010, No. 44); currently in section 1183.17(c). Emphasis added.

pursuant to Section 41372 *shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.*⁶⁴

The plain language of section 42238.24 requires that the costs relating to the salaries and benefits of teachers to provide the courses required by 51225.3 shall be offset by specified state funding. The last sentence of Education Code section 42238.24 requires that “The proportion of the school district’s current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.” Section 41372(b) requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to expend 55 percent, of their “current expense of education” on the salaries of all classroom teachers for grades 9 through 12. The “current expense of education” is defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.⁶⁵ Thus, Education Code section 42238.24 imposes an additional requirement on districts to *first* fund the salary and benefit costs of high school teachers teaching the courses required by Education Code section 51225.3 from the 50 and 55 percent allocation of state funding apportioned to the district before funding other educational expenses (i.e., the costs of teachers teaching the courses required by the governing boards of local districts; and the remaining current expenses of education, including salaries and benefits of classified employees, and the cost for replacement books, supplies, and equipment).⁶⁶

The courses specified in Education Code section 51225.3(a)(1) include the additional science course mandated in the *Graduation Requirements* program in subdivision (a)(1)(C), but also other courses required by state law for high school graduation. Education Code section 51225.3(a)(1), states the following:

- a) A pupil shall complete all of the following while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified:
 - (A) Three courses in English.
 - (B) Two courses in mathematics. . .
 - (C) Two courses in science, including biological and physical sciences.
 - (D) Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics.

⁶⁴ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

⁶⁵ Education Code section 41372(b).

⁶⁶ Education Code 51225.3(a)(2) allows districts to impose “[o]ther coursework requirements adopted by the governing board of the school district” as a condition of high school graduation.

- (E) One course in visual or performing arts or foreign language. For the purposes of satisfying the requirement specified in this subparagraph, a course in American Sign Language shall be deemed a course in foreign language.
- (F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

The courses identified above include the 13 minimum general education classes required, two of which are physical education and, all of which must be year-long courses. Most public California schools require between 22 and 26 year-long courses for graduation, so the state-required classes make up between approximately 50-59 percent of the courses needed to graduate.⁶⁷

Thus, under section 42238.24, the costs incurred for teachers' salaries and benefits to provide all the courses above, including the additional science course mandated by the state, shall be offset by the amount of state funding" specified in the statute. For purposes of the *Graduation Requirements* program, this state funding to fund the teachers' salaries and benefits costs for the second science course mandated by 51225.3(a)(1)(C) shall be identified as offsetting revenue. Only if the amount of funding provided pursuant to the specified articles is insufficient to fund all of the teacher salaries and benefits to provide the state-required courses specified in Education Code section 51225.3(a)(1), then after all of these funds have been allocated to the state required courses any remaining costs for teachers' salaries and benefits for the *Graduation Requirements* program would be reimbursable. Given that Education Code section 41372(b) requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to expend 55 percent, of their "current expense of education" on the salaries of classroom teachers for grades 9 through 12 and first expend those costs for the required courses, it is highly unlikely that a district would ever have remaining costs for teachers' salaries and benefits for the mandated program as long as funding levels remain at or above their current levels and new state-required courses are not added.

There are three funding sources identified in section 42238.24 that are required to be applied first to the salary and benefit costs of teachers teaching the courses required by section 51225.3, and that must be offset from the *Graduation Requirements* program: (1) "the amount of state funding apportioned to the district pursuant to this article;" (2) in the case of a county office of education, the state funding apportioned "pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;" and (3) "the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act."

"[T]he amount of state funding apportioned to the district pursuant to this article" refers to the article in which section 42238.24 appears (Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code beginning with section 42238 et seq.), which sets forth a method for determining the state apportionments of general revenue to districts based upon computed

⁶⁷ Exhibit X, California Department of Education, High School Graduation Frequently Asked Questions, <https://www.cde.ca.gov/fg/aa/lc/lcfaq.asp#FC> (accessed April 6, 2021), page 1.

revenue limits per unit of average daily attendance (ADA) less property tax revenues received.⁶⁸ In addition, at the time section 42238.24 was enacted, several code sections provided categorical funding for specific expenses and programs.⁶⁹ The California Department of Education (CDE) describes revenue limit funding as follows:

[E]ach school district was funded based on a unique revenue limit, multiplied by its average daily attendance (ADA). In addition, districts received restricted funding for over 50 categorical programs which were designed to provide targeted services based on the demographics and needs of the students in each district.⁷⁰

Revenue limit funding for districts was replaced by the Local Control Funding Formula (LCFF) in 2013-2014.⁷¹ According to CDE,

Under the LCFF funding system, revenue limits and most state categorical programs have been eliminated. The LCFF creates funding targets based on student characteristics and provides greater flexibility to use these funds to improve student outcomes. For school districts and charter schools, the LCFF funding targets consist of grade span-specific base grants plus supplemental and concentration grants that are calculated based on student demographic factors.⁷²

For districts, the LCFF provides a rate based on the ADA in four grade spans (the base rate), adjusted for early elementary and high school base rates, and provides supplemental or concentration funding for English learners and low income students.⁷³

With respect to county offices of education, Education Code section 42238.24 refers to “Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1.” However, the correct reference should be *Article 3* (and not “Article 2”) of Chapter 12 of Part 2

⁶⁸ Education Code sections 42238-42250.1; California Code of Regulations, title 2, section 15370.

⁶⁹ Education Code sections 42238.15, as amended by Statutes 1993, chapter 58 (adjustments for special education, child care, instructional materials, regional occupational programs, school improvement programs, economic impact aid, staff development, and gifted and talented education); 42238.18, as amended by Statutes 1998, chapter 125 (juvenile court and community schools);

⁷⁰ Exhibit X, California Department of Education, LCFF Frequently Asked Questions, <https://www.cde.ca.gov/fg/aa/lc/lcffffaq.asp#FC> (accessed April 6, 2021), page 1.

⁷¹ Education Code sections 42238.01- 42238.07, as added by Statutes 2013, chapter 47, section 28, eff. July 1, 2013. These code sections have been amended several times, with the last amendment by Statutes 2020, chapter 24.

⁷² Exhibit X, California Department of Education, LCFF Frequently Asked Questions, <https://www.cde.ca.gov/fg/aa/lc/lcffffaq.asp#FC> (accessed April 6, 2021), page 1.

⁷³ Exhibit X, Legislative Analyst’s Office, An Overview of the Local Control Funding Formula (2013), <https://lao.ca.gov/reports/2013/edu/lcff/lcfc-072913.pdf> (accessed April 6, 2021).

of Division 1 of Title 1 which, in 2010, included sections 2550-2558.6.⁷⁴ These code sections, as they existed when section 42238.24 was enacted in 2010, prescribed a method of determining state apportionments of general revenue to county offices of education providing instructional services based generally on computed revenue limits per unit of ADA, less property tax revenues received, and included categorical funding for specific expenses.

Beginning in 2013-2014, the LCFF was also established for county offices of education pursuant to Education Code section 2574.⁷⁵ Section 2574 provides an alternative education grant for the instructional programs provided by county offices of education, which is calculated using the per pupil revenue limit formula in Education Code section 2550 et seq.⁷⁶ County offices of education are also entitled to supplemental and concentration grants, calculated under the regulations required for districts by Education Code section 42238.07.⁷⁷

In addition to the statutory changes to funding, in 2012, the voters approved Proposition 30 which added The Schools and Local Public Safety Protection Act of 2012 to the California Constitution in article XIII, section 36.⁷⁸ Derived from a temporary tax increase imposed on retailers in 2013, the Act created in the state general fund the Education Protection Account (EPA) to provide new general purpose, unrestricted educational funding.⁷⁹ The EPA funds may not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government; the recipients — community college districts, county offices of education, school districts, and charter schools — have sole authority to determine how the EPA funds are spent.⁸⁰ EPA funding is required to be provided in proportion to the revenue limits calculated, for districts, pursuant to Education Code section 42238, and for county offices of education, pursuant to section 2558, as they both read on November 6, 2012.⁸¹ As indicated in the

⁷⁴ Although Section 42238.24 refers to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 - Article 2 is entitled “Tax Override for Outdoor Science and Conservation Program”, which did not commence with section 2550 (instead it commenced with section 2520) and was repealed by Statutes 1980, chapter 1208, some thirty years prior to enactment of Section 42238.24. Instead, Article 3. “Computation of Revenue Limits” of Chapter 12 of Part 2 of Division 1 of Title 1 commenced with section 2550 when section 42238.24 was enacted.

⁷⁵ Education Code section 2574 was added by Statutes 2013, chapter 47.

⁷⁶ Education Code section 2574(c)(1). Education 2574(a) also provides LCFF for the counties’ oversight responsibilities, which are *not* at issue in the *Graduation Requirements* program.

⁷⁷ Education Code section 2574(c)(2), (3).

⁷⁸ Proposition 30 of 2012.

⁷⁹ California Constitution, article XIII, section 36(f).

⁸⁰ California Constitution, article XIII, section 36(e)(5)-(6).

⁸¹ California Constitution, article XIII, section 36(e)(3)(B), as amended by Proposition 55, approved Nov. 8, 2016, eff. Nov. 9, 2016.

judgment in *CSBA v. State of California*, EPA funding from Proposition 30 is *not* offsetting revenue under Education Code section 42238.24.⁸²

Education Code section 42238.24 also identifies a third source of funding to be offset as follows: “[c]osts related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 shall be offset by . . . the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.” Section 42605 of the Education Code, in 2010, stated that, “recipients of funds from the [specified 39 budget act] items may use funding received . . . for any educational purpose.”⁸³ These budget act items were appropriations for categorical programs, and for fiscal years 2008-2009 through 2012-2013, districts and county offices of education were authorized to use the former categorical program funds in the list “for any educational purpose.” Education Code section 42238.24 now requires districts to use these funds for the “costs related to the salaries and benefits of teachers incurred . . . to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3” and to identify the funds used from section 42605 for the *Graduation Requirements* mandate as offsetting revenue. Education Code section 42605 was repealed in 2013.⁸⁴

Finally, Finance requests that the Commission include the following sentence in the Parameters and Guidelines: “State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372” as an offsetting revenue.⁸⁵ Finance has not explained this request. However, as shown in the analysis below, section 41372 does not provide a new source of funding as offsetting revenues. Nevertheless, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount of the deficiency shall be withheld by the county superintendent of schools from the apportionments made to a district after April 15 for the current fiscal year and added to the next fiscal year for the district to spend on teacher salaries and benefits, increasing the amount of the offsetting revenues for that next fiscal year, unless an exemption is granted.

As explained above, Education Code section 42238.24 identifies the following three sources of funds as offsetting revenues: the state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (beginning with section 42238 et seq.); the state funding apportioned to county offices of education pursuant to Article 3 (commencing with Section 2550); and the state funding apportioned pursuant to Education Code section 42605. Education Code section 42238.24 then references section 41372 and directs school districts to *first* expend, from the state funding identified in the first sentence, the required percentages of the current expense of education (either 50 or 55 percent) on the teacher salary costs incurred to

⁸² Exhibit X, *CSBA v. State of California*, Judgement Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁸³ Education Code section 42605, as amended by Statutes 2010, chapter 328.

⁸⁴ Statutes 2013, chapter 47.

⁸⁵ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

provide the courses required by the state. This is shown in the italicized language of Education Code section 42238.24 below.

Costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 shall be offset by the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, and the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act. *The proportion of the school district's current expense of education that is required to be expended for payment of the salaries of classroom teachers pursuant to Section 41372 shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state.*⁸⁶

For purpose of background, the funds appropriated by the Legislature pursuant to Article 2, Article 3, and section 42605 are transferred to the State School Fund for allocation by the Controller.⁸⁷ Several times a year, the Controller is required to draw warrants from the State School Fund in favor of the county treasurer of each county in the amounts certified by the Superintendent of Public Instruction to the school districts under the jurisdiction of the county superintendent of schools of that county.⁸⁸ All moneys received by the treasurer of any county from the apportionments of the State School Fund shall be immediately credited by the treasurer to the school districts of the county exactly as apportioned by the Superintendent of Public Instruction.⁸⁹ The county superintendent of schools has the responsibility to maintain the fiscal oversight of each school district in his or her county.⁹⁰ As part of this responsibility, the county superintendent of schools is required to audit the funds of each local educational agency each May, and verify how the funds were expended.⁹¹ As required by section 41372, 50 or 55 percent of the current expense of education shall be expended on teacher salaries and benefits, and section 42238.24 requires that the districts first pay the salaries and benefits of the teachers teaching the courses required by the state.

Pursuant to Education Code section 41372, if the county superintendent of schools having jurisdiction over the district determines, on the basis of an audit conducted pursuant to Education Code section 41020, that a school district has *not* expended the required percentage of the current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, the county superintendent of schools shall, “in the apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of this apportionment or apportionments equal to the apparent deficiency in district

⁸⁶ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

⁸⁷ Education Code sections 14002, 14002.05.

⁸⁸ Education Code section 14041.

⁸⁹ Education Code section 14043.

⁹⁰ Education Code section 1240.

⁹¹ Education Code section 41020.

expenditures.” Any amount designated by the county superintendent of schools “shall be deposited in the county treasury to the credit of the school district, but shall be *unavailable* for expenditure by the district” pending the determination to be made by the county superintendent of schools on any application for exemption which may be submitted to the county superintendent of schools. If the exemption is granted by the county superintendent of schools, the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the county superintendent of schools shall order the designated amount or amount not exempted to be *added* to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

Accordingly, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount designated by the county superintendent of schools as the deficiency shall be “unavailable” to the district from the apportionments made to the district after April 15 of that fiscal year, unless an exemption is granted, and the designated amount not exempted shall be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year. In such a case, a school district will be required to first spend the amount designated in addition to the 50 or 55 percent of the current expense of education on teacher salaries and benefits for the courses required by the state, including the science course mandated in the *Graduation Requirements* program, and will have a larger offset in a fiscal year if the district failed to comply with the required expenditures identified in Education Code section 41732 and 42238.24 in the prior fiscal year.

Therefore, with the exception of EPA funding provided by article XIII, section 36 of the California Constitution (which is not offsetting revenue within the meaning of section 42238.24), the following funds are required by Education Code section 42238.24 to be identified as offsetting revenue, reducing any costs claimed for teacher salary and benefit costs incurred for the *Graduation Requirements* program:

- For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course;
- For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits

costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course; and

- The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

D. Although the Parameters and Guidelines Should Be Amended to Reflect the Requirements of Education Code Section 42238.24, Finance's Proposed Language Is Overbroad and Inconsistent with the Plain Language of Education Code Section 42238.24.

Finance proposes the following language:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

In addition, reimbursement for this mandate from any source provided for the current expense of education, including but not limited to, federal, state, and block grants funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)) including total science teacher salary costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement: ÷

[¶]

- State Funds provided pursuant to Ed. Code section 2550 et seq.
- Funding provided in the annual Budget for any educational purpose as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009));

[¶¶]⁹²

⁹² Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

Finance’s request to identify any funding “pursuant to Ed. Code §§ 42238 et seq.” as offsetting revenue misconstrues Education Code section 42238.24. As explained above, Education Code section 42238.24 refers specifically to “this article” — Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2. The proposed language does not track the plain language of Education Code section 42238.24 and is overly broad.

Similarly, Finance’s request to include “State funds provided pursuant to Ed. Code section 2550 et seq.” as offsetting revenue is inconsistent with the plain language of Education Code section 42238.24. As explained above, Education Code section 42238.24 requires that costs be offset pursuant to Article 3 “(commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1.”

Furthermore, as phrased, the proposed language does not limit the required offset to teachers’ salaries and benefits, but rather proposes to identify the above funding as general offsetting revenue for “the current expense of education.” As indicated above, the “current expense of education” is defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.⁹³ Education Code section 42238.24, however, limits the offsetting revenues to teacher salaries and benefits as follows: “[c]osts related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 shall be offset by the amount of state funding apportioned to the district . . .”

Accordingly, this proposed language is overbroad and inconsistent with law, is not included in the Parameters and Guidelines.

E. The Parameters and Guidelines Are Amended to Identify the Offsetting Revenues Required by Education Code Section 42238.24 For Teacher Salary and Benefit Costs, Beginning October 19, 2010.

Based on the above analysis, the Commission amends Section IX. of the Parameters and Guidelines as follows:

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, federal, state, and block grants shall be identified and deducted from this claim;

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

- ~~†~~Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): ~~by restricted resources as identified by the California Department of Education California School Accounting Manual;~~

⁹³ Education Code section 41372(b).

- A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
- B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
- C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is *not* offsetting revenue within the meaning of Education Code section 42238.24.⁹⁴

- ~~Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials; and funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim.~~

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 January 1, 2005.~~

- If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

In addition, other non-substantive amendments are made to the Parameters and Guidelines to reflect this Decision and to update the boilerplate language in Section IV. Period of Reimbursement.

Government Code section 17557(d)(1) establishes the period of reimbursement for parameters and guidelines amendments as follows:

A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and *on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year.*⁹⁵

Applying the statute to the instant case, Finance filed a Request for Parameters and Guidelines Amendment on July 25, 2011, "to reflect the addition of Education Code section 42238.24...."⁹⁶

⁹⁴ CSBA v. State of California, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

⁹⁵ Emphasis added.

⁹⁶ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 1.

The next claiming deadline was in February 2012 for fiscal year 2010-2011.⁹⁷ The filing date of July 25, 2011, is before the claiming deadline thus establishing “reimbursement eligibility for *that* fiscal year,” fiscal year 2010-2011. However, Education Code section 42238.24 was not in existence at the start of fiscal year 2010-2011, having become effective on October 19, 2010.⁹⁸ Accordingly, the Parameters and Guidelines Amendment requiring claimants to offset teachers’ salaries and benefits costs pursuant to Education Code section 42238.24 begins October 19, 2010.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines Amendment.

Adopted: 03/23/88

Amended: 08/24/88

Amended: 01/24/91

Amended: 12/09/05

Amended: 11/6/08

Corrected: 12/18/08

Amended: 07/23/21

PARAMETERS AND GUIDELINES AMENDMENT

(CSM 4181 A, 11-PGA-03~~04 PGA 30, 05 PGA 05, 06 PGA 05~~)

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements

EFFECTIVE FOR REIMBURSEMENT CLAIMS FOR INCREASED COSTS BEGINNING OCTOBER 19, 2010 JANUARY 1, 2005

I. SUMMARY OF THE MANDATE

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.

II. ELIGIBLE CLAIMANTS

The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

⁹⁷ Government Code section 17560(a).

⁹⁸ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010.

III. PARAMETERS AND GUIDELINES AMENDMENT

~~The parameters and guidelines amendment adopted on November 6, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, to replace the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. The parameters and guidelines amendment also clarifies the activities of supplying the new science class, acquiring and remodeling additional space, and acquiring additional equipment, which may be claimed using the actual cost claiming method. Finally, this parameters and guidelines amendment adds language regarding the reimbursement of teacher salary costs to Section X, Offsetting Savings, consistent with the court's ruling in *San Diego Unified School District v. Commission on State Mandates*, Sacramento County Superior Court Case No. 03CS01401; and identifies funds appropriated from restricted resources specifically to pay teacher salary costs and instructional materials in Section IX, Offsetting Revenue and Other Reimbursements.~~

On July 25, 2011, the Department of Finance filed the Request for Parameters and Guidelines Amendment to identify offsetting revenues for teacher salary and benefit costs pursuant to Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610). On July 23, 2021, following a stay of this matter pending the outcome of litigation in *California School Boards' Association (CSBA) v. State of California*,⁹⁹ the Commission adopted a Decision to amend Section XI., Offsetting Revenue and Other Reimbursements, to incorporate the requirements of Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610) for teacher salary and benefit costs incurred beginning October 19, 2010. These parameters and guidelines have been amended in accordance with that Decision.

IV. PERIOD OF REIMBURSEMENT

~~The period of reimbursement for this parameters and guidelines amendment begins on January 1, 2005 October 19, 2010.~~

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs incurred for that fiscal year.
5. If revised claiming instructions are issued by the State Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an

⁹⁹ *CSBA v. State of California* (2019) 8 Cal.5th 713; Judgment Following Stipulation (on remand), Alameda County Superior Court, Case No. RG11554698.

annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)

6. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
7. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

~~Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:~~

- ~~1. A school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.~~
- ~~2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.~~

~~Reimbursable actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

~~There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.~~

V. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

- A. Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space necessary for the mandated additional year of science instruction, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
- B. Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for the mandated additional year of science instruction.
- C. Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction essential to maintaining a level of instruction sufficient to meet college admission requirements.
- D. Increased cost to school district for staffing the new science class mandated. Reimbursement for this activity is based on the reasonable reimbursement methodology identified in Section XII of these parameters and guidelines.
Reimbursement is not required for other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants).
- E. Increased cost for supplying the new science class mandated with science instructional materials (textbooks, materials, and supplies).

VI. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section V. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies

that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VII. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY (Teacher Salary Costs)

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, ~~subdivision (b)~~, and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.

2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VIII. RECORD RETENTION

A. Actual Costs

Pursuant to Government Code section 17558.5, ~~subdivision~~ (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹⁰⁰ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which

¹⁰⁰ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described below, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

For this program, supporting documentation shall include the following:

1. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
2. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.
3. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.
4. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.
5. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.

B. Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, ~~subdivision (a)~~, a reimbursement claim for actual costs filed by a school district pursuant to this chapter¹⁰¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, ~~subdivision (d)(2)~~, the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹⁰¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

IX. OFFSETTING REVENUES AND ~~OTHER REIMBURSEMENTS~~

Any offsetting revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other applicable state funds, federal, state, and block grants shall be identified and deducted from this claim.;

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

- ~~†~~Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): by restricted resources as identified by the California Department of Education California School Accounting Manual;
 - A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
 - B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is **not** offsetting revenue within the meaning of Education Code section 42238.24.¹⁰²

- ~~Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim.~~

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the *Graduation Requirements* program from claims submitted for the period beginning January 1, 2005.~~

- If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the *Graduation Requirements* program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

X. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when

¹⁰² *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, ~~subdivision (a)(1)~~, on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, ~~subdivision (b)~~, to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, ~~subdivision (a)(2)~~.

XI. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, ~~subdivision (c)~~, the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than ~~60~~ 90 days after receiving the amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The ~~revised~~ claiming instructions shall be derived from the ~~test claim~~ decisions on the test claim and the ~~amended~~ parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, ~~subdivision (d)(2)~~, issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the amended parameters and guidelines adopted by the Commission.

XII. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, ~~subdivision (d)~~, and California Code of Regulations, title 2, section 1183.17 ~~1183.2~~.

XIII. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The ~~decisions adopted for the test claim and parameters and guidelines and amendments thereto~~ are ~~Statement of Decision~~ is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record ~~for the test claim~~. The administrative record, ~~including the Statement of Decision~~, is on file with the Commission.

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 May 20, 2021, I served the:

- **Draft Proposed Decision and Parameters and Guidelines Amendment, Schedule for Comments, and Notice of Hearing issued May 20, 2021**

Graduation Requirements, 11-PGA-03 (CSM-4181A)

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);

As Alleged to be Modified by Education Code Section 42238.24;

Statutes 2010, Chapter 724 (AB 1610)

Department of Finance, 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 May 20, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/12/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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Exhibit J

Gavin Newsom ■ Governor

915 L Street ■ Sacramento CA ■ 95814-3706 ■ www.dof.ca.gov

RECEIVED
June 07, 2021
**Commission on
State Mandates**

June 7, 2021

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

Re: *Graduation Requirements*, 11-PGA-03

Dear Ms. Halsey,

The Department of Finance has reviewed the Commission on State Mandate's, "Draft Proposed Decision and Parameters and Guidelines Amendment," issued May 20, 2021.

Finance concurs with the staff recommendation to amend the Parameters and Guidelines to identify the offsetting revenues required by Education Code section 42238.24 for teachers' salaries and benefits costs, beginning October 19, 2010.

If you have any questions regarding this letter, please contact Amber Alexander, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,

CHRIS FERGUSON
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 June 8, 2021, I served the:

- **Finance's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment filed June 7, 2021**

Graduation Requirements, 11-PGA-03 (CSM-4181A)

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);

As Alleged to be Modified by Education Code Section 42238.24;

Statutes 2010, Chapter 724 (AB 1610)

Department of Finance, 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 June 8, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/27/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

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.)

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BETTY T. YEE
California State Controller

RECEIVED
June 09, 2021
**Commission on
State Mandates**

June 9, 2021

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

**SUBJECT: Draft Proposed Decision and Parameters and Guidelines Amendment,
Schedule for Comments, and Notice of Hearing.**
Graduation Requirements, 11-PGA-03 (CSM-4181A)
Education Code Section 51225.3;
As Added by Statutes 1983, Chapter 498 (SB 813);
As Alleged to be modified by Education Code Section 42238.24;
Statutes 2010, Chapter 724 (AB 1610)
Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office (SCO) reviewed and concurs with the Department of Finance's request to amend the Parameters and Guidelines for Graduation Requirements.

If you have any questions, please contact Nick Kondoleon, Fiscal Analyst of the Local Reimbursements Section in the Local Government Programs and Services Division, at NKondoleon@sco.ca.gov or (916) 322-2294.

Sincerely,

Darryl Mar
Digitally signed by Darryl
Mar
Date: 2021.06.09 12:31:28
-07'00'

DARRYL MAR
Manager
Local Reimbursements Section

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 June 9, 2021, I served the:

- **Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment filed June 9, 2021**

Graduation Requirements, 11-PGA-03 (CSM-4181A)

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);

As Alleged to be Modified by Education Code Section 42238.24;

Statutes 2010, Chapter 724 (AB 1610)

Department of Finance, 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 June 9, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/27/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4435)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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High School Graduation Frequently Asked Questions

Frequently asked questions (FAQs) for high school graduation requirements.

This page contains most frequently asked questions. Please direct other questions to program contacts.

- [High School Graduation](#)
- [California High School Exit Exam \(CAHSEE\)](#)
- [Early High School Completion](#)
- [AB 1330 \(Career Technical Education Option\)](#)
- [Miscellaneous](#)

High School Graduation

- What are the high school graduation course requirements in California?

The state sets minimum requirements. Local school districts have the authority and responsibility for establishing any requirements for awarding a California high school diploma from their secondary schools. These must include the set of 13 minimum courses required under California *Education Code*. Most school districts in California require between 22 and 26 one-year courses (or the equivalent) for graduation.

- Are students of a California approved charter school required to complete the 13 minimum courses mandated for graduation?

High school students enrolled in a charter school must meet the same state minimum course requirements for graduation as students enrolled in traditional public high schools. A charter school governing body has the authority to require additional graduation requirements above the state minimum requirements (examples community service, portfolio requirements, additional courses, etc.), as outlined in the approved charter petition.

- Are students of private high schools required to complete the 13 minimum courses for graduation?

No. Private high schools have the authority to set their own graduation requirements. However, many private high schools do include at least the state minimum courses in order to ensure that students transitioning to or from public schools have less disruption in their progress toward graduation.

- How many units are required to earn a California high school diploma?

Local school districts establish the total number of units required to earn a California high school diploma. Most California public high schools require the equivalent of between 22 and 26 yearlong courses. Two semester courses equal one yearlong course. A yearlong course constitutes one Carnegie unit. Semester courses constitute one-half of a Carnegie unit. But most school districts award ten local units for each Carnegie unit and five local units for a semester course. These districts require between 220 and 260 local units for high school graduation. However, local school districts vary in how local credit units are awarded for one year of study. To determine how many credits entering students have earned toward local graduation requirements, multiply the local credit units awarded for one year of study times the number of qualifying yearlong courses they have completed.

- What constitutes a year of study in terms of instructional minutes for a specific subject area?

A year of study is two semesters of study in the same or related subject area. In general, the course is about 50 minutes per day, five days a week, for two semesters. However, local school districts determine the actual organization of instructional time depending on their master schedule. Variances apply depending on holidays, professional development days, and block scheduling.

- We are relocating to a new school district in California and my child is in high school. Will my child be able to graduate at the same time as his current classmates?

While California has a set of 13 minimum course requirements for high school graduation, each local school district in California may add its own requirements. Therefore, it is very important that students entering a new California school district contact the new high school as soon as possible to have their progress toward fulfilling the graduation requirements of the new district reviewed. The local school district officials can evaluate the transcripts and advise you on when your child can graduate. School contact information can be located through the CDE California School Directory.

- Do I have to complete Algebra I to graduate?

Yes, beginning in the 2003-04 school year, all students must successfully complete coursework that meets or exceeds the rigor of the content standards of Algebra I prior to receiving a diploma of graduation from a high school. For additional information, see the Algebra I Graduation Requirement Frequently Asked Questions.

- Do students with disabilities have to complete Algebra I in order to earn a high school diploma?

Yes, students with disabilities have to meet all state and local graduation requirements. Algebra I is a state graduation requirement. Your local school district may require additional

math courses. Some students with disabilities, due to the specific nature of their disability, may request a waiver of the Algebra I graduation requirement if, after all support services have been provided, the student cannot pass the course. For additional information regarding the Algebra waiver process, please visit the [Algebra I Graduation Requirement Frequently Asked Questions](#).

- My child has completed all but a couple of courses required for high school graduation but the school counselor says he or she must enroll in five courses each semester. Is this true?

This depends on the circumstances. California *Education Code* Section 46145 states:


"Commencing with the first semester or quarter that begins after January 1, 1984, pupils in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses per quarter." California *Education Code* provides exceptions: "However, this requirement shall not apply to pupils enrolled in regional occupational programs, regional occupational centers, courses at accredited postsecondary educational institutions, independent study, special education programs where the pupil's individualized education program establishes a different number of courses, continuation education classes, work experience education programs approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, or any other course of study authorized by the governing board which is equivalent to the approved high school course of study." [California Education Code](#) sections 46146-46147 provide additional exceptions to the five-course requirement.

- I have completed all of the courses required for high school graduation but the school says I must complete a senior project in order to graduate. Is this a state requirement for graduation?

The California *Education Code* currently does not require that students complete a senior project. However, in California, local school districts have the authority and responsibility for determining graduation requirements. Therefore, local school districts do have the authority to require students to complete a senior project in order to receive a high school diploma.

- The high school counselor at my child's school has told my child that he or she does not have enough credits to graduate. What are my options for getting this situation resolved?

All parents and guardians have the right to be fully informed about their children's academic progress toward graduation. As a parent or guardian, you should schedule a conference with the counselor. If the issue cannot be resolved to your satisfaction at this level, then make an appointment with the school administrator, usually the principal, in charge. If you still have concerns after this meeting, your next option is to contact the school district office and speak with the administrators, including the superintendent, in charge of the academic program. If the administrators indicate that it is local district policy that sets the requirements, then you may appeal to your local school board. At this point, you should request the [Uniform Complaint Procedures](#) (Updated 01-Feb-2008) and maintain written records of your efforts to resolve your issues. Local school boards are citizen boards that have primary authority to set the

policies of the school district. If they indicate that the California *Education Code* specifies the requirements, ask for the specific code section to which they are referring. For more information on the *Education Code*, see [California Law](#) .


- If a student with disabilities is unable to meet all state and local graduation requirements, can they be recognized for their efforts?

The *EC* allows a district to award certificates or documents of achievement or completion to students with IEPs who are unable to meet all state and local graduation requirements.

- I participate in a competitive sport that is not directly associated with my high school. Can I use my time practicing and participating in this sport to satisfy the physical education graduation requirement?

The authority to determine course equivalencies resides with the local school districts. Because California public schools are seeking to align their physical education programs with the [Physical Education Framework for California Public Schools](#), the use of outside-of-school sports as equivalent credit is discouraged.

- How can I find out about graduation requirements in other states?

The National Center on Educational Outcomes (NCEO) provides online information on [state graduation requirements](#)  as well as state policy information about assessments, special accommodations, alternate assessments, participation, reporting, and standards.

- How can I find out what the California high school graduation requirements were in a specific year?

Historical editions of the California Education Code contain prior years' high school graduation requirements. Please request this information from your local library or contact the State Library at: 916-654-0261.

California High School Exit Exam (CAHSEE)

- Does a student in a California public school have to pass the California High School Exit Exam (CAHSEE) to be eligible for a high school diploma?

CAHSEE Suspension

Beginning with the Class of 2006, students in California public schools were required to pass the California High School Exit Examination (CAHSEE) to demonstrate competency in grade-level skills in reading, writing, and mathematics to earn a high school diploma. The content of the CAHSEE was based on content standards in English-language arts and mathematics that were adopted by the State Board of Education (SBE) in 2003. In 2010, the SBE adopted the Common Core State Standards in English–language arts and mathematics.

Due to the change in academic standards, Senate Bill 172 (Liu) was signed by the Governor to suspend the administration of the CAHSEE and the requirement that students pass the CAHSEE to receive a high school diploma for the 2015–16, 2016–17, and 2017–18 school years. The law required that schools grant a diploma to any pupil who completed grade twelve in the 2003–04 school year or a subsequent school year and met all applicable graduation requirements other than the passage of the high school exit examination. The law further required the State Superintendent of Public Instruction to convene an advisory panel to provide recommendations to the Superintendent on the continuation of the high school exit examination and on alternative pathways to satisfy the high school graduation requirements pursuant to *Education Code* sections 51224.5 and 51225.3. The law became effective on January 1, 2016.


[California Pupil Achievement Data System \(CALPADS\) Frequently Asked Questions \(Related to CAHSEE suspension\)](#)

[Suspension of the California High School Exit Examination Diploma Requirement for Eligible Seniors in the Class of 2015](#)


Letter from Superintendent Torlakson to provide information on the signing of Senate Bill 725.

Early High School Completion

- I would like to complete high school early. How can I do that?

First of all, talk with your high school counselor about your interest in completing high school early. The local school district's graduation requirements must be completed if you are to receive a high school diploma. While most high schools are organized to accommodate a standard four-year schedule to graduation, some California public high schools offer options for accelerated learning plans. To be eligible to enroll directly at a University of California (UC) or a California State University (CSU) campus, the required high school courses for freshman admission are much more extensive and rigorous than the state's minimum graduation requirements. If you plan to attend a California community college and/or a four-year university as your first step after high school, several opportunities are available to you. High school juniors and seniors, with the permission of their parents and schools and subject to certain conditions, can enroll as special part-time students at community colleges and four-year colleges and universities (some at no cost) to begin their college education while still enrolled in high school and completing their high school diploma. For additional information about attending college, please see CaliforniaColleges.edu . There are also other options for completing high school early:

- ❖ **California High School Proficiency Exam (CHSPE):** A person may take the CHSPE if he or she is at least 16 years old, or he or she has been enrolled in the tenth grade for one academic year or longer, or he or she will complete one academic year of enrollment in the tenth grade at the end of the semester during which the CHSPE regular administration (i.e. spring or fall) will be conducted. For more information about this test, see [CHSPE](#) (Updated June 17, 2011). While the UC and CSU recognize the CHSPE as


the equivalent of a high school diploma, to be eligible for admission, applicants must also have successfully completed the full set of [required high school course requirements](#) and standardized admission tests. See CaliforniaColleges.edu  for complete admission requirements for California public colleges and universities.

- ◆ General Education Development Test (GED): In California, students who are 18 (and some 17-year olds that meet specific criteria) may take the GED test. The GED test covers reading, writing, math, science, and social studies. See the [CDE GED website](#) (Updated Oct. 3, 2011) for more information about this test.


- If I pass the GED or CHSPE, can I use those results to satisfy minimum course requirements for graduation?

The authority to determine course equivalencies resides with the local school districts. However, in the case of the GED, such use of the test results is prohibited.

- How do I obtain a copy of my General Educational Development (GED) Test results?

Results of GED exams can be obtained from the [GED Testing Service](#)  or call 1-877-392-6433.

- How do I obtain a copy of my California High School Proficiency Exam (CHSPE) results?

For more information on how to obtain copies of CHSPE, see the [CHSPE Results and Transcripts](#) . If you have questions about the CHSPE or your results, you can e-mail chspe@scoe.net or call 1-866-342-4773.

- What if I am missing a few units or did not complete all of my units when I was in high school?

Contact your local adult school. Adult education is a public education program for all adults. Adult schools offer free to low-cost classes for adults 18 and older. Students can get a high school diploma, general education diploma (GED), learn about jobs, learn to speak English, and learn how to become a U.S. citizen. Adult schools are located in many cities and towns. Visit the [CDE Adult Education](#) for more information.

AB 1330 (Career Technical Education Option)

- What does Assembly Bill (AB) 1330 mean for high school students and schools? When does it begin and end?

Assembly Bill 1330 (Chapter 621, Statutes of 2011) authorizes local educational agencies to accept a Career Technical Education (CTE) course as an optional high school graduation requirement, beginning with the 2012-13 school year (class of 2013).

AB 1330 was signed into law on January 1, 2012 and can be implemented as early as the 2012-13 school year. The provisions of AB 1330 will be repealed as of the beginning of the

2017-18 school year (July 1, 2017), unless these provisions are extended by legislative action.

Pursuant to AB 1330, a local governing board may elect to adopt an optional requirement that graduating high school students must have completed one course in visual or performing arts, foreign language, or CTE. Existing state law otherwise requires that all graduating high school students must have completed one course in visual or performing arts or foreign language.

- What is the definition of a Career Technical Education (CTE) course?

California *Education Code* Section 51225.3 defines a CTE course as “a course in a district-operated career technical education program that is aligned to the career technical model curriculum standards and framework adopted by the state board, including courses through a regional occupational center or program operated by a county superintendent of schools or pursuant to a joint powers agreement.”

- If my school district decides to implement AB 1330, what does the school district have to do? Do school district governing boards have to provide notice to the public that they are electing to implement AB 1330?

If a local governing board elects to adopt an optional CTE graduation requirement, AB 1330 requires all of the following: Prior to offering the optional CTE graduation requirement to students, the local governing board shall notify parents, teachers, pupils, and the public at a regularly scheduled meeting of the governing board. The notification shall include the intent to offer CTE courses to fulfill the graduation requirement, and specify the impact that offering CTE courses will have on the availability of courses that meet the eligibility requirements for admission to the California State University (CSU) and the University of California (UC), and whether these CTE courses would satisfy those eligibility requirements. The notification shall also include the distinction between the high school graduation requirements of the school district or county office of education and the eligibility requirements for CSU and UC admission.

- If the school district does not currently operate a CTE program, is the school district required to begin a new one?


AB 1330 provides that a district or a school that currently does not offer CTE courses is not required to start new CTE programs for purposes related to the optional CTE graduation requirement. What if I am at a school that accepts CTE courses as a high school graduation requirement and transfer to a school that does not accept a CTE course as a requirement? Can that CTE course still be used to meet high school graduation requirements? We recommend that you contact your school counselor to attain assistance with transferring to another high school. High school graduation requirements are set by each school district. The local high school graduation requirements may go beyond the state’s minimum high school graduation requirements. It is up to each school district to determine what courses will or will not be accepted.

Miscellaneous


- How do I obtain a copy of my high school transcript?

In order to obtain a copy of your high school transcript, you should contact the high school from which you graduated or its school district office. School districts are required by law to maintain copies of your high school academic record (transcript). School contact information can be located through the [CDE School Directory](#).

- How can I get information about college opportunities and requirements in California?

For more information about postsecondary education opportunities and requirements in California, see [CaliforniaColleges.edu](https://www.california.colleges.edu) .

- I need an Apostille from a California state official to study or work abroad. Can the CDE help me with this?

An Apostille is an authentication of a notarized copy of a school record issued by the California Secretary of State. It verifies that a California Notary Public's signature is valid. When an American is seeking an educational opportunity or work abroad, the receiving school, college, or employer may request a verification of the student's educational record. This involves the American acquiring a notarized copy of his or her high school transcripts from the educational institution issuing the transcript. This notarized record then goes to the California Secretary of State, who issues an Apostille verifying that the signature of the California Notary Public is valid. The CDE is not involved in the Apostille process. For more information about the Apostille process, see [Notary Public Authentication Information Apostille or Certification](#) .

Questions: High School Innovations and Initiatives Office | 916-319-0893

Last Reviewed: Monday, September 14, 2020



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LCFF Frequently Asked Questions

Frequently asked questions and answers regarding the Local Control Funding Formula.

- [LCFF Funding](#)
- [Financial Accounting](#)
- [Local Control and Accountability Plans](#)
- [Unduplicated Pupils and California Longitudinal Pupil Achievement Data System](#)
- [Free and Reduced-Price Meal \(FRPM\) Income Eligibility Under the LCFF](#)
- [Unduplicated Pupils at Schools with Provision 2 and 3 or Community Eligibility Provision \(CEP\) Status](#)
- [Unduplicated Students](#)
- [Auditing](#)
- [Categorical Programs](#)
- [Necessary Small Schools](#)
- [Home-to-School Transportation](#)
- [Economic Impact Aid](#)
- [Parent and Community Engagement](#)
- [LCFF Funding for County Office of Education \(COE\) Schools](#)
- [Charter Schools](#)
- [K–3 Grade Span Adjustment](#)
- [California Collaborative for Educational Excellence](#)

LCFF Funding

How is the Local Control Funding Formula (LCFF) different from what was in place under revenue limits? (Revised 04-Dec-2015)

One of the goals of the LCFF is to simplify how state funding is provided to local educational agencies (LEAs). Under the old funding system, each school district was funded based on a unique revenue limit, multiplied by its average daily attendance (ADA). In addition, districts received restricted funding for over 50 categorical programs which were designed to provide targeted services based on the demographics and needs of the students in each district.

Under the LCFF funding system, revenue limits and most state categorical programs have been eliminated. The LCFF creates funding targets based on student characteristics and provides greater flexibility to use these funds to improve student outcomes. For school districts and charter schools, the LCFF funding targets consist of grade span-specific base grants plus supplemental and concentration grants that are calculated based on student demographic factors. For county offices of education (COEs), the LCFF funding targets consist of an amount for COE oversight activities and instructional programs.

When will the LCFF be fully implemented? (Revised 04-Dec-2015)

Implementation of the LCFF began in 2013–14. Initially, the state Department of Finance (DOF) estimated that achieving full funding levels for school districts and charter schools under the LCFF would take eight years based on then-current Proposition 98 growth projections, which would result in full implementation by fiscal year 2020-21. Full implementation for COEs was estimated to take two years. While those initial timelines have not formally changed, we are ahead of the initial implementation schedule. See [Figure 1](#) in the LCFF Overview for the most current implementation status.

How are LCFF target levels calculated for school districts and charter schools? (Revised 04-Dec-2015)

Funding targets under the LCFF consist of:

- Grade span-specific base grants based on ADA, that reflect adjustments for grades K–3 class sizes and grades 9–12 (school districts with qualifying schools may receive a necessary small school (NSS) allowance in lieu of the base grants);
- Supplemental grants equal to 20 percent of the adjusted base grants multiplied by the LEA's unduplicated percentage of English learners, income eligible for free or reduced-price meals, and foster youth pupils;
- Concentration grants equal to 50 percent of the adjusted base grants multiplied by an LEA's percentage of unduplicated pupils above 55 percent; and
- Two add-ons equal to the amounts school districts received in 2012–13 for the Targeted Instructional Improvement Block Grant and Home-to-School Transportation programs.
- Base, supplemental, and concentration grants, as well as necessary small school allowances, will receive cost-of-living adjustments as provided through the annual budget.

LCFF Target calculations are described in detail in the School District LCFF Target Entitlement and Charter School Target Entitlement sections of the Exhibit Reference Guides available on the [Principal Apportionment web page](#) for each fiscal year.

How are funding levels calculated for school districts and charter schools during the LCFF phase-in period? (Revised 04-Dec-2015)

In general, the calculation of LCFF funding throughout the phase-in period is based on an LEA's prior year funding (floor) as well as its LCFF target amount.

For school districts and charter schools, the floor consists of 2012–13 deficated school district revenue limit funding including basic aid fair share reductions, or charter school general purpose block grant funding, divided by 2012-13 average daily attendance (ADA), and then multiplied by current year ADA. For school districts with qualifying schools, NSS ADA is funded in accordance with 2012-13 deficated NSS allowances in lieu of revenue limit funding. Added to that floor is the sum of any applicable categorical program funding. For school districts, the categorical funding is a lump sum amount that is based on what the district received

from 50-plus categorical programs in 2012-13 (see FAQ titled [Categorical Programs](#) for a list of the programs subsumed into LCFF). For charter schools, the categoricals are based primarily on what was received from the categorical block grant in 2012-13, adjusted for current year ADA, plus a lump sum for any categoricals included in LCFF that were received outside of the 2012-13 categorical block grant.

LCFF transition funding during the phase-in period is based on the difference between each school district and charter school's floor and its new LCFF target; this difference is called the need. The floor calculation includes any prior year gap funding, converted to a per-ADA value that is then applied to current year ADA. Every school district and charter school that is not already funded based on its target will receive a percentage of its need, based on how much is appropriated in the state budget each fiscal year for this purpose. This additional funding is called gap funding. An LEA's funding amount during the phase-in period is then based on a recalculation of its LCFF target and its floor, with gap funding added to the floor to arrive at the total transition entitlement for that year.

LCFF transition calculations are described in detail in the School District LCFF Transition Calculation and Charter School Transition Calculation sections of the Exhibit Reference Guides available on the [Principal Apportionment web page](#) for each fiscal year.

What is Economic Recovery Target funding and how can I get it? (Revised 04-Dec-2015)

An Economic Recovery Target (ERT) entitlement is based on the difference between the amount a school district or charter school would have received under the old funding system and the estimated amount it would receive for LCFF funding in 2020–21, based on certain criteria. To determine this difference, assumptions for the old funding system include:

- 2012–13 undeficit revenue limits, or block grant funding for charter schools, with cost-of-living adjustments of 1.57 percent in 2013–14 and 1.94 percent each year from 2014–15 through 2020–21; and
- Categorical program funding levels restored to the pre-recession level

Only school districts and charter schools that were at, or below, the 90th percentile of per-pupil funding rates of school districts under the old funding system as determined at the 2013–14 P-2 certification, are eligible for ERT payments. An LEA eligible to receive ERT payments will receive one-eighth of its payment in 2013–14, two-eighths of its payment in 2014–15, and so on, following this pattern until it has reached its full amount in 2020–21, at which time the ERT payment will become a permanent add-on to the LEA's LCFF formula funding. ERT funding was calculated in 2013–14 and funding eligibility is closed to new participants.

How are funds apportioned under LCFF? (Revised 04-Dec-2015)

LCFF is funded through a combination of local property taxes and state aid. State aid is distributed through the Principal Apportionment. For information on the Principal Apportionment, including the Principal Apportionment payment schedule, go to the [Principal Apportionment Web page](#).

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Financial Accounting

In the standardized account code structure (SACS), will all the LCFF funding be accounted for as an unrestricted resource? (Revised 17-Nov-2014)

All LCFF funding will be accounted for as an unrestricted resource.


How can expenditures be coded to address LCFF state priorities?

Funding is provided in an unrestricted resource code. LEAs may define local codes to track expenditures if they wish.

Does the LCFF result in any modification or elimination of the “Minimum Classroom Compensation” requirements of California Education Code (EC) Section 41372?

No.

Will the recommended level for the reserve for economic uncertainties be increased?

The regulations regarding the recommended reserve for economic uncertainties remain in place under the LCFF ([California Code of Regulations Title 5, Section 15449](#) .

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Local Control and Accountability Plans

What is the Local Control and Accountability Plan (LCAP)? (Revised January 8, 2018)

The LCAP is intended as a comprehensive planning tool to support student outcomes and is an important component of the local control funding formula (LCFF). Under the LCFF, all **local educational agencies (LEAs) including school districts, county offices of education (COEs), and charter schools are required to prepare an LCAP**, which describes how they intend to meet annual goals for all pupils, with specific activities to address state and local priorities identified pursuant to California *Education Code (EC)* sections 52060(d), 52066(d), and 47605.

For additional questions related to charter schools, see below.

What does it mean to adhere to the State Board of Education (SBE)-adopted template? (Revised January 8, 2018)

The Local Control and Accountability Plan and the Annual Update (LCAP) must be completed in conformance with the SBE-approved template. (*EC* sections 47606.5, 52060, 52061, 52064, 52066 and 52067; and *California Code of Regulations*, Title 5 (5 *CCR*), sections 15494–15497.) The template may not be materially altered. The template allows for an LEA to resize pages, attach additional pages, and duplicate and expand fields as necessary in order to facilitate the completion of the LCAP. Minor variations in spacing, font size, margins, row heights or column widths are not considered material changes. The LCAP template is available on the [California Department of Education's \(CDE's\) LCAP Web page](#).

Must school districts and COEs address all state priorities in each year or over the three year period? (Revised January 8, 2018)

All state priorities must be addressed in each year of the LCAP. *EC* sections 52060 and 52066 specify that the LCAP must include a description of the **annual** goals to be achieved for all students and each student group (as identified in *EC* Section 52052) **for each state priority** as applicable to the type of LEA. A goal may address multiple priorities. Further, an LEA may include additional local priorities. Goals in the aggregate must address each of the state priorities and any additional local priorities. Also, as referenced in **the LCAP instructions, each goal must identify the state and/or local priorities addressed by the goal.**

How does a goal “address” a state priority? (Revised January 8, 2018)

A goal addresses a state priority if one or more of the expected annual measurable outcomes in the goal table uses one or more of the applicable required metrics for that priority (e.g. high school graduation rate for the pupil engagement priority).

As explained in the previous question, the LCAP must include a description of the annual goals for all students and each student group to be achieved **for each state priority as applicable to the type of LEA.**

Does an LCAP need to address each state priority equally? (Revised January 8, 2018)

No. While the LCAP must include annual goals to be achieved for each state priority, an LEA may choose to focus its LCAP on a specific subset of the state priorities and any local priorities. An LEA does **not** need to address each priority equally in terms of number of related goals, planned actions/services or expenditures. For example, a district governing board might adopt an LCAP goal that addresses three state priorities and describes a limited number of planned actions/services and expenditures to achieve the goal, and adopt another LCAP goal that addresses only one priority yet describes a much greater number of planned actions/services and expenditures to achieve that goal.

What State Standards must the LCAP address as part of Priority 2? (Revised January 8, 2018)

The LCAP must include goals and related actions/services that address implementation of the academic content and performance standards adopted by the SBE. The content standards adopted by the SBE are listed below:

- English Language Arts – Common Core State Standards for English Language Arts
- Mathematics – Common Core State Standards for Mathematics
- English Language Development
- Career Technical Education
- Health Education Content Standards
- History-Social Science
- Model School Library Standards
- Physical Education Model Content Standards
- Next Generation Science Standards
- Visual and Performing Arts
- World Language

The list of the standards may also be accessed at the CDE's [Content Standards](#) Web page.

Further, Priority 2 requires the description of how programs and services will enable English Learners to access the [English-Language Arts](#) (PDF) and [Mathematics](#) (PDF) Common Core academic standards adopted pursuant to *EC* Section 60605.8 and the [English Language Development standards](#) adopted pursuant to *EC* Section 60811 for purposes of gaining academic content knowledge and English language proficiency.

Is there a requirement to include any specific amount of the funds apportioned to an LEA on the basis of its number and concentration of unduplicated pupils as Budget Expenditures in the Actions/Services section of the LEA's LCAP? (Posted January 8, 2018)

No. Regulation states that funds apportioned on the basis of the number and concentration of unduplicated pupils shall be used to increase services (grow services in quantity) or improve services (grow services in quality) for unduplicated pupils compared to services provided to all students in the in proportion to the increase in funds apportioned on that basis. (5 *CCR* sections 15495(k) and (l); 15496(a).) As such, there is not a spending requirement. Although an LEA may choose to track LCFF funds as “Base,” “Supplemental” or “Concentration” grant funds at the local level, they are not required to do so. An LEA may choose to simply identify a fund source for Budgeted Expenditures to implement an action/service as LCFF funded. However, the LEA's LCAP must demonstrate how it will meet the requirements to proportionally increase or improve service for its unduplicated pupils. This demonstration must include the required justifications for actions/services provided on a districtwide, schoolwide, countywide or charter wide (“wide”) basis. (5 *CCR* 15496(b).)

When an LEA provides actions/services on a “wide” basis, how does an LEA demonstrate that an action/service is “principally directed towards and effective in meeting the LEA's goals for unduplicated pupils?” (Posted January 8, 2018)

Generally, an LEA may demonstrate how an action/service is principally directed towards and effective in meeting the LEA's goals for unduplicated pupils when the LEA explains how:

- It considers the needs, conditions, or circumstances of its unduplicated pupils;
- The service, or aspect(s) of the action/service (including, for example, its design, content, methods, or location), is based on these considerations; and
- The action/service is intended to help achieve an expected measurable outcome of the associated goal.

When an LEA includes this demonstration in its LCAP, other students in the LEA may also receive and/or benefit from an action/service without affecting the service being considered as principally directed towards and effective in meeting the LEA's goals for unduplicated pupils.

May a school district or county office of education make changes to its Local Control and Accountability Plan and Annual Update (LCAP) subsequent to the local governing board adopting it? (Reviewed January 8, 2018)

Yes. There are two possible processes for making changes to an LCAP: revising an LCAP during the period it is in effect, and amending an LCAP during the review and approval process.

During the period the LCAP is in effect, which is after it is approved by the county superintendent of schools or the Superintendent of Public Instruction (SPI), the local governing board may adopt revisions if it follows the same process it used for adopting the LCAP initially (specifically the steps set forth in *EC* Section 52062 or Section 52068) and adopts the revisions in a public meeting. The revised LCAP would then need to be approved by the county superintendent of schools or the SPI as appropriate.

Alternatively, a district governing board may amend an adopted LCAP without going through the steps in *EC* Section 52062 or Section 52068 if the amendments are made in response to requests for clarification and/or recommendations for amendments from the local county superintendent of schools or the SPI during the LCAP review and approval process. Additionally, *EC* sections 52070 and 52070.5 provides that on or before August 15th of each year, a county superintendent of schools or the SPI may seek clarification, in writing, from the local governing board about the contents of the LCAP, to which the local governing board must respond, in writing, within 15 days. Within 15 days of receiving a response, the county superintendent of schools or the SPI may submit recommendations, in writing, for amendments to the LCAP. The local governing board must then consider the written recommendations in a public meeting within 15 days of receipt.

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Unduplicated Pupils and California Longitudinal Pupil Achievement Data System

Will the California Longitudinal Pupil Achievement Data System (CALPADS) data collection processes change under the LCFF? (Revised 04-Dec-2015)

No, data collection processes will not change. However, the CDE has added several new reports to allow LEAs to view their reported enrollment and unduplicated pupil counts that will be used in your LCFF funding calculations. See following questions for descriptions of the new reports.

How are “unduplicated pupils” defined for purposes of calculating supplemental and concentration grant amounts? (Revised 04-Dec-2015)

Supplemental and concentration grant amounts are calculated based on the percentage of “unduplicated pupils” enrolled in the LEA on Census Day (first Wednesday in October) as certified for Fall 1. The percentage equals:

- Unduplicated count of pupils who (1) are English learners, (2) meet income or categorical eligibility requirements for free or reduced-price meals under the National School Lunch Program, or (3) are foster youth. “Unduplicated count” means that each pupil is counted only once even if the pupil meets more than one of these criteria (*EC* sections 2574(b)(2) and 42238.02(b)(1)).
- Divided by total enrollment in the LEA (*EC* sections 2574(b)(1) and 42238.02(b)(5)).

What data will be used to determine the unduplicated student count? (Revised 04-Dec-2015)

Enrollment and other demographic data submitted by local educational agencies (LEAs) to CALPADS are used as the starting point for calculating the unduplicated student count. CALPADS Certification Report 1.17 – *Free or Reduced Price Meals (FRPM)/English Learner/Foster Youth – Count*, displays the counts of students by category and provides an unduplicated total. LEAs may use CALPADS Report 1.18 – *FRPM/English Learner/Foster Youth – Student List* to review the students included in report 1.17. LEAs are required to certify report 1.17 during the CALPADS Fall 1 submission.

In order to be counted in report 1.17 a student must have an open primary or short-term enrollment in CALPADS over Census Day (the first Wednesday in October) and meet one or more of the following criteria:

- Have a program record with an education program code of Homeless (191), Migrant (135), Free Meal Program (181), or Reduced-Price Meal Program (182), that is open over Census Day
- Have an English Language Acquisition Status (ELAS) of “English learner” (EL) that is effective over Census Day
- Be directly certified in July through November as being eligible for free meals based on a statewide match conducted by CALPADS
- Be identified as a foster youth based on a statewide match conducted by CALPADS
- Be identified as a foster youth through a local data matching process and submitted to and validated by CALPADS

LEAs do not need to submit information to CALPADS for students identified in statewide matches to be included in report 1.17.

CALPADS Report 1.19 is used by COEs and charter schools operating county programs to report the transfer of students that are served by the county but funded through the district (or served by the charter but funded through the county). These counts are then transferred to the appropriate LEA for purposes of LCFF funding calculations.

What is the role of county offices of education (COEs) in reviewing data on unduplicated students? (Posted 08-July-2014)

EC Section 42238.02(b)(3)(A) requires COEs to “review and validate certified aggregate English learner, foster youth, and free or reduced-price meal eligible pupil data for school districts and charter schools under its jurisdiction to ensure the data is reported accurately.”

To assist COEs to meet this requirement, CALPADS includes a County/LEA Authorizing Report, Report C/A 1.17 – *C/A FRPM/English Learner/Foster Youth Counts*. This report displays, for the school districts and charter schools in the COE’s jurisdiction, the certified counts of unduplicated students by LEA and schools within the LEA. COEs should review this report for reasonableness and communicate any potential issues to the school district or charter school during the CALPADS Fall 1 amendment window. COEs may want to judge reasonableness based on prior year data. COEs are not required to certify this report.

To access this report, the CALPADS LEA Administrator for the COE must:

1. Create a new account with specific roles or add specific roles to the existing account as follows:
 - a. County Role
 - b. Free Reduced Lunch
2. Log into CALPADS with appropriate account
3. Navigate to the Reports tab and select the County/LEA Authorizing Reports
4. Select Report C/A 1.17 – *C/A FRPM/English Learner/Foster Youth – Count*

Will any adjustments be applied to the unduplicated student count certified in Fall 1 prior to use in LCFF calculations? (Revised 04-Dec-2015)

The data from CALPADS Certification Report 1.17, *FRPM/English Learner/Foster Youth – Count* are the starting point for the LCFF supplemental and concentration grant calculations. Adjustments are made to the counts certified in the 1.17 CALPADS report based on data submitted by COEs in the 1.19 CALPADS report. Students served by the COE or a county program charter that are on probation, probation referred, expelled pursuant to *EC* Section 48915 (a) or (c), or in juvenile court schools, are attributed to the COE. All other students are attributed to their district of residence or the county program charter. Additional adjustments may be made as a result of audit findings reported to the CDE.

Is the calculation of the “unduplicated pupils” percentage based on annual or a multi-year average of data? (Revised 04-Dec-2015)

The LCFF calculation uses a three-year average based on the current year and two prior years. However, for the first year of implementation (2013–14), it will be based on one year of data only. In 2014–15 it will be based on two years of data. In the 2014–15 and 2015–16 calculations, pursuant to *EC* sections 2574(b)(1)(D) and 42238.02(b)(5)(D), the 2014–15 unduplicated percentage will be used in place of the 2013–14 unduplicated percentage if the 2014–15 unduplicated percentage is higher.

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Free and Reduced-Price Meal (FRPM) Income Eligibility Under the LCFF

Which students are “eligible for free or reduced-price meals” under the LCFF? (Revised 16-May-2016)

Any student who meets the federal income eligibility criteria or is deemed to be categorically eligible for FRPM under the National School Lunch Program (NSLP) will be counted as FRPM-eligible. Except for directly certified and foster students identified through a statewide match, LEAs must submit the appropriate student program (SPRG) records to CALPADS in order for the students to be counted as FRPM-eligible. Based on these criteria, the following students are considered FRPM-eligible:

- Students meeting NSLP income criteria as documented by an NSLP application form on file (code 181—free meal or 182—reduced-price meal).
- Students identified by the LEA to meet the same household income eligibility criteria required by the NSLP as documented on an alternative household income data collection form (program code 181—free meal or 182—reduced-price meal).
- Students categorically eligible for FRPM, including:
 - ◆ Migrant students (program code 135)
 - ◆ Homeless students (program code 191)
 - ◆ Foster students identified through a statewide match with California Department of Social Services foster data (program code not needed)
 - ◆ Students participating in the Food Distribution Program on Indian Reservations (FDPIR) (program code 181—free meal)
- Students directly certified as eligible for free meals based on the CALPADS state-administered automatic match with California’s CalFresh (formerly Food Stamp) and CalWORKs eligibility data (program code not needed).
- Students directly certified as eligible for free meals based on a match conducted by an LEA and its county welfare department of student enrollment and CalFresh and CalWORKs eligibility data (program code 181—free meal).

It is important to note that LEAs may not collect NSLP applications for students enrolled in schools with Provision 2 or 3 status in non-base years or Community Eligibility Provision (CEP) at any time. However, students enrolled in Provision 2 or 3 or CEP schools may qualify as FRPM-eligible for LCFF purposes through the direct certification process: based on their migrant, homeless, or foster status; or by a local process, such as collection of an alternative household income form to establish that the student’s household meets the income eligibility criteria required by the NSLP.

What is the timeline for determining income eligibility for free or reduced-price meals to qualify for LCFF? (Revised 23-Mar-2018)

Eligibility based on an NSLP application or alternative household income data collection form. To be included in the LCFF unduplicated student count, an NSLP application or alternative household income data collection form must be submitted by students to their schools between July 1 and October 31 of the school year. For example, a student who submits an application on October 31, 2014 may be included in the 2014–15 LCFF unduplicated student count, if found to be eligible for FRPM. Applications submitted between July 1 and October 31 may be processed and approved by the LEA after October 31 and students found to be eligible may be included in that year. Although students may be considered eligible for free/reduced price lunch programs in the first 30 days of a school year based on the prior year’s eligibility, students may not be coded as FRPM-eligible based on this 30-day eligibility window.

For these students to be included in the unduplicated count, LEAs must submit an open program record with a Free Meal program code of 181 or a Reduced-Price Meal program code of 182 with a start date from July 1st through October 31st. LEAs may update CALPADS with FRPM program records until the close of the CALPADS Fall 1 amendment window, which is generally in February. (Specific dates are posted on the [CALPADS Web Page](#).)

LEAs are required to verify a percentage of NSLP applications by November 15 of each year. If it is discovered during the income verification that a student should not have been designated as FRPM eligible, then the LEA must submit a correction to the FRPM record during the amendment period. Unless an error is discovered during the verification process, student eligibility is valid for the remainder of the school year, even if household circumstances change at a later date.

Eligibility based on direct certification. Students directly certified through the statewide process performed by CALPADS in July through November are included in the unduplicated student count for LCFF. (The direct certification process in CALPADS occurs on the second day of each month. The direct certification November pull is included in order to capture students directly certified in October.) CALPADS Certification Report 1.17 – *FRPM English Learner Foster Youth – Count* automatically includes these students. LEAs do not need to submit a Free Meal program record for these students.

Students directly certified through a local process conducted between July 1 and October 31 may be included in the unduplicated student count for LCFF. To be counted the LEA must submit a primary or short-term enrollment in CALPADS, and a Student Program (SPRG) File with a Free Meal Program record (program code 181). Both the enrollment and Free Meal program record must be open over Census Day.

Can an LEA share its FRPM data with another LEA for LCFF purposes? (Posted 06-Nov-2014)

Yes. LEAs may obtain FRPM data from other LEAs as students transfer from one LEA to another. Assembly Bill 1599 (Chapter 327, Statutes of 2014) amended *EC* Section 49558 (that governs the confidentiality of school meal records) to clarify that LEAs may disclose individual FRPM eligibility data with other LEAs for NSLP/meal certification purposes, and for LCFF data collections/calculations.

COEs often run special day classes at a district. The district collects FRPM data, provides meals, and collects reimbursements for those meals. The COE reports enrollment for those students in CALPADS and needs to obtain the FRPM data from the collecting district. Can the district release that information to the COE? (Posted 06-Nov-2014)

Yes. Rules about information sharing apply to school districts, COEs, and charter schools.

Can an LEA provide the actual reporting form (NSLP or alternative household income verification) to auditors? (Posted 06-Nov-2014)

Yes. LEAs (in the case of alternative household income forms) and food service departments (in the case of NSLP forms) may allow auditors access to individual forms for review, either for NSLP audits or LCFF audits. However, all documentation and information related thereto provided by the LEA staff (including any food services staff) to auditors is to be kept in strict confidence adhering to all state and federal privacy laws and is to be used solely for the purpose of determining

whether a student is correctly designated as FRPM eligible.

LEAs (in the case of alternative household income forms) and food service departments (in the case of NSLP forms) have the discretion whether to allow auditors to leave the campus with the forms, make copies, or have the forms or copies e-mailed or mailed off campus. Further, auditors may be required to review the forms onsite to maintain confidentiality, even if the auditor wants an additional sample of forms and has already left the campus.

Who can an LEA, auditor, or food service personnel contact at CDE if they need further clarification on the documentation that is allowed to be released? (Posted 06-Nov-2014)

- For questions related to LCFF funding and the alternative household income form, please contact PASE@cde.ca.gov.
- For questions about CALPADS, please contact the CALPADS Service Desk at calpads-support@cde.ca.gov.
- For questions related to the NSLP application, please contact your School Nutrition Program County Specialist. The SNP County Specialist list is available in the Child Nutrition Information Payment System Download Forms section entitled "Caseload SNP." If you do not have access to CNIPS, please call 1-800-952-5609 and you will be directed to your SNP County Specialist.

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Unduplicated Pupils at Schools with Provision 2 and 3 or Community Eligibility Provision (CEP) Status

How will pupils eligible to receive free and reduced-price meals in Provision 2 and 3 or CEP schools be counted for LCFF purposes? (Updated 15-Oct-2015)

Under the National School Lunch Program (NSLP):

- Schools with Provision 2 and 3 status receive reimbursements for meals served based on participation in a base year (of a four-year cycle for Provision 2; five-year cycle for Provision 3). These schools collect NSLP eligibility applications in the base year, but do not collect eligibility applications in the subsequent years the school is on Provision 2 and 3 status, except to reestablish a base year.
- Schools participating under the CEP receive reimbursements for meals served based on the percentage of identified pupils each year (in a four-year cycle, plus grace year). Identified pupils are pupils directly certified for meals who receive CalFresh, CalWORKs, and Food Distribution Program on Indian Reservations (FDPIR) benefits, and the extension of these benefits to pupils within the same household. It also includes pupils certified as foster, homeless, migrant, runaway, or participating in Head Start Programs; these pupils are deemed categorically eligible. These schools do not collect NSLP eligibility applications in the four-year cycle or in the grace year.

To be counted as eligible for free or reduced-price meals (FRPM) for purposes of the LCFF, pupils must meet income eligibility criteria for the NSLP through an approved NSLP application or alternative household income data collection form, be directly certified to receive free meals, or be categorically eligible. This means that in Provision 2/3 and CEP schools, for students who are not directly certified or categorically eligible, LEAs must determine income eligibility through an alternative household income data collection form and submit a corresponding program record in CALPADS. Identifying a pupil as income-eligible or not income-eligible in CALPADS does not affect the pupil's ability to receive a free meal in a Provision 2/3 or CEP school.

To further reduce the burden of data collection, California *Education Code (EC)* Section 42238.01(a) was recently amended (Chapter 327, Statutes of 2015) to provide that an LEA participating in Provision 2/3 or CEP "may establish a base year for purposes of the local control funding formula by determining the pupils at the school who are eligible for free or reduced-price meals and using each pupil's eligibility status in that base year to report eligibility for up to each of the following three school years. The school may include between base year eligibility determinations, any newly enrolled pupils who are determined to be eligible for free or reduced-price meals or any current pupils found to be newly eligible for free or reduced-price meals as identified through a local or state direct certification match or other categorical designation." (Note: The base year established for local control funding purposes is distinct from the Provision 2/3 or CEP "base year" under the NSLP, although, as explained below, schools can establish the same year as "base years" for both purposes.)

Determining Base Year: LEAs using the option to establish an LCFF base year must collect eligibility data for all eligible pupils at least once every four years. The pupil's eligibility status in the LCFF base year, which is either based on income data from an NSLP application or alternative household income data collection form, or through direct certification or categorical eligibility, remains the same until the LEA establishes a new LCFF base year for the school. Schools may perform the LCFF base year data collection during the same year that they establish a Provision 2/3 base year under the NSLP, in which case, NSLP applications can be used for LCFF purposes. CEP schools do not collect NSLP applications so those schools must use alternative household income data collection forms to determine pupil eligibility, even in base years.

Since pupils in Provision 2/3 and CEP schools who are identified as meeting NSLP income requirements based on an NSLP application or alternative household income data collection form in the base year retain eligibility for purposes of LCFF into subsequent non-base years, all schools must submit an FRPM program record for these pupils to CALPADS *every year* in order to be counted for LCFF. The application or alternative form collected in the base year can be used as the basis for the submission of the annual program record for each of the subsequent years before re-establishing a new base year.

Pupils in Provision 2/3 and CEP schools who are identified as meeting NSLP eligibility requirements based on direct certification or categorical eligibility in the base year, also retain eligibility for purposes of LCFF in subsequent non-base years, even if the pupils are not directly certified or categorically eligible in the subsequent non-base years. In order to be counted for LCFF, LEAs must submit **FRPM program records** to CALPADS for these pupils in each of the intervening years. For students who were categorically eligible based on their homeless or migrant status, but who are no longer homeless or migrant in subsequent non-base years, LEAs should continue to submit FRPM program records but should no longer submit homeless or migrant program records. The direct certification list or documentation of categorical eligibility collected in the base year can be used as the basis for the submission of the annual program record for each of the subsequent years before re-establishing a new base year.

Additions to Base Year: During the intervening years between base years, LEAs should collect data only from newly enrolled pupils. Since Provision 2/3 schools do not collect NSLP applications between base years and CEP schools never collect NSLP applications, LEAs can only make income eligibility determinations on newly enrolled pupils who were not directly certified or categorically eligible using alternative household income data collection forms. LEAs must submit FRPM program records to CALPADS for newly enrolled pupils meeting the income eligibility requirements, as well as for newly enrolled pupils directly certified through a local match or categorically eligible for benefits, in order to be counted for LCFF. In addition, LEAs may submit FRPM program records for currently-enrolled pupils who were not included in the base year but were later determined to be eligible through direct certification or categorical eligibility. (See "What data must be collected by Provision 2/3 and CEP schools for newly enrolled pupils in intervening years to determine eligibility for LCFF?" for further detail.)

A school's base year designation is not submitted to the CDE and should be documented by the LEA for auditing purposes. Schools should be prepared to show auditors the original documentation that a pupil is FRPM eligible, which would be the NSLP application or household income data collection form, the direct certification list, or the documentation of categorical eligibility submitted in the base year. Pupils enrolled after the base year would have documentation from the year they were enrolled. Pupils enrolled in a school during a base year and who were not eligible for purposes of LCFF but were subsequently directly certified or determined to be categorically eligible in non-base years would have the documentation from the year they were certified or determined to be categorically eligible.

Is FRPM-eligibility data used for more than calculating LCFF? (Updated 15-Oct-2015)

LCFF funding calculations are not the only reason FRPM eligibility data is collected; it is also collected in aggregate to track the academic achievement of the socioeconomically disadvantaged pupil group as defined in California's accountability workbook approved by the SBE and submitted to the federal United States Department of Education as required by federal accountability statute. Therefore, any pupils identified as FRPM eligible are included in the schools' socioeconomically disadvantaged accountability subgroup. FRPM data may also be used to determine funding for categorical programs such as the Prop 39 Clean Energy Jobs Act.

What information must be collected on the alternative household income data collection forms for Provision 2 and 3 schools, schools participating under the CEP, or schools that do not participate in the NSLP? (Updated 17-Nov-2020)

For the 2020–21 school year: due to the coronavirus pandemic (COVID-19), the United States Department of Agriculture (USDA) issued nationwide waivers allowing schools to operate under summer meal program rules through June 30, 2021. As of October 9th, all school sites within an LEA operating summer meal programs need to transition to collecting alternative household income forms to determine FRPM eligibility for the UPC. Sample templates can be found below and these forms may be distributed and collected online, and electronic signatures are acceptable. For additional information see the [CDE's November 17, 2020 guidance letter](#).

All information collected on the NSLP eligibility application forms is not required to be collected on alternative household income data collection forms for LCFF and accountability purposes. Forms that contain the following minimum information would be considered valid documentation of FRPM eligibility:

- Information sufficient to identify the pupil(s)
- Information sufficient to determine that the pupil or household meets federal income eligibility criteria sufficient to qualify for either a free or reduced-priced meal under the Richard B. Russell National School Lunch Act (Public Law 113-79)
- Certification that information is true and correct by the pupil's adult household member

The CDE has developed several sample forms to collect income eligibility information. These forms are not designed for and should not be used to determine eligibility for free or reduced-price meals under the NSLP. Please note that the ranges used to determine income eligibility are updated annually. Updated Household Size and Income Eligibility data located on the California Department of Education's [School Nutrition Programs Eligibility Materials Web page](#). Category 1 is the range for free meals and category 2 is the range for reduced-price meals.

- [Household Income Data Collection Form Sample 1 \(English\)](#) (DOC) Revised 14-May-2015
This form collects information for multiple children in a household. Parents/guardians would calculate their annual income and select among income ranges. Please note that LEAs need to update the form annually to reflect the current year's household size and income eligibility ranges.
❖ [Available translations of Household Income Data Collection Form Sample 1](#)
- [Household Income Data Collection Form Sample 2 \(English\)](#) (DOC) Revised 14-May-2015
This form collects information for multiple children in a household. Parents/guardians would list their income sources and amounts. The school would determine whether the income falls within specified ranges.
❖ [Available translations of Household Income Data Collection Form Sample 2](#)
- [Household Income Data Collection Form Sample 3 \(English\)](#) (DOC) Revised 14-May-2015
This form collects information for multiple children in a household. Parents/guardians would select among income ranges, which are presented for various frequencies of payment (weekly, monthly, yearly, etc.). Please note that LEAs need to update the form annually to reflect the current year's household size and income eligibility ranges.
❖ [Available translations of Household Income Data Collection Form Sample 3](#)
- [Household Income Data Collection Form Sample 4 \(English\)](#) (DOC) Revised 14-May-2015
This form collects information for one child. Parents/guardians would provide their total income and household size. The school would determine whether the income falls within specified ranges.
❖ [Available translations of Household Income Data Collection Form Sample 4](#)
- [Household Income Data Collection Form Sample 5 \(English\)](#) (XLS) Revised 06-Oct-2014
This form collects information for multiple children in a household. Parents/guardians would list their income sources and amounts. The school would determine whether the income falls within specified ranges. The form includes other information that the school may wish to collect, such as eligibility for benefits under various federal programs.
❖ [Available translations of Household Income Data Collection Form Sample 5](#)

It should be noted that the data collection requirements applying to Provision 2/3 and CEP schools also apply to schools that do not collect NSLP applications for other reasons, for example schools that do not participate in the NSLP. Please also note that only Provision 2/3 and CEP schools can establish a base year for LCFF purposes (see FAQs above) and collect data less frequently than annually; other schools must collect data every year.

What data must be collected in intervening years by Provision 2/3 and CEP schools for newly enrolled pupils transferring from another LEA to determine eligibility for LCFF? (Updated 15-Oct-2015)

The pupil enrolls prior to the October Census Day:

- If transferring from another LEA that has determined eligibility during the current school year, the new LEA can accept the supporting documentation collected by the previous LEA and use the information for Census Day reporting for the current year and in future non-base years. Only current-year eligibility determinations can be used for this purpose; eligibility determinations made by the previous LEA in prior school years cannot be carried over and used by the new LEA.
- If eligibility has not been determined for the current school year, the new LEA will need to determine eligibility for the pupil, either through collection of a household income data collection form or through direct certification or determination of categorical eligibility, and use the information for Census Day reporting for the current year and in future non-base years.

The pupil enrolls after the October Census Day:

- If transferring from another LEA that has determined eligibility during the current school year, the new LEA can accept the supporting documentation collected by the previous LEA and can use the information in future non-base years without the new LEA having to re-determine eligibility. Since the pupil was not enrolled in the LEA on Census Day, the pupil would not be included in the current year Census Day count.
- If eligibility has not been determined by the other LEA during the current school year, even though it does not impact LCFF counts for the current year, the new LEA should determine the pupil's eligibility as soon as possible after enrollment because this information is used in the current year for accountability subgroup determinations and other reporting, and will be needed in future non-base years for LCFF.

When accepting supporting documentation from another LEA, the new LEA must ensure the documentation provided is from the current school year. Once eligibility is established by the new LEA, it may carry over into subsequent years, and eligibility for that pupil does not need to be re-determined until the school re-establishes its base year. In this case, schools should be prepared to show auditors the original documentation that designated the pupil as FRPM eligible, which would be the NSLP application, alternative household income data collection form, direct certification list or documentation of categorical eligibility sent from the prior school.

What data must be collected in intervening years by Provision 2/3 and CEP schools for pupils transferring between schools within the same LEA to determine eligibility for LCFF? (Updated 15-Oct-2015)

For any pupil transferring to a Provision 2/3 or CEP school in a non-base year within the same LEA, the LEA may use the FRPM eligibility previously established within the LEA, whether eligibility was established in the current year or in prior years, as long as documentation supporting eligibility for those pupils is less than four years old. Once eligibility has been determined by the new school, it may be carried over as long as the LEA updates pupil eligibility at least once every four years.

If a family does not complete an NSLP application or alternative household income data collection form during the LCFF base year and the pupil is not directly certified or determined to be categorically eligible, can a Provision 2/3 or CEP school collect an NSLP application or household income form from that continuing family during the non-base years? (Updated 15-Oct-2015)

No. If a Provision 2/3 or CEP school has established an LCFF base year, the school cannot collect NSLP applications or alternative household income data collection forms from continuing pupils during non-base years. However, pupils not deemed eligible in the LCFF base year who are later directly certified or determined to be categorically eligible during non-base years can be included in the LEA's unduplicated pupil count and their eligibility can be carried over to non-base years until a new base year is established.

Can an LEA share FRPM or Alternative Household Income data with another LEA for LCFF purposes? (Updated 15-Oct-2015)

While Education Code section 49558 previously restricted the sharing of NSLP applications between LEAs for purposes other than administering the NSLP program, a recent amendment [Assembly Bill 1599 (Chapter 327, Statutes of 2014)] to Section 49558, allows LEAs to share pupils' names and FRPM eligibility status with other LEAs when necessary for LCFF data calculations. In addition, alternative household income data and pupils' eligibility status, and the forms themselves, can be shared with other LEAs as necessary for LCFF calculations.

Can the cafeteria fund be used to support administrative functions related to the alternative household income data collection process? (Updated 15-Oct-2015)

No. Federal and California State laws prohibit the school cafeteria fund from paying for functions that are not related to the NSLP. The development, distribution, receipt, review, and approval of an alternative household income data collection form, are not functions related to the NSLP; therefore, cafeteria funds cannot be used for activities related to the alternative household income data collection process.

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Unduplicated Students

English Learners Under the LCFF

Which students are classified as English learners under the LCFF? (Reviewed January 8, 2018)

A student is classified as an English learner for LCFF purposes if he or she is identified in the California Longitudinal Pupil Achievement Data System (CALPADS) as enrolled on Census Day with an English Language Acquisition Status (ELAS) of "English learner" (EL). Please see the Auditing topic for additional information regarding documentation.

May a student with an ELAS of "To Be Determined" (TBD) who is later determined to be an English learner be included in the LCFF unduplicated student count? (Reviewed January 8, 2018)

If an LEA previously submitted an ELAS of TBD for a student, and the LEA determines after Census Day (the first Wednesday in October) that the student is an English learner, the LEA may update the TBD status to "EL" with a start date that is before Census Day. If this update is done before the LEA certifies its Fall 1 data in CALPADS, then the student will be included in the LCFF unduplicated student count.

Foster Youth Under the LCFF

Who are considered "foster youth" under the LCFF? (Reviewed January 8, 2018)

Pursuant to EC Section 42238.01(b), the following children and youth are considered "foster youth" for purposes of the LCFF:

- A child or youth who is the subject of a petition filed under *Welfare and Institutions Code (WIC)* Section 300 (meaning a court has taken jurisdiction over a child and declared the child to be a dependent of the court due to the presence or risk of abuse or neglect). This includes both children who are living at home while a dependent of the court as well as children who the court has ordered to be removed into the care, custody and control of a social worker for placement outside the home.
- A child or youth who is the subject of a petition filed under *WIC* Section 602 (meaning a court has taken jurisdiction over a child and declared the child to be a ward of the court due to the child's violation of certain criminal laws) and has been ordered by a court to be removed from home pursuant to *WIC* Section 727 and placed in foster care as defined by *WIC* Section 727.4(d).

- A youth between ages 18 and 21 who is enrolled in high school, is a non-minor dependent under the placement responsibility of child welfare, probation, or a tribal organization participating in an agreement pursuant to *W/C* Section 10553.1, and is participating in a transitional living case plan.

For foster youth living outside the home, does the type of out-of-home placement matter? (Revised January 8, 2018)

If a child is a foster youth as defined by *EC* Section 42238.01(b), where that child or youth is placed does not matter. Typical placement types include, but are not limited to, a county shelter/receiving home, court-specified home, Foster Family Agency Certified Home, Foster Family Home, Group Home, Short Term Residential Treatment Program, Guardian with Dependency, Medical Facility, Non-Foster Care Home, Resource Family, Relative/NREFM (Non Related Extended Family Member) Home, Small Family Home, Supervised Independent Living Placement, or Tribe Specified Home. A foster youth as defined under LCFF may also be temporarily living in a Juvenile Hall.

Who is not considered “foster youth” under the LCFF? (Reviewed January 8, 2018)

- A child or youth who is in a “voluntary placement.” Voluntary placements are not subject to a petition filed under *W/C* Section 300.
- A child or youth who is living with relatives or friends and who is not a dependent of the court (i.e., is not subject to a *W/C* Section 300 petition).
- A child or youth who is a ward of the juvenile court pursuant to a petition filed under *W/C* Section 602 who is either living at home or has been ordered to be placed in a corrective or rehabilitative facility but has not been ordered to be removed from his or her home into a foster care placement pursuant to *W/C* Section 727.4(d).

What is a Foster ID and a Case ID? (Revised January 8, 2018)

The California Department of Social Services (CDSS) assigns to each foster child or youth, through the Child Welfare System/Case Management System (CWS/CMS), a set of unique IDs: A 10-digit and 19-digit Foster ID (also referred to as Foster Client ID or Student Foster ID), and a 19-digit Case ID. The CDSS provides to the California Department of Education (CDE) a weekly file that includes both the 10-digit Foster ID and the 19-digit Case ID for each foster child or youth that meets the LCFF definition.

Which foster youth are included in the unduplicated count for purposes of calculating supplemental and concentration grants under the LCFF? (Reviewed January 8, 2018)

The foster youth included in the unduplicated count are those who the LEA reports to CALPADS as enrolled in a school in the LEA on Census Day (first Wednesday in October) and who have been identified as a foster youth through the statewide match or who have been identified through a local data matching process and submitted to and validated by CALPADS.

What is the statewide foster match? How does it differ from a local match? (Revised January 8, 2018)

The statewide process matches CALPADS enrollment data to data from the CWS/CMS. CALPADS reports and extracts are available so that LEAs are informed as to the students identified as foster youth from this match. Foster data is updated in CALPADS on a weekly basis so that LEAs are able to continuously serve the appropriate population.

LEAs may conduct local matches with their county welfare departments (CWDs), in which student enrollment data from their student information systems is matched with data in CWS/CMS. The CDSS and the CDE communicate to CWDs, COEs, and LEAs, the categories of youth in CWS/CMS that should be used for local matching processes.

Since both the statewide match conducted between the CDE and CDSS and local matches conducted between LEAs and CWDs use foster data from the same source system, CWS/CMS, both the statewide and local matches should yield the same results. However, due to differences in matching logic or lag time in updating data systems, a local match may sometimes identify a student as a foster student who is not identified in the statewide match.

What happens if the state match does not identify a youth who is identified as a foster youth through a local match? (Revised January 8, 2018)

If an LEA identifies a student as a foster youth from a local match conducted with its CWD who is not identified from the statewide match, the LEA may try to “locally match” the youth by using functionality available within CALPADS. The LEA may submit the 10-digit Foster ID or 19-digit Case ID in CALPADS, and if the youth has been included in the weekly file of foster youth provided by CDSS, the youth will be “matched” and identified as a foster youth within CALPADS.

What additional information does CALPADS provide to LEAs on foster youth? (Revised January 8, 2018)

LEA staff with appropriate security roles have access within CALPADS to the following information on foster youth:

- Foster ID (10-digit)
- Case Start Date
- Case End Date
- Case ID (19-digit)
- Episode Start Date (the start of an out-of-home placement)
- Episode End Date (the end of an out-of-home placement)
- Social Worker Name and Phone Number
- Court Appointed Educational Representative and Phone Number
- An indication of whether the student is receiving family maintenance services (and thus is living at home)
- County of jurisdiction
- Whether parental rights are limited (Y/N)
- Responsible Agency (Child Welfare or Probation)

How should LEAs account for changes in the population of foster youth throughout the year in preparing LCAPs? (Revised January 8, 2018)

LEAs should identify services to be provided to any youth who becomes a foster youth during the school year, even though the numbers of foster youth may fluctuate. Only a portion of foster youth may be “counted” in the unduplicated student count for the LCFF because they change schools frequently.

What foster youth are included in the foster youth subgroup for state accountability purposes? (Revised January 8, 2018)

For the Academic Indicator, a student who is foster youth at any point in the school year and who is continuously enrolled will be included in the foster youth subgroup. 5 CCR, sections 1039.2 and 1039.3, relating to the implementation of EC Section 52052.1(a)(1), define continuously enrolled as a "student enrollment from Fall Census Day (first Wednesday in October) to the first day of testing without a gap in enrollment of more than 30 consecutive calendar days."

For all other indicators, continuous enrollment is not considered, so any student who is foster youth at any point in the school year will be included in the foster youth student group. Note: For the graduation rate and the college/career indicators, students who are foster youth at any point during high school are included in the foster youth student group.

What types of services may a foster youth receive from the child county social services or probation departments? (Revised January 8, 2018)

The overall goal of child social services is the reunification of children and youth with their families. Foster children and youth may go through a continuum of services or "service component types" ranging from pre-placement family maintenance to out-of-home placement to family reunification or permanent placement. The LCFF definition of foster youth includes children and youth receiving services along this continuum from the opening of the court case to its close.

The table below describes the major service component types. It will be useful for educational staff working with foster children and youth to understand where in the process a child or youth is and what services he or she is receiving from the child county social services or probation departments. The data provided in CALPADS will indicate whether a child or youth is in family maintenance; if the child is not in family maintenance, he or she is in an out-of-home placement.

| Child Welfare Service Code | Child Welfare Service Component Type | Description |
|-----------------------------------|---|--|
| FM | Pre-Placement (Family Maintenance) | Child/youth is living at home receiving family maintenance services aimed at preventing removal of the child. |
| FR | Family Reunification | Child/youth is in an out-of-home placement receiving services aimed at reuniting the family. |
| FM | Post-Placement (Family Maintenance) | Child/youth is in the process of being permanently reunited with his/her family following an out-of-home placement and is back living at home while the family receives services aimed at keeping the child in the home. |
| PP | Permanent Placement (Previously referred to as "long-term foster care") | Child/youth is in an out-of-home placement permanently and services to the family have been terminated. |
| ST | Supported Transition | A nonminor dependent age 18–21 participating in a transitional independent living case plan. |

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Auditing

What documentation can LEAs provide their auditors to show that a student is correctly designated as an English Learner (EL) in CALPADS? (Revised 04-Dec-2015)

If the student is designated as an EL, then LEAs can provide the following:

- A copy of the parent/guardian notification letter that states the student is initially designated as an EL or is a continuing EL, and a copy of the California English Language Development Test (CELDT) individual Student Performance Level Report that indicates the student's overall performance and domain scores do not meet the CELDT criterion for English proficiency. Please refer to the CELDT Information Guide for examples of the individual student reports; refer to the section titled "Guide to the Student Performance Level Report." If a continuing student is EL on Census Day, but subsequently takes the CELDT test and is re-designated as English proficient, the LEA does not need to change the program record since the student was appropriately designated as EL on Census Day.
- If the results on the Student Performance Level Report indicate that the student has met the CELDT criterion for English proficiency, then the LEA should provide the auditor its Policy/Procedures for Reclassification and any documentation that was used to determine the student's EL status consistent with the LEA policy. For more information on reclassification, refer to the CELDT Information Guide section titled "Guidelines for Reclassification."

What documentation can LEAs provide auditors to show that a student is correctly designated as eligible for free or reduced-price meals (FRPM) in CALPADS? (Revised 23-Mar-2018)

To be correctly designated as FRPM eligible, a student must be part of a household that meets income eligibility requirements or the student must be categorically eligible based on his or her status as a foster, homeless, migrant, or runaway child or on the fact that the student's household participates in the CalFresh, CalWORKs or Food Distribution Program on Indian Reservation (FDPIR) programs. Students who are members of households that receive CalFresh and/or CalWORKs benefits should have been directly certified to receive FRPM benefits through an automatic state data match, and thus should be indicated in CALPADS as "directly certified" to receive benefits.

Under the Audit Guide section for Unduplicated Local Control Funding Formula Pupil Counts, auditors do not need to review documentation for those students who are indicated in CALPADS as (1) "directly certified" to receive FRPM benefits or (2) a foster, homeless, migrant, or runaway child. For other students, an LEA can prove that a student is correctly designated FRPM eligible by providing documentation to support the designation. Supporting documentation may include:

- A copy of a student's National School Lunch Program (NSLP) application.
- A copy of an LEA's alternative household income eligibility form which demonstrates that a student is a member of a household that meets NSLP income eligibility requirements.
- Any other documentation which demonstrates that the student is categorically eligible to receive benefits under the NSLP, such as (1) documentation that the student is a foster, homeless, migrant or runaway child or (2) direct certification lists obtained from the county welfare department or county office of education.

If a student is determined to be FRPM eligible on Census Day, but has a change in household circumstances at a later date, the LEA does not need to change the program record since the student was appropriately designated as FRPM on Census Day.

Please note that, to reduce the burden of data collection, schools participating in Provision 2 or 3 or the Community Eligibility Program (CEP) may establish a "base year" for LCFF purposes (this is different from the base year under the NSLP). Schools using this option must collect household income data for all eligible students at least once every four years, and collect income data for every newly enrolled student in the intervening years. Schools may perform the LCFF base year data collection during the same year that they establish a new base year under the NSLP. Schools will need to submit data for identified students to CALPADS every year. Auditors will review CALPADS data for students in these schools just as they review CALPADS data at other schools, so schools should be prepared to show auditors the original documentation that a student is FRPM eligible, which may be up to three years old.

All documentation and related information provided by LEA staff (including any food services staff) to auditors is to be kept in strict confidence adhering to all state and federal privacy laws and is to be used solely for the purpose of determining whether a student is correctly designated as FRPM eligible.

See the "Free and Reduced Price-Meal (FRPM) Income Eligibility under the LCFF" topic for additional information about auditors' access to records.

Are any changes to the Audit Guide anticipated for LCFF? (Revised 04-Dec-2015)

Yes. LCFF related audit procedures have been added to the Audit Guide. The specific procedures can be found under Audit Guide on the [Education Audit Appeals Panel Web site](#).

Below is a summary of the topics by fiscal year.

Fiscal Year 2015-16 and thereafter

- Unduplicated Pupil Count
- K-3 Grade Span Adjustment
- Local Control and Accountability Plan
- Transportation Maintenance of Effort

Fiscal Year 2014-15

- Unduplicated Pupil Count
- K-3 Grade Span Adjustment
- Local Control and Accountability Plan
- Transportation Maintenance of Effort
- Regional Occupational Centers or Program Maintenance of Effort
- Adult Education Maintenance of Effort

Fiscal Year 2013-14

- Unduplicated Pupil Count
- Local Control Funding Formula Certification

What should an LEA do if there were Unduplicated Pupil Counts that were misreported? (See the "Unduplicated Pupils and California Longitudinal Pupil Achievement Data System" topic for more information on Unduplicated Pupil Counts) (Posted 04-Dec-2015)

If an LEA has misreported unduplicated pupil counts a correction will need to be made in the Principal Apportionment Data Collection Software for the appropriate fiscal year. The LEA will complete the School District, Charter School, or COE (depending on the type of LEA) Audit Adjustments to CALPADS Data entry screen in the Principal Apportionment Data Collection Software in Annual mode. The LEA will enter the net adjustment to the enrollment or unduplicated pupil count in the appropriate column, according to the audit findings. If the adjustment is not the result of an audit finding, an auditor's letter of concurrence will need to be submitted as substantiation. Additional information on how to report an adjustment as well as the software is available at the [Principal Apportionment Data Collection Web page](#) by selecting the appropriate fiscal year.

Will a CALPADS Audit Adjustment correction submitted through the Principal Apportionment Data Collection Software affect other funding or data files based on enrollment, free and reduced priced meals (FRPM), English Learner (EL), or Foster status? (Posted 04-Dec-2015)

The adjustments will only affect the Local Control Funding Formula (LCFF) Unduplicated Pupil Percentage (UPP) calculation(s) and will not be used to modify previously certified CALPADS data for any other purpose. The UPP is used in the calculation of supplemental and concentration grants in the LCFF Target Entitlement.

How do auditors audit Local Control and Accountability Plan (LCAP) expenditures when LEAs don't account for their base, supplemental, and concentration grant funds separately in the general ledger (GL)? (Posted 04-Dec-2015)

When auditing LCAP expenditures, auditors should begin by selecting an action or service from the LCAP that the LEA has identified as having expenditures, rather than beginning with the GL. LCAP expenditures may not be neatly identified under specific categories in the GL. The LEA will have to provide information on where to find sample expenditures for a particular action or service.

For example, an LEA may improve services by adding five days to the school year. Expenditures for that action could be found throughout the entire general ledger; perhaps under teacher salaries, custodial salaries, transportation costs, heating and air conditioning cost, etc. In another example, an LEA may hire ten tutors to help targeted students learn English. Expenditures for that action might be found in one place in the GL. Each LEA makes its own decision on how to track LCAP expenditures, so the LEA will need to communicate with the auditor when the auditor is performing this audit step.

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Categorical Programs

Which categorical programs were eliminated with the enactment of LCFF? (Revised 04-Dec-2015)

The LCFF legislation eliminated most state categorical funding streams. Categorical funding received in 2012–13 from the programs listed in Figure 1 below form the basis for determining an LEA's floor during the LCFF phase-in period. These amounts reflect any basic aid fair share reduction for a school district. More information on the LCFF transition calculations, including floor funding, can be found in the LCFF Transition Calculation funding exhibits and exhibit reference guides on the [Principal Apportionment page](#) for each fiscal year.

Except for the Home-to-School Transportation program, Small School Bus Replacement Program, and the Targeted Instructional Improvement Block Grant, categorical program amounts included in the 2012–13 funding level calculation will not be separately identifiable funding streams in the LCFF target, nor do their associated compliance requirements remain, except as specified for Home-to-School Transportation. **These programs were identified initially only as a means to develop an aggregate funding amount for use in LCFF transition calculations.** See individual topics in the LCFF FAQ's for more information on some of these programs.

Figure 1: 2012–13 Categorical Programs Used in the LCFF Calculations

| Program | 2012–13 Budget Item |
|--|--|
| Administrator Training Program | 6110-144-0001 |
| Adult Education | 6110-156-0001 |
| Alternative Certification Programs (Commission on Teacher Credentialing) | 6360-101-0001 |
| Arts and Music Block Grant | 6110-265-0001 |
| Bilingual Teacher Training Assistance | 6110-193-0001 |
| California Association of Student Councils | 6110-242-0001 |
| California High School Exit Examination Intensive Instruction | 6110-204-0001 |
| California School Age Families Education (Cal-SAFE) Program | 6110-198-0001 |
| Categorical Programs for New Charter Schools | 6110-212-0001 |
| Center for Civic Education | 6110-208-0001 |
| Certificated Staff Mentoring | 6110-267-0001 |
| Charter School Categorical Block Grant | 6110-211-0001 |
| Class-Size Reduction, Grade 9 | 6110-232-0001 |
| Class-Size Reduction, Kindergarten-Grade 3 | SB 1016 (Chapter 38, Statutes of 2012), Section 91 |
| Community Based English Tutoring | 6110-227-0001 |
| Community Day School Additional Funding for Mandatory Expelled Pupils | <i>Education Code, Section 48915(c)</i> |
| Community Day Schools | 6110-190-0001 |
| County Office Oversight, Williams Audits | 6110-266-0001 |
| County Offices of Education (COE) Fiscal Oversight | 6110-107-0001 |
| Deferred Maintenance | 6110-188-0001 |
| Economic Impact Aid (EIA) | 6110-128-0001 |
| Education Technology | 6110-181-0001 |
| Gifted and Talented Education (GATE) | 6110-124-0001 |
| Instructional Materials Funding Realignment | 6110-189-0001 |
| International Baccalaureate/Advanced Placement Fee Reimbursement | 6110-240-0001 |
| Mathematics and Reading Professional Development | 6110-137-0001 |
| Middle and High School Supplemental Counseling | 6110-108-0001 |
| National Board for Professional Teaching Standards Certification Incentive Program | 6110-195-0001 |
| Oral Health Assessments | 6110-268-0001 |
| Peer Assistance and Review | 6110-193-0001 |
| Physical Education Teacher Incentive Grants | 6110-260-0001 |
| Professional Development Block Grant | 6110-245-0001 |
| Pupil Retention Block Grant | 6110-243-0001 |

| | |
|--|---------------|
| Pupil Transportation | 6110-111-0001 |
| Reader Services for Blind Teachers | 6110-193-0001 |
| Regional Occupational Centers and Programs | 6110-105-0001 |
| School and Library Improvement Block Grant | 6110-247-0001 |
| School Safety Block Grant | 6110-228-0001 |
| School Safety Consolidated Competitive-Grant, School Community Violence Prevention | 6110-248-0001 |
| Supplemental Instruction | 6110-104-0001 |
| Targeted Instructional Improvement Block Grant | 6110-246-0001 |
| Teacher Credentialing Block Grant, Beginning Teacher Support and Assessment | 6110-244-0001 |
| Teacher Dismissal Apportionments (State Controller's Office) | 6110-209-0001 |

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Necessary Small Schools

Are there any changes to funding of necessary small schools (NSSs)? (Revised 04-Dec-2015)

The funding calculations for NSSs under the LCFF are similar to calculations under previously existing law, in that school districts have the option of selecting NSS funding in lieu of the adjusted grade span base grant funding for eligible schools. However, the LCFF legislation did update the eligibility criteria for NSS funding. For example, under the LCFF legislation, elementary schools in one-school school districts are required to meet distance requirements (*EC* Section 42283) in order to qualify for NSS funding. All NSS statutes are contained in *EC* Section 42280 through 42286. A necessary small high school that previously achieved NSS status as the only high school in a unified district may continue to qualify for NSS, subject to a sunset date, if the district has 50 or fewer pupils per square mile of district territory.

How will NSS funding be calculated during LCFF Transition period? (Posted 04-Dec-2015)

Beginning with 2013–14 and until full implementation of LCFF, there will be two calculations for NSS school districts, the School District NSS Allowance for the LCFF Target and the School District NSS Allowance for the LCFF Floor. Detailed descriptions of the calculations and data sources for these exhibits are contained in the Exhibit Reference Guide, available in the applicable fiscal year section on the [Principal Apportionment Web page](#). Actual funding will be determined in accordance with LCFF Transition calculations, summarized in the [LCFF Funding section](#) of the LCFF Frequently Asked Questions and described in detail in the Exhibit Reference Guides.

Is additional funding available for districts subject to the “hold harmless” provisions? (Revised 04-Dec-2015)

If a school district qualified for NSS funding in 2012–13, the amount of NSS funding the school district received in 2012–13 will be included in its minimum state aid calculation, which may provide additional state funding if the amount calculated for minimum state aid exceeds the net state aid amount calculated under the LCFF. This provision is applicable to all school districts with 2012-13 NSS allowances, regardless of current year NSS eligibility. (*EC* Section 42238.03(e)).

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Home-to-School Transportation

Is Home-to-School Transportation included in the LCFF? (Revised 04-Dec-2015)

The amount of Home to School Transportation (HTS) funding received in 2012-13, net of any Control Section 12.42 reduction, is included in both the school district and county office of education LCFF floor and the LCFF target entitlement calculations. For purposes of LCFF and these frequently asked questions, HTS includes entitlements for Home to School, Severely Disabled or Orthopedically Impaired and the Small District and COE Bus Replacement Program.

Does an LEA need to continue to spend LCFF funds on Home-to-School Transportation? (Revised 04-Dec-2015)

Yes, there is a maintenance of effort requirement for home-to-school transportation. LEAs must spend at least as much of their transportation funding on transportation as they spent in 2012–13, per *EC* sections 2575 (k)(1) and 42238.03 (a)(6). Specifically, *EC* Section 42238.03 (a)(6) states, in part:

“...of the funds a school district receives for home-to-school transportation programs the school district shall expend, pursuant to former Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5, former Article 10 (commencing with Section 41850) of Chapter 5, and the Small School District Transportation program, as set forth in former Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of Division 3 of Title 2, as those articles read on January 1, 2013, no less for those programs than the amount of funds the school district expended for home-to-school transportation in the 2012–13 fiscal year.”

The amount of “funds a school district receives” is the amount that the LEAs received in 2013–14; subsequent to 2013-14, this amount is flat-funded in both the floor and target entitlements (unless the amount is augmented in 2015-16 by a joint powers agency (JPA) or a county office of education; see below for more information).

The maintenance of effort (MOE) is the lesser of (1) the actual 2012–13 expenditures or (2) the amount received in 2013–14. Beginning in 2015-16, the amount received should be increased to reflect any home-to school entitlement increase made available pursuant to Assembly Bill 104 (Chapter 13, Statutes of 2015). As reference, the amount received in 2013–14 as the Transportation add-on equals the total 2012–13 Pupil Transportation entitlement (including Home to School, Severely Disabled or Orthopedically Impaired and Small District and COE Bus Replacement) less the Control Section 12.42 reduction. The amount received each year can be seen on Line A-8 of the [2012-13 Categorical Program Entitlements Subsumed into LCFF funding exhibit](#) on the Principal Apportionment web page.

The legislation also required LEAs that passed through funds in 2012–13 to transportation JPAs to continue to pass through those funds in the 2013–14 and 2014–15 fiscal years. In addition, JPAs that received transportation funds directly in the 2012–13 fiscal year continued to receive those funds directly for the 2013–14 and 2014–15 fiscal years. Beginning in 2015-16, HTS funds allocated to JPAs during 2013-14 and 2014-15 are added to individual LEA LCFF funding calculations.

Why did my district's Home-to-School Transportation funding go up in 2015-16 and do I have an MOE requirement to spend those funds on transportation? (Posted 04-Dec-2015)

Assembly Bill 104 (Chapter 13, Statutes of 2015) allows a JPA to transfer HTS entitlements that went directly to the JPA in 2013-14 and 2014-15, to its member districts. The bill also transferred HTS entitlements from the Los Angeles County Office of Education to certain school districts in Los Angeles County. These additional funds should be included in each receiving district's MOE requirement beginning in 2015-16, as explained above.

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Economic Impact Aid

Will LCFF funding include an amount equal to what the LEA previously received as Economic Impact Aid (EIA) funds? What requirements, if any, apply to these funds? (Revised 04-Dec-2015)

During the LCFF phase-in period beginning in the 2013-14 fiscal year, EIA is one of the programs for which the amount of funds received in 2012-13 is included in the LCFF floor entitlement. However, the portion of LCFF funding attributable to 2012–13 EIA funding amounts will not be separately identified and will not be subject to EIA spending requirements.

Can EIA carryover funds be used for any educational purpose? (Revised 04-Dec-2015)

No, funds allocated for EIA must be used as originally purposed for English learners and educationally disadvantaged youth. The categorical intent continues to be in effect for EIA program funds allocated in the 2012-13 fiscal year and prior, pursuant to *EC* sections 54000 et seq. and [California Code of Regulations, Title 5, Section 4200](#).

Are the data reported in the Consolidated Application Reporting System and used in EIA allocation formulas now irrelevant under LCFF? (Revised 04-Dec-2015)

No. Any current EIA funds carried forward from the 2012-13 fiscal year and prior, will remain subject to the original requirements for the life of those funds.

Will the CDE's 2015-16 Federal Program Monitoring (FPM) process still apply compliance standards to LEAs carrying forward unspent EIA funds? (Revised 04-Dec-2015)

Yes, FPM will continue to monitor the use of EIA program funds carried over from the 2012-13 fiscal year and prior, until all EIA monies have been expended.

Was the new Web posting requirement of SB 754 eliminated? (Revised 18-Nov-2014)

No, the requirement to post EIA funding data is still in effect under current law *EC* Section 54029.

If a district has EIA carryover and distributes to school sites as required, do those sites in receipt of EIA need to continue with their English Learner Advisory Committees (ELACs)?

As long as EIA funds continue to be carried over, the associated requirements will continue to exist, including requirements for ELACs.

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Parent and Community Engagement

With whom are districts and county offices required to consult in developing the LCAP and annual update? (Posted January 8, 2018)

Statute identifies the minimum consultation requirements for development of the LCAP and annual update. School districts and COEs are required to consult with the parent advisory committee, the English learner parent advisory committee, as applicable, as well as parents, students, teachers, principals, administrators, other school personnel, local bargaining units, and the local community in accordance with *EC* sections 52060(g) and 52066(g).

Are districts and COEs required to have parent advisory committees? (Posted January 8, 2018)

Yes, districts and COEs are to have and consult with the parent advisory committee and English learner parent advisory committee, as applicable. However, an LEA is not required to establish a new advisory committee if the LEA has already established an advisory committee that meets the LCFF statutory and regulatory requirements (*EC* sections 52062, 52063, 52068 and 52069).

Are there open meeting requirements for parent advisory and English learner parent advisory committees? (Posted January 8, 2018)

Yes. Parent advisory committees and English learner parent advisory committees are subject to the meeting requirements specified in *EC* Section 35147(b), commonly known as the Greene Act. These committees are not subject to the Brown Act requirements.

Are there other committees with which the LCAP and annual update must be shared? (Posted January 8, 2018)

No. However, the LCAP instructions state that the LCAP should be shared with, and LEAs should request input from, school-site level advisory groups as applicable (e.g. school site councils, English Learner Advisory Councils, student advisory groups, etc.) to facilitate alignment between school-site and district level goals and actions.

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LCFF Funding for County Office of Education (COE) Schools

How are COEs funded under the LCFF Target? (Revised 04-Apr-2016)

The COE LCFF Target consists of a COE operations grant for countywide oversight activities and an alternative education grant for instructional services.

The COE operations grant is based on (1) a minimum grant per county, (2) the number of school districts in the county, and (3) the average daily attendance (ADA) within the county attributable to school districts and charter schools.

In accordance with *EC* Section 2574(c)(4), the alternative education grant supports the COE's instructional activities for the following:

- Students on probation, probation referred, or expelled pursuant to *EC* Section 48915 (a) or (c). In addition to the base grant, COEs receive a supplemental grant equal to 35 percent of the base grant for targeted disadvantaged students and a concentration grant equal to 35 percent of the base grant for targeted disadvantaged students exceeding 50 percent of enrollment.
- Students attending juvenile court schools. Additionally, all juvenile court school students are deemed to be eligible for the supplemental and concentration grants provided for targeted disadvantaged students. The supplemental grant is equal to 35 percent of the base grant, and the concentration grant is equal to 17.5 percent of the base grant.

COE LCFF Target funding rates for the current fiscal year are available at the [Funding Rates and Information Web page](#).

How are other pupils that are served by COEs, but do not meet the criteria for the Alternative Education Grant, funded? (Revised 04-Dec-2015)

Funding for these students is allocated to their school district of residence.

Additional information about how the funding for these students is calculated under LCFF, is available at the [Frequently Asked Questions Web page](#).

How is a COE's LCFF Transition Entitlement determined? (Posted 04-Dec-2015)

If a COE's LCFF Target calculated for the 2013-14 fiscal year was below the COE's funding level under the former revenue limit and categorical system, the COE's LCFF Transition Entitlement will be based on 2012-13 fiscal year funding levels, portions of which will be adjusted for current year ADA. These COEs are known as "hold harmless COEs". For all other COEs, the LCFF Transition Entitlement will be equal to the COE's calculated LCFF Target.

Have all COEs reached their LCFF funding Target? (Posted 04-Dec-2015)

Yes, as of the 2014-15 fiscal year, all 58 COEs are now funded at or above (hold harmless) their calculated LCFF Target, and no more LCFF gap funding is needed. Gap funding for COE LCFF implementation was provided in 2013-14 and 2014-15 to bring any COE formerly below its funding target up to the LCFF Target.

What is the LCFF "hold harmless" provision? (Posted 04-Dec-2015)

The hold harmless provisions of LCFF guarantee that no COE loses funding due to LCFF. Therefore, some COEs are "hold harmless" and receive an LCFF Transition Entitlement based on their 12-13 fiscal year funding. These COEs will continue to be funded above their LCFF Target until the LCFF Target is greater than the hold harmless funding.

Additional frequently asked questions (FAQs) about this topic are available on the [COE FAQ page](#).

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Charter Schools

Does the Local Control Funding Formula (LCFF) apply to charter schools? (Reviewed January 8, 2018)

Yes. Charter schools receive funding pursuant to the LCFF and must comply with the applicable LCFF provisions. Resources for charter schools, including resources related to LCFF, can be viewed on [CDE's Charter Schools Division webpage](#).

Must a charter school complete a Local Control and Accountability Plan and Annual Update (LCAP)? (Revised January 8, 2018)

Yes, all charter schools must complete an LCAP and Annual Update, using the LCAP template adopted by the State Board of Education (SBE). (*EC* sections 47604.33, 47606.5 and 52064). There are no waivers or exemptions to this requirement.

Where is the LCAP template available? (Revised March 13, 2018)

The LCAP template is available from the [CDE's LCAP Web page](#).

Must a charter school's adopted LCAP be a three-year plan? (Revised January 8, 2018)

As stated in the LCAP instructions, a charter school may complete the LCAP to align to the terms of the charter school's budget, typically one year, which is submitted to the school's authorizer. The LCAP and Annual Update template must be completed each year. Accordingly, a charter school submitting a one-year budget to its authorizer may choose not to complete the year 2 and year 3 portions of the "Goals, Actions and Services" section of the template. If year 2 and/or year 3 is not applicable, the charter school must specify as such.

The term of the charter school's budget may be one or more years as set forth in the petition or the charter school's Memorandum of Understanding with its authorizer.

With whom are charter schools required to consult? (Posted January 8, 2018)

As in the case of districts and COEs, statute provides the minimum consultation requirements for charter schools. Charter schools are required to consult with parents, students, principals, teachers, administrators, and other school personnel in accordance with *EC* Section 47606.5 (e) as part of the development of the LCAP.

How does the content of a charter school's LCAP differ from the charter petition? (Revised January 8, 2018)

A charter school's LCAP is a separate document from the charter petition. Both the charter petition and LCAP must describe goals and specific actions to achieve those goals, as well as measurable pupil outcomes, for all pupils and each subgroup of pupils identified in *EC* Section 52052, including pupils with disabilities, for each of the state priorities that apply to the grade levels served and the nature of the charter school program. (*EC* Section 47606.5(a)).

- The charter school's LCAP must also include additional information regarding goals, actions and services, including: budgeted expenditures; identification of pupils to be served within a scope of services, including services for unduplicated pupils that will benefit from an additional service or action above what is provided to all pupils; and identification of services being funded on a charter wide basis, with a description of how those services are principally directed towards, and effective in, meeting the charter's goals for unduplicated pupils in the priority areas.
- The LCAP annual update must include actual annual measurable outcomes; estimated actual annual expenditures; and a statement of changes in goals, actions, services, and expenditures to be made as a result of the annual review of past progress.

Does the charter school authorizer approve the charter school's LCAP? (Revised January 8, 2018)

No. Pursuant to *EC* Section 47604.33, a charter school is required to submit its LCAP to its chartering authority and the county superintendent of schools or only to the county superintendent of schools if the county board of education is the chartering authority. Statute does not require the authorizer to approve the LCAP.

What is the responsibility of the charter school authorizer as it relates to the LCAP? (Revised January 8, 2018)

A charter school's chartering authority must ensure that the charter school has complied with all reports required of charter schools by law, including the LCAP (*EC* Section 47604.32).

Are there specific timelines to which the charter school must adhere in adopting its LCAP and annual update? (Revised January 8, 2018)

Pursuant to *EC* sections 47606.5 and 47604.33, on or before July 1 of each year, a charter school must complete an LCAP using the template adopted pursuant to *EC* Section 52064.

Because the charter school authorizer does not approve a charter LCAP, the timeline identified in statute to request clarification in writing by August 15 from school districts or county superintendents of schools, or to approve the LCAP by October 8, does not apply to charter schools' LCAPs or annual updates.

However, as is the case with charter school budgets and audits, a charter school must prepare and submit the LCAP and annual update to the chartering authority and the county superintendent of schools by July 1 of each year pursuant to *EC* Section 47604.33.

When does a new charter school's governing body have to adopt its initial LCAP? (Revised January 8, 2018)

The law is not explicit as to when a charter school must adopt its initial LCAP.

As stated in the Charter Schools FAQ [**How does the content of a charter school's LCAP differ from the charter petition?**], a charter's petition must describe goals and specific actions to achieve those goals as well as measurable pupil outcomes, for all pupils and each subgroup of pupils identified in *EC* Section 52052, including pupils with disabilities, for each of the state priorities that apply to the grade levels served and the nature of the charter school program. (*EC* Section 47606.5(a)). A charter must also adopt an LCAP, using the State Board of Education (SBE) approved template, which requires additional information regarding goals, actions and services, and expenditures.

In addition, a charter must develop its LCAP with stakeholder input as described in the Charter Schools FAQ [**Does the charter school governing body need to hold a public hearing to adopt the LCAP and annual update?**]. A charter's pupil populations and stakeholder community may not be fully identified until the charter enrolls students and begins operations. However, based upon the charter petition and population intended to be served, a charter preparing to enroll pupils will have available to it the additional information required to be set forth in its LCAP, and be able to identify some stakeholders for consultation. The additional information required in the LCAP is important to stakeholders' understanding of a charter school's planned operation.

Accordingly, a charter school must adopt its LCAP, using the approved template, by: July 1 of its first operational year; or, the date the petition is approved, if it is approved after July 1 and the charter becomes operational in the same year in which the petition is approved. If the charter determines after it becomes operational that revisions to the LCAP are warranted, the initial LCAP may be revised and adopted, with stakeholder engagement.

Do charter schools need to address the LCFF state priorities in their petitions? (Reviewed January 8, 2018)

Yes. Pursuant to *EC* sections 47605 and 47605.6, charter schools that file an initial charter petition or a renewal petition shall incorporate into the charter petition the required state priorities identified in *EC* Section 52060. *EC* sections 47605 and 47605.6 require a charter petition to include a description of the annual goals and actions in the eight state priority areas in *EC* Section 52060 that apply to the grade levels served and the nature of the charter school's program including modifications to reflect only the statutory requirements explicitly applicable to charter schools in the California *Education Code*.

Is an LCAP considered a material revision to the charter petition? (Reviewed January 8, 2018)

The statute is silent; however, the LCAP template adopted by the SBE is a separate document from the charter petition and therefore is not automatically considered a material revision to the charter petition. However, if in completing an LCAP, the charter school or its authorizer determines that changes to the charter petition are necessary, then a material revision may be needed.

Does the charter school governing body need to hold a public hearing to adopt the LCAP and annual update? (Reviewed January 8, 2018)

The statute is silent; however, charter schools are required to consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing the LCAP and annual update (*EC* Section 47606.5(e)). Charter schools are encouraged to follow a process similar to that required for a school district, which is to hold an initial public hearing to solicit recommendations and comments on the LCAP and annual update, followed by a subsequent public meeting for adoption of the plan, before submitting the adopted LCAP to the charter authorizer.

May a charter school operator with numerous schools prepare a single LCAP for all of its schools? (Reviewed January 8, 2018)

No. The charter school or its operator must prepare a separate LCAP for each charter school that has a separate petition.

Does a charter school need to have a school site council to review the LCAP and annual update? (Reviewed January 8, 2018)

No, a charter school is not required to establish a site council to comply with the requirement to consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing its LCAP and annual update. (*EC* Section 47606.5). Consultation with an existing site council may satisfy this requirement if the site council includes membership that meets the requirements of *EC* Section 47606.5.

May a charter school make changes to its LCAP subsequent to adoption by the charter school's governing body? (Revised January 8, 2018)

Yes. During the period that the LCAP is in effect, which is after it has been adopted by the charter school's governing body, the governing body may adopt revisions if it follows the same process used for adopting the LCAP initially. This process includes consultation with teachers, principals, administrators, other school personnel, parents and pupils. Any revisions must be adopted by the school's governing body at a public meeting.

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K–3 Grade Span Adjustment

What are the conditions for receiving the kindergarten through grade three (K–3) grade span adjustment (GSA)? (Revised 04-Dec-2015)

As a condition of receiving the K–3 GSA, which is equal to 10.4 percent of the K–3 base grant, school districts must meet one of the following conditions:

- If a school site's average K–3 class enrollment was more than 24 pupils in the 2012-13 fiscal year, make progress toward maintaining, at that school site, an average K–3 class enrollment of not more than 24 pupils.
- If a school site's average K–3 class enrollment was 24 pupils or less in the 2012-13 fiscal year, maintain, at that school site, an average K–3 class enrollment of not more than 24 pupils.
- Agree to a collectively bargained alternative to the statutory K–3 GSA requirements.

For additional information relating to the class size requirements for the K–3 GSA, refer to [Education Code Section 42238.02\(d\)](#) and [Title 5 California Code of Regulations Section 15498](#).

How should a school district determine the required K–3 average class enrollment for each school site? (Revised 30-May-2017)

If a school site's average K–3 class enrollment was 24 pupils or less in the 2012–13 fiscal year, the district must maintain, at that school site, an average K–3 class enrollment of not more than 24 pupils, unless a collectively bargained alternative ratio is agreed to by the school district.

If a school site's average K–3 class enrollment was more than 24 pupils in 2012–13, the required average class enrollment is determined as follows, unless a collectively bargained alternative ratio is agreed to by the school district:

1. Determine the prior year average K–3 class enrollment at the school site. In 2013–14, this will be the 2012–13 actual level. In subsequent years, this will be the result of the calculation in Step 4 for the prior year.
2. Subtract 24 from Step 1.
3. Multiply the result of Step 2 by the percentage of gap funding provided in the current fiscal year. The school district may use either the DOF Gap Estimate as of the May Revision or the Actual Gap Certified by CDE as of the Actual P-2 (June) certification, which may be found on [CDE's LCFF Gap Funding web page](#) for each fiscal year.
4. Subtract the result of the calculation in Step 3 from the prior year average K–3 class enrollment in Step 1, to determine the maximum average K–3 class enrollment at the school site in the current year.

More detailed information on how to calculate average class enrollment and related program information can be found on the [LCFF K-3 GSA final regulations](#) (DOC).

If the Actual percentage is lower than what was Estimated at May Revision, can I use that percentage to determine progress? (Posted 04-Dec-2015)

Yes, school districts can use either the Estimated or Actual funding gap percentage, and can change which percentage is used each year when determining progress.

Must every K–3 classroom at a school site be at the specified average K–3 class enrollment or below? (Posted 10-Mar-2014)

No. An individual classroom may be higher or lower than the specified average so long as the average class enrollment of all K–3 classrooms at the school site is at, or below the specified average K–3 class enrollment.

When may school districts use a collectively bargained alternative to an average K–3 class enrollment of not more than 24? (Posted 10-Mar-2014)

A school district may use this option when the district has collectively bargained an alternative annual average K–3 class enrollment for each school site in contemplation of or subsequent to enactment of *EC* Section 42238.02. A school district can demonstrate that it agreed to an alternative in different ways. For example, the school district could enter into a new collective bargaining agreement, renegotiate an existing collective bargaining agreement, or mutually agree with its local union that an existing collective bargaining agreement contains an alternative annual average class enrollment for each school site. District legal counsel should be consulted as appropriate.

Do charter schools need to progress toward or maintain an average K–3 class enrollment of 24 to receive the K–3 GSA funding? (Posted 10-Mar-2014)

No. Pursuant to *EC* Section 42238.02(d)(3)(C) only "school districts" must make progress towards average K–3 class enrollment of 24 at each school site.

May a districtwide average be used instead of a school site average? (Posted 10-Mar-2014)

No. Statute only allows for a school site average.

May the requirements be waived by the Superintendent or the State Board of Education (SBE) if a school district determines that exceeding the school district's required average K–3 class enrollment at a particular school site is in the best interest of a student or students? (Posted 10-Mar-2014)

This section of law may not be waived by the Superintendent or the SBE. Please note that school districts may collectively bargain an alternative.

Will school districts need to provide a report similar to the J-7 CSR (class-size reduction) report to get grade-span adjustment funds? (Posted 10-Mar-2014)

No. The K-3 GSA funds will automatically be included in the districts' principal apportionment funding. However, districts will be required to show their independent auditors either 1) their collectively bargained alternative, or 2) their calculations showing that the K-3 GSA requirements were met. If the K-3 GSA requirements were not met, then the auditor will issue an audit finding disallowing the K-3 GSA add-on funding, and the funding will be adjusted in the district's next principal apportionment certification.

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California Collaborative for Educational Excellence

What is the Collaborative for Educational Excellence (CCEE)? (Revised January 8, 2018)

The CCEE was established by California *Education Code (EC)* Section 52074 to provide advice and assistance to LEAs (charter schools, school districts, and county offices of education) in achieving the goals set forth in the LCAPs.

What is the role of the CCEE fiscal agent? (Revised January 8, 2018)

The State Superintendent of Public Instruction (SSPI) apportions funds appropriated for the operation of the CCEE to the fiscal agent, Marin County Office of Education is the fiscal agent and is responsible for maintaining accurate, current, and complete records regarding operation of the CCEE, in accordance with all fiscal reporting and auditing standards required by state law and the CDE.

What is the composition of the CCEE governing board? (Reviewed January 8, 2018)

The CCEE governing board consists of the following five members:

- The SSPI or his or her designee
- The president of the state board or his or her designee
- A county superintendent of schools appointed by the Senate Committee on Rules
- A teacher appointed by the Speaker of the Assembly
- A superintendent of a school district appointed by the Governor

What is the role of the CCEE governing board? (Reviewed January 8, 2018)

The CCEE board shall govern the CCEE and direct the fiscal agent to contract with individuals, LEAs, or organizations with the expertise, experience, and a record of success that includes but is not limited to the following areas:

- State priorities as described in subdivision (d) of *EC* Section 52060
- Improving the quality of teaching
- Improving the quality of school district and schoolsite leadership
- Successfully addressing the needs of special pupil populations, including, but not limited to, English learners, pupils eligible to receive a free or reduced-priced meal, pupils in foster care, and individuals with exceptional needs

How will the adoption and use of the evaluation rubrics support the work of the CCEE? (Revised January 8, 2018)

The SBE adopted the evaluation rubrics known as the California School Dashboard (Dashboard) at its January 2017 meeting. The Dashboard will support the following purposes:

- To assist LEAs with the evaluation of strengths and weaknesses that require improvement
- To assist county superintendents in identifying school districts and charter schools in need of technical assistance pursuant to *EC* sections 52071 and 47607.3
- To assist the SSPI in identifying school districts in need of intervention pursuant to *EC* Section 52072. The CCEE will provide advice and assistance in achieving the goals that are identified in an LEA's LCAP. The results of the Dashboard may inform the work of the CCEE.

Where can I find more information about the CCEE? (Reviewed January 8, 2018)

Information, such as board agendas and minutes, are available on the [CCEE Website](#).

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Contact Information

For all LCFF fiscal questions, contact the Principal Apportionment Section at PASE@cde.ca.gov.

For all LCAP questions, contact the Local Agency Systems Support Office at LCFF@cde.ca.gov.

For all CALPADs questions, contact the CALPADs/CBEDS/CDS Operations Office at CALPADS@cde.ca.gov.

Questions: Local Agency Systems Support Office | LCFF@cde.ca.gov

Last Reviewed: Wednesday, November 18, 2020



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FILED
ALAMEDA COUNTY

FEB 01 2021

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

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COUNTY OFFICE OF EDUCATION and SAN DIEGO
7 UNIFIED SCHOOL DISTRICT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF ALAMEDA

10 CALIFORNIA SCHOOL BOARDS
11 ASSOCIATION, et al,

12 Petitioners,

13 v.

14 STATE OF CALIFORNIA, et al.,

15 Respondents.
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Case No. RG11554698

JUDGMENT FOLLOWING
STIPULATION

Dept: 17

Judge: The Honorable Frank Roesch

Action Filed: January 6, 2011

Exempt from filing fees pursuant to Gov.
Code, § 6103.

1 The parties hereby stipulate as follows:

2 This case was filed on January 6, 2011. The operative third amended petition and
3 complaint was filed February 3, 2014, pleading four causes of action. This Court entered
4 judgment in favor of respondents on all causes of action on April 13, 2016.

5 Petitioners appealed. On January 16, 2018, the Court of Appeal affirmed in part and
6 reversed in part. *California School Boards Association v. State of California* (2018) 19 Cal.
7 App.5th 566. The Court of Appeal affirmed the Superior Court's decision on the second cause of
8 action, upholding the challenged legislation. However, the Court of Appeal reinstated the third
9 and fourth causes of action. And the Court held that Petitioners should have been granted leave
10 to amend the first cause of action to allege that identifying Education Protection Account (EPA)
11 funding as an offset under Education Code 42238.24 violates article XIII, section 36 of the
12 California Constitution. This issue arose for the first time during discovery when respondent
13 Department of Finance (DOF) identified EPA funds as "potentially offsetting revenue" under
14 Education Code 42238.24 in February 2015.

15 Petitioners filed a petition for review. The California Supreme Court affirmed the decision
16 of the Court of Appeal, holding that judgment was properly entered in favor of respondents on the
17 second cause of action. *California School Boards Association v. State of California* (2019) 8
18 Cal.5th 713.


19 This matter is now before this court on remand. The parties have met and conferred and
20 have reached an agreement to resolve the entirety of the remainder of this case.

21 Although DOF initially identified EPA funding as "potentially offsetting revenue" for the
22 Graduation Requirements mandate during discovery, respondents State of California, DOF, and
23 State Controller, now agree that for purposes of this and any future dispute regarding the
24 Graduation Requirements mandate, EPA funding is not offsetting revenue under Education Code
25 section 42238.24. Accordingly, Petitioners have agreed to dismiss with prejudice their first cause
26 of action. Petitioners will also dismiss without prejudice their third and fourth causes of action,
27 which will resolve the remainder of this case.
28

1 Dated: January 25, 2021

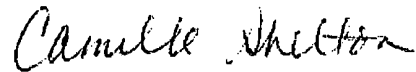
Respectfully Submitted,

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10 COMMISSION ON STATE MANDATES

11 

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23 AND ITS EDUCATION LEGAL ALLIANCE

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27 *Education Legal Alliance*

28 SAN DIEGO UNIFIED SCHOOL DISTRICT

ANDRA GREENE
General Counsel for San Diego Unified
School District


1 Dated: January 25, 2021

Respectfully Submitted,

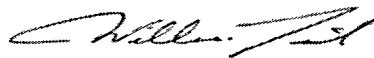
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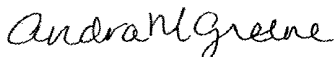
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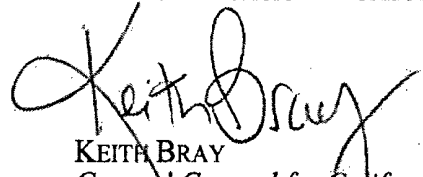
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CASTRO VALLEY UNIFIED SCHOOL DISTRICT

PARVIN AHMADI
Superintendent

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EDUCATION

JAMES A. MOUSALIMAS
*San Joaquin County Superintendent of
Schools*

CASTRO VALLEY UNIFIED SCHOOL DISTRICT


PARVIN AHMADI
Superintendent

~~PROPOSED~~ JUDGMENT

Accordingly, pursuant to the stipulation of the parties, IT IS ORDERED, ADJUDGED,
AND DECREED that:

(1) Judgment on the second cause of action is entered in favor of respondents pursuant to
the ruling by the California Supreme Court.

(2) In accordance with the Parties' stipulation, EPA funding is not offsetting revenue for
the Graduation Requirements mandate under Education Code section 42238.24.

(3) The first cause of action is dismissed with prejudice.

(4) The third and fourth causes of action are dismissed without prejudice.

(5) Each party will bear their own costs and fees.

Dated:

Feb 1, 2021

Frank Roesch

The Honorable Frank Roesch

CLERK'S CERTIFICATE OF MAILING

RE: RG11554698 California School Boards Association et al vs State of California et al

I certify that the following is true and correct: I am the Clerk of the above-named court and not a party to this cause. I served this **Judgment**, by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Oakland, California, following standard court practices.

Dated: 02/01/2021

Chad Finke
Executive Officer/Clerk of the Superior
Court

By  _____
Param Bir, Deputy Clerk

Seth E. Goldstein Esq.,
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Updated: An Overview of the Local Control Funding Formula

MAC TAYLOR • LEGISLATIVE ANALYST • UPDATED DECEMBER 2013

Executive Summary

Legislation enacted in 2013-14 made major changes both to the way the state allocates funding to school districts and the way the state supports and intervenes in underperforming districts. The legislation was the culmination of more than a decade of research and policy work on California's K-12 funding system. This report describes the major components of the legislation, with the first half of the report describing the state's new funding formula and the second half describing the state's new system of district support and intervention. Throughout the report, we focus primarily on how the legislation affects school districts, but we also mention some of the main effects on charter schools. (This report does not cover the new funding formula for county offices of education [COEs], which differs in significant ways from the new district formula.) The report answers many of the questions that have been raised in the aftermath of passage regarding the final decisions made by the Legislature and the Governor in crafting new K-12 funding and accountability systems for California.

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THE FORMULA

COMPONENTS

Chapter 47, Statutes of 2013 (AB 97, Committee on Budget) created the Local Control Funding Formula (LCFF). Two subsequently enacted pieces of legislation—Chapter 70, Statutes of 2013 (SB 91, Committee on Budget) and Chapter 357, Statutes of 2013 (SB 97, Committee on Budget)—made minor changes to the formula. As set forth in this package of legislation, the LCFF has several components, described below. (Except where otherwise noted, the components that apply to school districts also apply to charter schools.)

Sets Uniform, Grade-Span Base Rates. Under the new formula, districts receive the bulk of their funding based on average daily attendance (ADA) in four grade spans. Figure 1 displays the four LCFF grade-span base rates as specified in Chapter 47. Each year, beginning in 2013-14, these target base rates are to be updated for cost-of-living adjustments (COLAs). The differences among

the target grade-span rates reflect the differences among existing funding levels across the grade spans. Specifically, the new base-rate differentials are linked to the differentials in 2012-13 statewide average revenue limit rates by district type (the same rates previously used to set charter school grade-span funding rates). These grade-span differences are intended to recognize the generally higher costs of education at higher grade levels.

Adjusts Early Elementary and High School

Base Rates. The LCFF includes certain adjustments to the K-3 and high school base rates. These adjustments effectively increase the base rates for these two grade spans. The K-3 adjustment increases the K-3 base rate by 10.4 percent (or initially \$712 per ADA)—for an adjusted, initial K-3 base rate of \$7,557. This adjustment is intended to cover costs associated with class size reduction (CSR) in the early grades. (The \$712 per-pupil adjustment reflects the average K-3 CSR rate under the previous funding rules.) The high school

Figure 1

Overview of Local Control Funding Formula^a

| Formula Component | Rates/Rules |
|---|---|
| Target base rates (per ADA) ^b | <ul style="list-style-type: none"> • K-3: \$6,845 • 4-6: \$6,947 • 7-8: \$7,154 • 9-12: \$8,289 |
| Base rate adjustments | <ul style="list-style-type: none"> • K-3: 10.4 percent of base rate. • 9-12: 2.6 percent of base rate. |
| Supplemental funding for certain student subgroups (per EL/LI student and foster youth) | 20 percent of adjusted base rate. |
| Concentration funding | Each EL/LI student above 55 percent of enrollment generates an additional 50 percent of adjusted base rate. |
| Add-ons | Targeted Instructional Improvement Block Grant, Home-to-School Transportation, Economic Recovery Target. |

^a Applies to school districts and charter schools.

^b Reflects target rates as specified in statute. Does not include 1.57 percent cost-of-living adjustment provided in 2013-14. ADA = average daily attendance; EL = English learner; and LI = low-income (defined as a student receiving a free or reduced-price meal).

adjustment increases the grades 9-12 base rate by 2.6 percent (or initially \$216 per ADA)—for an adjusted, initial high school base rate of \$8,505. This adjustment is not designated for any particular activity, but the genesis of the adjustment related to the costs of providing career technical education (CTE) in high school. The \$216 adjustment reflects the average total amount spent per pupil on Regional Occupational Centers and Programs (ROCPs) under the old system. Moving forward, the adjustment percentages will remain the same, though the dollar value of the adjustments will increase as the base rates rise due to statutorily authorized COLAs.

Includes Supplemental Funding for English Learners and Low-Income (EL/LI) Students. The LCFF provides additional funds for particular student groups. Under the formula, each EL/LI student and foster youth in a district generates an additional 20 percent of the qualifying student's adjusted grade-span base rate. For instance, an LI

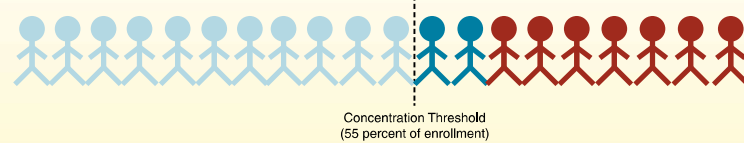
kindergartener generates an additional \$1,511 for the district, which is 20 percent of the adjusted K-3 base rate of \$7,557. (Because all foster youth also meet the state's LI definition, hereafter we do not refer to them as a separate subgroup.) For the purposes of generating this supplemental funding (as well as the concentration funding discussed below), a district's EL/LI count is based on a three-year rolling average of EL/LI enrollment. Students who are both EL and LI are counted only once. For more information regarding the classification of EL/LI student groups, see the box on page 4.

Provides Concentration Funding for Districts With Higher EL/LI Populations. Districts whose EL/LI populations exceed 55 percent of their enrollment receive concentration funding. Specifically, as shown in Figure 2, these districts receive an additional 50 percent of the adjusted base grant for each EL/LI student above the 55 percent threshold. (A charter school cannot receive

Figure 2

Illustration of How LCFF Works

Elementary District



| Funding Each Student Generates | | | | | |
|--------------------------------|---------------|----------------|------------------|---------------------|----------|
| Student | Base K-3 Rate | K-3 Adjustment | EL/LI Supplement | EL/LI Concentration | Total |
| EL/LI | \$6,845 | \$712 | \$1,511 | — | \$9,068 |
| EL/LI | \$6,845 | \$712 | \$1,511 | \$3,779 | \$12,847 |
| Non-EL/LI | \$6,845 | \$712 | — | — | \$7,557 |

EL/LI = English learner/low-income.

concentration funding for a greater proportion of EL/LI students than the district in which it resides. For instance, if a charter school has 80 percent EL/LI enrollment but the district in which it resides has only 60 percent EL/LI enrollment, the charter school's concentration funding is capped based on 60 percent EL/LI enrollment. If a charter school has multiple sites located in multiple districts, its concentration funding is capped based on the encompassing district with the highest EL/LI concentration, or its own EL/LI concentration if lower.)

Effect of Supplemental and Concentration Funding on a District's Total Allocation.

In the description above, the supplement

and concentration factors are described in per-student terms. Alternatively, the supplement and concentration factors can be viewed in per-district terms. Thinking of the supplement and concentration factor in this latter way allows total district funding allocations to be compared more easily. As seen in Figure 3, as a district's proportion of EL/LI students increases, so does its total funding allocation. For instance, a district with 50 percent EL/LI students has a total allocation that is 10 percent higher than the same-sized district with no EL/LI students. In Figure 3, the first section of the line (colored blue) shows percent increases in a district's funding allocation up to the 55 percent EL/LI threshold, whereas the second section of

Classification of English Learner/Low-Income (EL/LI) Students

Classification of EL Students. For the purposes of the Local Control Funding Formula (LCFF), students are classified as EL based on a home language survey and the California English Language Development Test (CELDT). If a parent or guardian reports on the home language survey that a language other than English is the student's initial language learned or the primary language used at home, the student is required to take the CELDT. If the student is determined by the school district not to be English proficient based on CELDT results, then the student is classified as EL. Each year thereafter, an EL student is reassessed using the CELDT. Once a student is determined to be English proficient—based on CELDT results, performance on other state assessments, teacher input, and local criteria—the student is reclassified as Fluent English Proficient (FEP). Each school district can use its own criteria for reclassifying EL students as FEP. Under the LCFF, no time limit is placed on how long an EL student can generate supplemental and concentration funding for a district, but a student reclassified as FEP who is not also LI will no longer generate additional funding.

Classification of LI Students. For the purposes of the LCFF, LI students are those that qualify for free or reduced-price meals (FRPM). Eligibility for FRPM is determined by school districts through a variety of means. In many cases, students are determined FRPM-eligible through an application process sent to students' households. If a household's income is below 185 percent of the federal poverty line (\$43,568 for a family of four), the student is eligible for FRPM. In other cases, students are directly certified as FRPM-eligible due to participation in other social service programs, such as the California Work Opportunity and Responsibility to Kids program. Foster youth automatically are eligible for FRPM, therefore the foster family's income has no bearing on the foster student's FRPM eligibility. An LI student will generate supplemental and concentration funding for a district until the student is no longer FRPM-eligible.

the line (colored red) shows funding increases once a district passes the 55 percent concentration threshold and begins receiving concentration funding in addition to supplemental funding. As shown in the figure, a district in which every student is EL/LI has a total funding allocation 42.5 percent greater than the same-sized district with no EL/LI students.

Treats Two Existing Categorical Funding Streams as Add-Ons. Funds from two existing programs—the Targeted Instructional Improvement Block Grant and Home-to-School (HTS) Transportation program—are treated as add-ons to the LCFF. Districts that received funding from these programs in 2012-13 will continue to receive that same amount of funding in addition to what the LCFF provides each year.

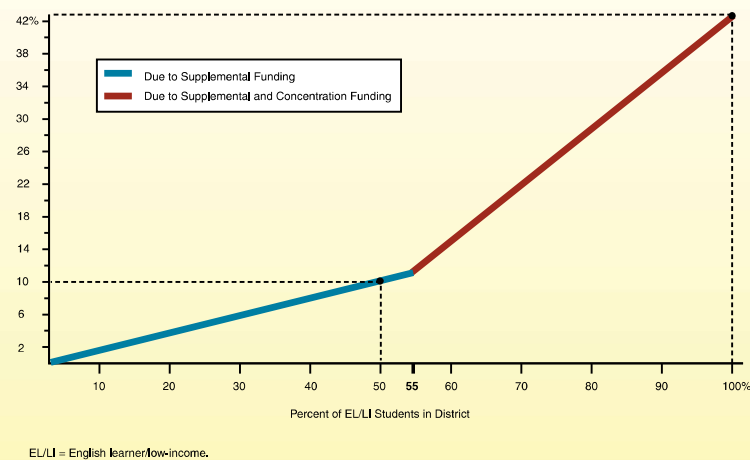
Districts that did not receive funds from these programs in 2012-13 do not receive these add-ons moving forward.

Also Provides New Economic Recovery Target (ERT) Add-On to Some Districts. Had the revenue limit deficit factor been retired and categorical program funding been restored, the previous funding system would have generated greater levels of funding than the LCFF for approximately 230 districts (about 20 percent of districts). To address this issue, the new funding system provides an ERT add-on to a subset of these districts. As shown in Figure 4 (see next page), the ERT add-on amount equals the difference between the amount a district would have received under the old system and the amount a district would receive based on the LCFF in 2020-21. To derive

Figure 3

How a District's EL/LI Concentration Affects its LCFF Allocation

Percent Increase in District Funding Allocation



the amount a district would have received under the old system in 2020-21, assumptions are made that the revenue limit deficit factor would have been retired, a 1.94 percent COLA would have been applied to revenue limits every year from 2013-14 through 2020-21, and categorical funding would be increased to the district's 2007-08 level (reflecting an increase of 24 percent over the 2012-13 level).

Approximately 130 districts are eligible to receive the ERT add-on. The 100 remaining districts are not eligible for the add-on because of their exceptionally high per-pupil funding rates. Specifically, a provision disallows a district from receiving an ERT add-on if its funding exceeds the 90th percentile of per-pupil funding rates under the old system (estimated to be approximately \$14,500 per pupil in 2020-21).

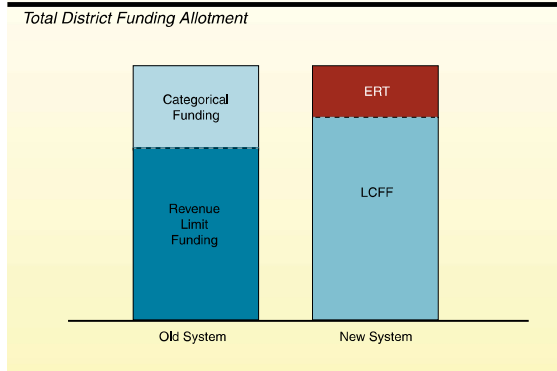
SPENDING RESTRICTIONS

The LCFF eliminates the vast majority of categorical spending restrictions. In their place, the LCFF establishes a more limited set of spending restrictions, some of which apply over the long term and some of which are applicable only during the initial transition period.

Long-Term Spending Requirements

Many Existing Categorical Spending Requirements Removed. Approximately three-quarters of categorical programs were eliminated in tandem with the creation of the LCFF. As a result,

Figure 4
Calculating Economic Recovery Target (ERT)



the majority of categorical spending restrictions that districts faced under the old system were eliminated. Under the new system, 14 categorical programs remain. Figure 5 lists those categorical programs that were eliminated and those that are retained under the new system.

Districts Eventually Must Ensure “Proportionality” When Spending EL/LI Funds. Under the LCFF, districts will have to use supplemental and concentration funds to “increase or improve services for EL/LI pupils in proportion to the increase in supplemental and concentration funds.” The exact meaning and regulatory effect of this proportionality clause is currently unknown. On or before January 31, 2014, the State Board of Education (SBE) is required to adopt regulations regarding how this clause will be operationalized. These regulations also may include the conditions under which districts can use supplemental and concentration funds on a school-wide basis.

Districts Encouraged to Have K-3 Class Sizes No More Than 24 Students. Under full implementation of the LCFF, as a condition of

receiving the K-3 base-rate adjustment, districts must maintain a K-3 school-site average class size of 24 or fewer students, unless collectively bargained otherwise. If a district negotiates a different class size for those grades, the district is not subject to this provision and will continue to receive the adjustment. Absent a related collective bargaining provision, were a particular school site in a district to exceed an average class size of 24, the district would lose the K-3 adjustment for all its K-3 school sites.

Restrictions on HTS Transportation Funding Maintained. Starting in 2013-14, districts receiving the HTS Transportation add-on must spend the same amount of state HTS Transportation funds as they spent in 2012-13. Districts that did not receive HTS Transportation funds in 2012-13 and therefore are not eligible for the add-on moving forward,

do not have similar transportation spending requirements.

Short-Term Requirements

Specific Maintenance-of-Effort (MOE)

Requirements Imposed During First Two Years of Implementation.

Of the state categorical funds they received, school districts are required to spend no less in 2013-14 and 2014-15 than they did in 2012-13 on ROCs and Adult Education. If districts received funding for ROCs and/or HTS Transportation through a joint powers authority (JPA), they must continue to pass through those funds to the JPA in 2013-14 and 2014-15. Funds used to satisfy these MOE requirements count towards a district's LCFF allocation. Consequently, districts subject to these MOE requirements will

Figure 5

Treatment of Categorical Programs Under LCFF

Retained Programs

| | |
|---------------------------------------|-----------------------------------|
| Adults in Correctional Facilities | Foster Youth Services |
| After School Education and Safety | Mandates Block Grant |
| Agricultural Vocational Education | Partnership Academies |
| American Indian Education Centers and | Quality Education Improvement Act |
| Early Childhood Education Program | Special Education |
| Assessments | Specialized Secondary Programs |
| Child Nutrition | State Preschool |

Eliminated Programs

| | |
|---|---|
| Advanced Placement Fee Waiver | Instructional Materials Block Grant |
| Alternative Credentialing | International Baccalaureate Diploma Program |
| California High School Exit Exam Tutoring | National Board Certification Incentives |
| California School Age Families | Oral Health Assessments |
| Categorical Programs for New Schools | Physical Education Block Grant |
| Certificated Staff Mentoring | Principal Training |
| Charter School Block Grant | Professional Development Block Grant |
| Civic Education | Professional Development for Math and English |
| Community-Based English Tutoring | School and Library Improvement Block Grant |
| Community Day School (extra hours) | School Safety |
| Deferred Maintenance | School Safety Competitive Grant |
| Economic Impact Aid | Staff Development |
| Educational Technology | Student Councils |
| Gifted and Talented Education | Summer School Programs |
| Grade 7-12 Counseling | Teacher Credentialing Block Grant |
| High School Class Size Reduction | Teacher Dismissal |

have relatively less general purpose funding over this two-year period. (A district that already shifted all funds away from these programs as part of its response to categorical flexibility is not subject to these MOE requirements.)

Districts Must Make Progress Toward Meeting CSR Goal During Transition Period. As mentioned earlier, to receive the K-3 base-rate adjustment, districts by full LCFF implementation must reduce K-3 class size to no more than 24 students, unless collectively bargained otherwise. Over the phase-in period (discussed later in more detail), districts must make progress toward this goal in proportion to the growth in their funding. For example, if a district started with an average K-3 class size of 28 students, and it received new funding equivalent to 10 percent of its LCFF funding gap, that district would have to reduce average K-3 class size to 27.6 students (10 percent of the difference between 28 and 24). Similar to the CSR requirement under full implementation, this interim requirement does not apply to districts that collectively bargain K-3 class sizes.

COST OF FORMULA

As explained below, the LCFF costs significantly more than the previous funding system. As a result, it will take several years to fully transition to the new funding formula.

Fully Implementing LCFF and ERT Add-On Estimated to Cost an Additional \$18 Billion. Were the state to fully implement the LCFF in 2013-14, the costs would be \$18 billion more than the state spent on K-12 education in 2012-13. (This assumes current levels of ADA, EL/LI enrollment, and property tax revenue.) Given the cost, coupled with projected growth in Proposition 98 funding, fully implementing the new system is anticipated to take eight years. Each year the total General Fund cost of the new system will change somewhat due to providing COLAs, fluctuations in ADA and student

demographics, and growth in property tax revenue.

Additional LCFF Funding to Be Allocated Based on Funding “Gap.” Over the course of implementation, districts will receive new funding based on the difference (or gap) between their prior-year funding level and their target LCFF funding level. Every district will see the same proportion of their gap closed, but the dollar amount they receive will vary depending on the size of their gap. For example, in 2013-14, districts (in most cases) will have 12 percent of their gap filled. For a district whose gap is \$100 million, this corresponds to \$12 million in additional funding. For a district whose gap is \$10 million, this corresponds to \$1.2 million in additional funding. Figure 6 depicts transition funding for years one, four, and eight for a non-ERT district as well as an ERT district (discussed below).

Funding for ERT Add-On to Be Allocated in Equal Increments Over Eight-Year Period. Districts eligible to receive the ERT add-on will receive incremental ERT funding over the course of implementation in addition to their gap funding discussed above. As depicted in Figure 6, an ERT district will receive the same proportion of gap funding towards its LCFF target as other non-ERT districts, as well as a portion of its ERT add-on. In 2013-14, an ERT district will receive one-eighth of its add-on, in year two two-eighths, in year three three-eighths, etcetera. In year eight (the estimated year of full implementation), ERT districts will receive their full ERT add-on (as calculated in 2013-14) and will continue to receive this add-on amount in perpetuity. Changes in the implementation timeline for LCFF will not affect the ERT funding schedule.

DISTRIBUTIONAL EFFECTS OF FORMULA

Vast Majority of Districts to Receive More State Aid, No District to Get Less State Aid. The vast majority of districts will see significant

increases in funding under the LCFF. That notwithstanding, statute further includes a “hold harmless” provision that specifies no district is to receive less state aid than it received in 2012-13. Specifically, no district is to receive less moving forward than it received last year for revenue limits (calculated on a per-ADA basis) and categorical programs (calculated based on the district’s total entitlement).

A Few Districts Will Not Receive Additional Funds.

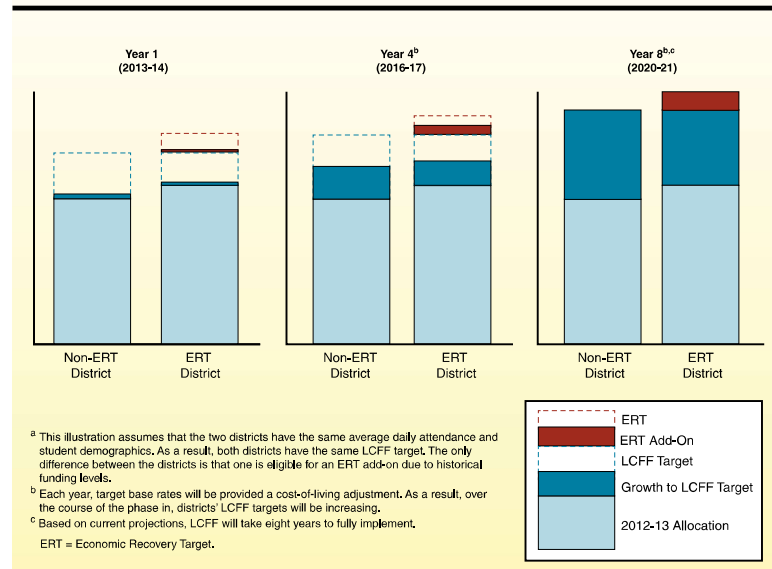
Though most districts will see funding increases under the new formula, approximately 15 percent of districts will not receive additional funding. (These districts, which have particularly high existing per-pupil funding rates, are the ones that benefit from the hold harmless provision

described above.) Three types of districts are unlikely to receive additional funding.

- **Basic Aid Districts.** Most basic aid districts currently have more per-pupil funding than needed to meet their LCFF targets and their ERT. As a result, they will continue to receive the same amount of state aid they received in 2012-13 (though, as discussed below, a few districts will fall out of basic-aid status and begin receiving state aid as a result of the LCFF).
- **Non-Isolated, Single-School Districts.** Prior to 2012-13, these types of districts were eligible to receive additional funding if the school met the necessary small

Figure 6

Illustration of How Transition Works for Two Types of Districts^a



school (NSS) ADA requirements. Starting in 2013-14, schools that are not geographically isolated are no longer eligible for NSS funding. As a result, these districts' 2012-13 funding levels exceed their LCFF targets and they will continue receiving their 2012-13 amounts until those amounts drop below their LCFF targets.

- **Anomalous Districts.** Some districts had funding levels under the old system that were abnormally high either because of peculiar categorical rules (such as receiving an extremely high meals-for-needy-pupils add-on) or peculiar charter-school conversion rules (used by a few districts to receive significant fiscal benefit from conversions). These districts also will continue to receive their 2012-13 funding amounts until those amounts drop below their LCFF targets.

A Few Districts Likely to Fall Out of Basic Aid Status and Begin Receiving State Aid.

Under the previous funding system, property tax revenue counted only against a district's revenue limits. Consequently, basic aid districts were those districts whose revenue limit entitlements were equal to or less than their local property tax revenue. Under the LCFF, local property tax revenue counts against a district's entire LCFF allocation (which has base rates higher than old revenue limit rates and greater funding for EL/LI students). As a result, the threshold for basic aid status is significantly higher under the LCFF. Moreover, some districts recently entered basic aid status as a result of state cuts in revenue limit rates. These districts are most likely to fall out of basic aid status under the new system, but a few other basic aid districts also might fall out of basic aid status due to increased funding levels under the LCFF.

TRANSPARENCY AND ACCOUNTABILITY UNDER NEW SYSTEM

In addition to creating a new funding formula, the 2013-14 package of legislation establishes a set of new rules relating to school district transparency and accountability. Specifically, under the new rules, districts are required to adopt Local Control and Accountability Plans (LCAPs). Districts that do not meet the goals specified in their LCAPs and fail to improve educational outcomes are to receive assistance through a new system of support and intervention. We describe this new system in more detail below.

DISTRICT DEVELOPMENT AND ADOPTION OF LCAPs

Districts Must Set Annual Goals in Eight Specified Areas. Each LCAP must include a school

district's annual goals in each of the eight areas shown in Figure 7. These eight areas of specified state priorities are intended to encompass the key ingredients of high-quality educational programs. Figure 8 (see page 12) identifies how districts are to measure success in each of the eight areas, with districts required to include associated data in their LCAPs. The plans must include both district-wide goals and goals for each numerically significant student subgroup in the district. (To be numerically significant, a district must have at least 30 students in a subgroup, with the exception of foster youth, for which districts must have at least 15 students.) The student subgroups that must be addressed in the LCAPs are listed in Figure 9 (see page 12). (In addition

to specified state priorities, districts' LCAPs can include annual goals in self-selected areas of local priority.)

Districts Must Specify Actions They Will Take to Achieve Goals. A district's LCAP must specify the actions the district plans to take to achieve its annual goals. The specified actions must be aligned with the school district's adopted budget. For example, a school district could specify that it intends to provide tutors to all EL students reading below grade level to improve its EL reclassification rate. To ensure the LCAP and adopted budget were aligned, the school district would be required to include sufficient funding for EL tutors in its adopted budget plan.

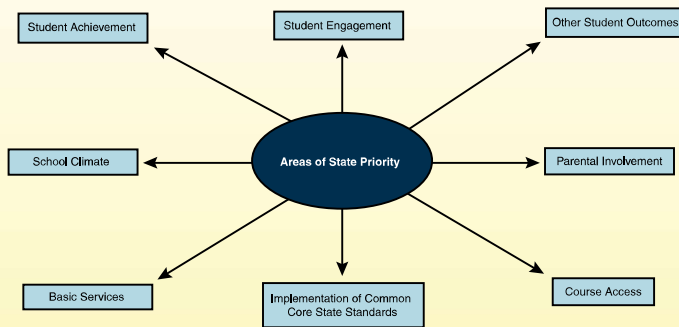
Districts Must Use SBE-Adopted LCAP Template. In preparing their LCAP, districts are required to use a template developed by SBE. The template is intended to create consistency in

LCAPs across the state and assist school districts in developing their plans. The SBE is required to adopt the LCAP template by March 31, 2014.

Districts Must Solicit Input From Various Stakeholders in Developing Plan. Figure 10 (see page 13) outlines the process a district must follow in adopting its LCAP. One of the main procedural requirements is that a district consults with its school employees, local bargaining units, parents, and students. As part of this consultation process, districts must present their proposed plans to a parent advisory committee and, in some cases, a separate EL parent advisory committee. (EL parent advisory committees are required only if ELs comprise at least 15 percent of the district's enrollment and the district has at least 50 EL students.) The advisory committees can review and comment on the proposed plan. Districts must respond in writing to the comments of the

Figure 7

Eight Areas of State Priority Must Be Addressed in LCAPs



LCAP = Local Control and Accountability Plan.

Figure 8

Required Data for Each of Eight State Priority Areas

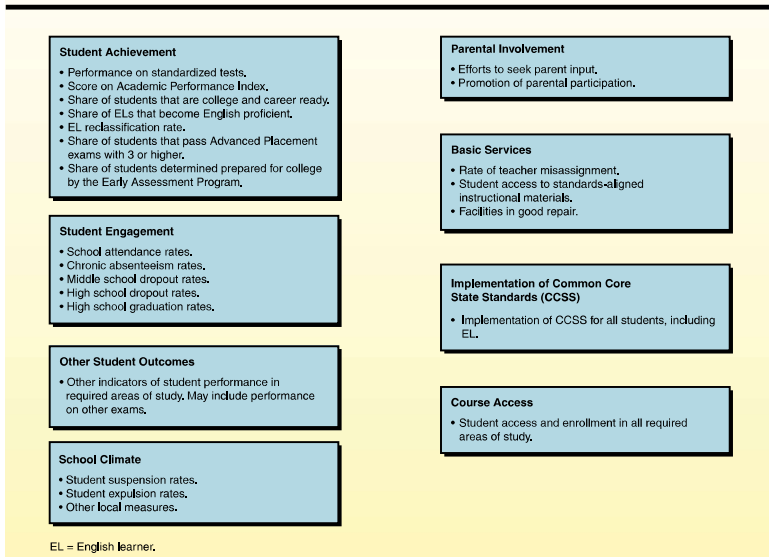


Figure 9

Student Subgroups to Be Included in Local Control and Accountability Plans

Racial/Ethnic Subgroups:

Black or African American
 American Indian or Alaska Native
 Asian
 Filipino
 Hispanic or Latino
 Native Hawaiian or Pacific Islander
 White
 Two or more races

Other Subgroups:

Socioeconomically disadvantaged students
 English learners
 Students with disabilities
 Foster youth

advisory committees. Districts also are required to notify members of the public that they may submit written comments regarding the specific actions and expenditures proposed in the LCAP.

LCAP to Be Adopted Every Three Years And Updated Annually. Districts are required to adopt an LCAP by July 1, 2014 and every three years thereafter. In the interim years between adoptions, districts are required annually to update their LCAPs using the SBE template. Each year, districts must adopt (or update) their LCAPs prior to the adoption of their budget plans. Annual updates must review a school district's progress towards meeting the goals set forth in its LCAP, assess the effectiveness of the specific actions taken toward achieving these goals, and describe any changes the district will make as a result of this review and

assessment. The school district also must specify the expenditures for the next fiscal year that will be used to support EL/LI and foster youth students, as well as former ELs redesignated as English proficient. Districts also are required to hold at least two public hearings to discuss and adopt (or update) their LCAPs. The district must first hold at least one hearing to solicit recommendations and comments from the public regarding expenditures proposed in the plan. It then must adopt (or officially update) the LCAP at a subsequent hearing.

COE REVIEW OF DISTRICT LCAPs

COE Can Ask for Clarification, Make Recommendations Regarding District LCAPs.

Within five days of adopting (or updating) its LCAP, a district must submit its plan to its COE for review. Figure 11 (see next page) displays the process of COE review. Before August 15 of each year, the COE can seek clarification in writing

from the district about the contents of its LCAP.

The district must respond to these requests within 15 days. Then, within 15 days of receiving the district's response, the COE can submit recommendations for amendments to the LCAP back to the district. The district must consider the COE recommendations at a public hearing within 15 days, but the district is not required to make changes to its plan.

COE Must Approve LCAP if Three Conditions Are Met. The COE must approve a district's LCAP by October 8 if it determines that (1) the plan adheres to the SBE template, (2) the district's budgeted expenditures are sufficient to implement the strategies outlined in its LCAP, and (3) the LCAP adheres to the expenditure requirements for supplemental and concentration funding. As we discuss in the next section, districts whose LCAPs are not approved by the COE are required to receive additional support.

Figure 10

School District LCAP Adoption Process

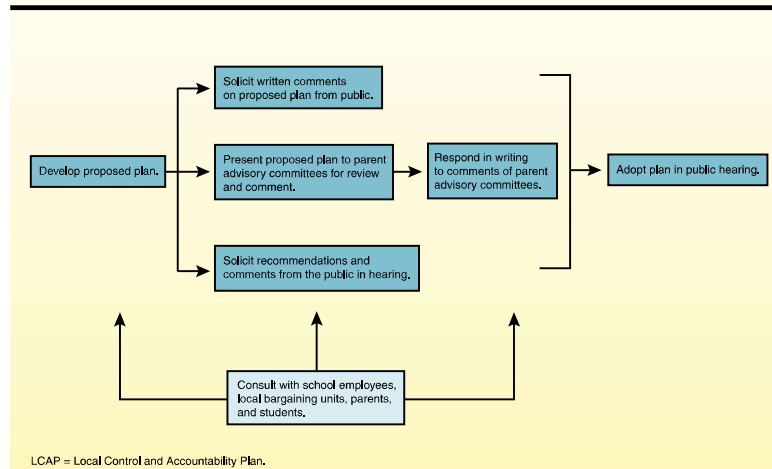
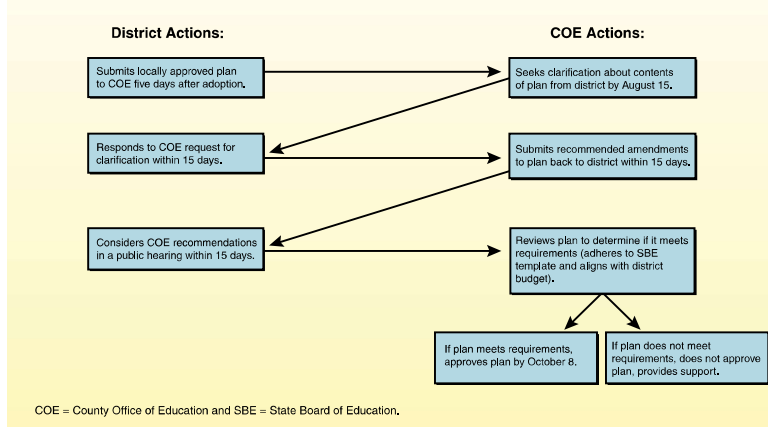


Figure 11

COE Review of Local Control and Accountability Plans**SUPPORT AND INTERVENTION**

Chapter 47 also establishes a system of support and intervention for school districts that do not meet performance expectations for the eight state priority areas identified in the LCAP. Below, we discuss this new system in greater detail. (This system works somewhat differently for charter schools. We discuss the major differences in the box on page 16.)

New Rubrics to Determine if Districts Need Support or Intervention

COE Must Assess School District Performance Based on SBE-Adopted Rubrics. As shown in Figure 12, SBE must develop three new rubrics for assessing a school district's performance. The SBE is to adopt all three rubrics by October 1, 2015. The rubrics are to be holistic and consider multiple measures of district and school performance as

well as set expectations for improvement for each numerically significant subgroup in each of the eight state priority areas.

Support for Struggling School Districts

Three Reasons Districts Can Be Flagged for Additional Support. School districts are required to receive additional support in the following three instances.

- **LCAP Not Approved by COE.** A district is required to receive support if its LCAP is not approved by the COE because it does not follow the SBE template or is not aligned with the district's budget plan.
- **District Requests Assistance.** A district may specifically request additional support.
- **District Not Improving Student Outcomes.** A district must receive support

Figure 12

State Board of Education (SBE) Required to Adopt Three New Rubrics

Chapter 47, Statutes of 2013 (AB 97, Committee on Budget) requires SBE to develop and adopt the following three evaluation rubrics by October 1, 2015.

- ✓ **Self-Assessment Rubric.** This rubric is to assist districts in evaluating their strengths and weaknesses.
- ✓ **Support Rubric.** This rubric is to be used by COEs to determine if a school district does not improve outcomes in more than one state priority for at least one subgroup, and thus is required to receive some form of support.
- ✓ **Intervention Rubric.** This rubric is to be used by the SPI to determine if a district does not improve outcomes in three out of four consecutive school years for three or more subgroups in more than one state or local priority, and thus is considered to be persistently failing.

COE = County Office of Education and SPI = Superintendent of Public Instruction.

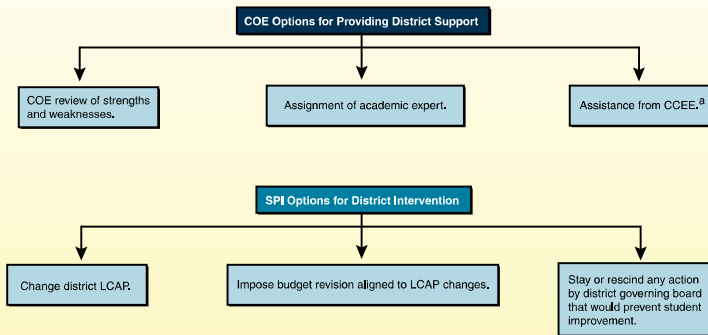
if, based on the support rubric, it does not improve outcomes in more than one state priority area for at least one subgroup.

Three Forms of Support. Under the new system, COEs are responsible for providing school

districts with certain types of support. As Figure 13 shows, COEs can provide three types of support.

- **COE Review of Strengths and Weaknesses.** The COE can deliver assistance by providing a written review of the district's strengths and weaknesses

Figure 13

New System of School District Support and Intervention

^a In addition to a COE assigning CCEE, the SPI at any time may assign CCEE to help any district.

COE = County Office of Education; CCEE = California Collaborative for Educational Excellence; SPI = Superintendent of Public Instruction; and LCAP = Local Control and Accountability Plan.

in the eight state priority areas. The COE review also must identify evidence-based programs that could be used by the school district to meet its annual goals.

Collaborative for Educational Excellence (CCEE), a newly established agency, to provide assistance to the school district. (We discuss the role of the CCEE in more detail in the box on page 18.)

- **Assign an Academic Expert.** The COE can assign an academic expert or team of experts to assist the district in implementing effective programs that are likely to improve outcomes in the eight areas of state priority. The COE also can assign another school district within the county to serve as a partner for the school district in need of assistance.
- **Request Assistance From Newly Established Agency.** The COE can request that the SPI assign the California

Intervention in Persistently Failing School Districts

SPI Can Intervene in Select Cases. For a persistently underperforming school district, the SPI can intervene to assist the district in improving its education outcomes. The SPI can intervene, however, only if all three of the following conditions are met.

- **Persistent Failure for Several Years.** The SPI can intervene if, based on the

New System Works Somewhat Differently for Charter Schools

Chapter 47, Statutes of 2013 (AB 97, Committee on Budget) requires charter schools to adopt Local Control and Accountability Plans (LCAPs), have their performance assessed using rubrics adopted by the State Board of Education (SBE), and receive support from its authorizer or the California Collaborative for Education Excellence (CCEE). The charter school process, however, works somewhat differently from the school district process. We describe the major differences below.

Charter School LCAP Adoption Process Different in Two Ways. Chapter 47 requires the petition for a charter school to include an LCAP that establishes goals for each of the eight state priorities (and any identified local priorities) and specifies the actions the charter school will take to meet these goals. The LCAP must be updated annually by the charter school's governing board. Like school districts, charter schools are required to consult with school employees, parents, and students when developing their annual updates. The LCAP adoption process is different, however, in that charter schools are exempt from the specific requirements to solicit public comment and hold public hearings that apply to school districts. Charter schools also are not required to have their plans approved by the County Office of Education (COE).

Support Required for Persistently Failing Charter Schools. Like school districts, charter schools must have their performance assessed based on the new SBE rubrics. For charter schools, however, this assessment is to be conducted by the charter authorizer rather than the COE. A charter school is required to receive support from its authorizer if, based on the intervention rubric, it does not improve outcomes in three out of four consecutive school years for three or more

intervention rubric, the district does not improve outcomes in three out of four consecutive school years for three or more subgroups in more than one state or local priority area.

- **CCEE Determines Intervention Is Necessary.** The SPI can intervene if the CCEE has provided assistance and determines both that (1) the district has not been able or will not be able to implement CCEE recommendations and (2) the district's performance is so persistently or severely poor that SPI intervention is necessary.
- **SBE Approves Intervention.** The SPI can intervene only with approval of SBE.
- **Provides Three New Powers to SPI.** If the above conditions are met, the SPI can intervene directly or assign an academic trustee to work on his or her behalf. The SPI can intervene in the following three ways.
 - **Change District LCAP.** The SPI can change the district's LCAP to modify the district's annual goals or the specific actions the district will take to achieve its goals.
 - **Impose Budget Revision in Conjunction With LCAP Changes.** The SPI can impose a revision to the district's budget to align the district's spending plan with the changes made to the LCAP. These changes only can be made if the SPI determines they will allow the district to improve

subgroups in more than one state or local priority area—the same standard applied for determining whether the Superintendent of Public Instruction (SPI) intervention is necessary in a school district. (Unlike school districts, a charter school that is determined to be struggling based on the support rubric is not required to receive support.) In addition to the support from the charter authorizer, the SPI may assign the CCEE to provide the charter school with support if the authorizer requests and SBE approves the assistance. (If a charter school requests support but is not underperforming based on the intervention rubric, the charter authorizer and CCEE are not required to provide support.)

Instead of SPI Intervention, Charter Can Be Revoked by Authorizer. The charter authorizer can consider revoking a charter if the CCEE provides a charter school with support and determines that (1) the charter school has not been able or will not be able to implement CCEE recommendations and (2) the charter school's performance is so persistently or severely poor that revocation is necessary. If the authorizer revokes a charter for one of these reasons, the decision is not subject to appeal. Consistent with current law, the authorizer must consider student academic achievement as the most important factor in determining whether to revoke the charter.

The SBE Also Can Revoke Charter or Take Other Actions Based on Poor Academic Performance. The SBE—based upon a recommendation from the SPI—also can revoke a charter or take other appropriate actions if the charter school fails to improve student outcomes across multiple state and local priority areas. (Prior to the adoption of Chapter 47, SBE could take similar action for charter schools only if the schools were (1) engaging in gross financial mismanagement, (2) illegally or improperly using funds, or (3) implementing instructional practices that substantially departed from measurably successful practices and jeopardized the educational development of students.)

outcomes for all student subgroups in one or more of the eight state priorities.

- **Stay or Rescind an Action of the Local Governing Board.** The SPI also can stay or rescind an action of the district governing board if he or she determines the action

would make improving student outcomes in the eight state priority areas, or in any of the district's local priority areas, more difficult. The SPI, however, cannot stay or rescind an action that is required by a local collective bargaining agreement.

MAJOR DECISIONS AHEAD

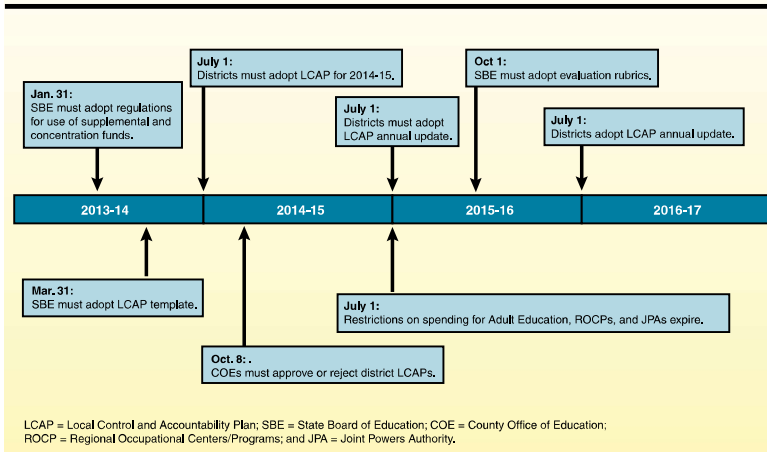
Many important state and district decisions relating to the new formula and the new system of support and intervention will be made over the next several years. Figure 14 identifies the major milestones ahead. Below, we discuss some of these major decisions in more detail.

Many Major Regulations to Be Adopted by SBE. Over the next several years, SBE must adopt numerous regulations relating to the LCFF and the new system of support and intervention. As the timeline shows, by January 31, 2014, SBE must

adopt regulations to implement the proportionality clause relating to LCFF supplemental and concentration funds. Two months later, by March 31, 2014, it must adopt LCAP templates for districts to use in developing their 2014-15 LCAPs. By October 1, 2015, SBE must adopt the three rubrics that will be used to assess school districts' performance. The details of these regulations will significantly affect the manner in which these new provisions are ultimately implemented.

Figure 14

Major Milestones for Implementation of LCFF and LCAPs



CCEE's Larger Role in New System Remains

Unclear. Although Chapter 357 clarifies the governance structure of the CCEE, its larger role within the state's accountability system remains unclear. As we discuss in the nearby box, the CCEE fiscal agent has the authority to contract with individuals and organizations with expertise and

a record of success in the CCEE's assigned areas of responsibility. The legislation, however, does not specify the process the CCEE should take to identify agencies with expertise or how the role of these agencies would differ from the role of other agencies, including District Assistance and Intervention Teams and the Statewide System of

New Agency to Support Struggling Districts

Legislation Establishes California Collaborative for Educational Excellence. Chapter 47, Statutes of 2013 (AB 97, Committee on Budget), creates a new agency, the California Collaborative for Educational Excellence (CCEE), to advise and assist school districts in improving performance. Chapter 357, Statutes of 2013 (SB 97, Committee on Budget), establishes a CCEE governing board consisting of five members: (1) the Superintendent of Public Instruction (SPI), (2) the president of the State Board of Education (SBE), (3) a county superintendent of schools appointed by the Senate Committee on Rules, (4) a teacher appointed by the Speaker of the Assembly, and (5) a school district superintendent appointed by the Governor. The SPI, with approval from the SBE, is required to contract with a local education agency (LEA) or consortium of LEAs to serve as the fiscal agent for the CCEE. The fiscal agent, under the direction of the CCEE board, is to subcontract with individuals, LEAs, and other organizations to provide direct support to districts.

CCEE Charged With Helping Districts Improve Performance. Statute requires the CCEE to serve as a statewide expert to help districts: (1) improve their achievement in the eight state priority areas, (2) enhance the quality of teaching, (3) improve district/school-site leadership, and (4) address the needs of special student populations (such as English learner, low-income, foster youth, and special education students). In particular, the CCEE is intended to help districts achieve the goals set forth in their Local Control and Accountability Plan (LCAPs).

CCEE Can Intervene in Specific Cases. The CCEE is involved in turnaround efforts in three ways:

- A county office of education (COE) can assign the CCEE to provide assistance to school districts that have an LCAP rejected, request assistance, or are determined in need of assistance based on the COE's assessment using the support rubric.
- The SPI can assign the CCEE to provide assistance to any school district that the SPI determines needs help to accomplish the goals set forth in its LCAP.
- The CCEE also is required to play a critical role in determining when the state will intervene in a persistently failing school district. If the SPI, with approval of the SBE, would like to intervene in a persistently failing school district, he or she cannot do so unless the CCEE has provided assistance to the district and determined that intervention is necessary to improve the district's performance.

School Support, that currently provide assistance to low-performing schools and districts.

New Agency's Prominence and Workload Uncertain. Given the many elements of the new system of support and intervention that are yet to be developed and implemented, the CCEE's workload also remains unclear. The CCEE's workload will be driven partly by the number of districts determined in need of support or assistance. The number of districts that will need such support, however, will not be known until the SBE rubrics are adopted and districts are evaluated based on these rubrics. Because under state law most of the CCEE's activities will be driven by specific requests from school districts, COEs, and the SPI, the CCEE's role in the new system also will be determined by the agency's reputation

as a statewide expert in improving educational programs. To the extent that districts, COEs, and the SPI consider the CCEE a key agency for helping to improve school performance, the agency will have a more prominent role advising districts.

Cost of CCEE Also Unclear. Because of the significant uncertainty regarding the level of workload of the CCEE, its associated costs are unknown at this time. The 2013-14 budget provides \$10 million for the CCEE but includes little detail on how and when the funds are to be spent. The annual cost of the CCEE ultimately will depend on the composition of the CCEE; the number of school districts determined to need support or intervention; and the frequency with which school districts, COEs, and the SPI request assistance from the CCEE.

CONCLUSION

The creation of the LCFF addresses many of the flaws of the state's prior K-12 funding system, which was widely believed to be overly complex, inefficient, and outdated. The LCFF, for instance, is much simpler when compared with the dozens of categorical funding formulas that were part of the state's previous funding system. The new system of funding and accountability, including the provisions dealing with the LCAPs, also is intended to reduce some spending requirements while giving districts more guidance in developing fiscal and

academic plans designed to improve performance in their local context. As evident throughout this report, both the LCFF and the new system of support and intervention represent major state policy changes. Moreover, in the coming months and years, the Legislature, SBE, and school districts will face many decisions that ultimately will shape how the formula and new accountability system are implemented, which, in turn, will determine the effectiveness of the legislation.

LAO Publications

This brief was prepared by Edgar Cabral and Carolyn Chu, and reviewed by Jennifer Kuhn. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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Adopted: 3/23/88

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT
Chapter 498, Statutes of 1983
Education Code Section 51225.3
Graduation Requirements

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983, added Section 51225.3 to the Education Code. This section requires that beginning with the 1986/87 school year, no pupil shall receive a high school diploma without completing an additional science course above that which was required prior to enactment of Chapter 498/83. One year of science was required prior to Chapter 498/83 and as a result of Chapter 498/83 two science courses are now required. Chapter 498/83 further specifies that the curriculum include one course each of biological and physical sciences.

II. COMMISSION ON STATE MANDATES DECISION

On November 20, 1986, the Commission on State Mandates determined that Education Code 51225.3 as added by Statutes of 1983, Chapter 498, constitutes a reimbursable state mandate by requiring school districts to provide an additional science course to students prior to their graduation from the twelfth grade.

III. ELIGIBLE CLAIMANTS

All school districts that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.

IV. PERIOD OF REIMBURSEMENT

~~All costs incurred on or after July 28, 1983~~ The graduation requirement provisions of Chapter 498, Statutes of 1983, which amended Education Code section 51225.3 became effective July 28, 1983. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed November 19, 1985; therefore, costs incurred on or after July 1, 1984 are reimbursable. If total costs for a given fiscal year total less than \$201.00, no reimbursement shall be allowed, except as provided for in Revenue and Taxation Code Section 2233, which allows County Superintendents and County fiscal officers to consolidate claims of school districts and special districts that, taken individually are less than \$201.00.

V. REIMBURSABLE COSTS

School Districts will be reimbursed for increased costs incurred in providing the additional science course mandated by Chapter 498/83, such as:

- A. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities.
- B. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.
- C. Increased cost to school district for staffing and supplying the new science classes mandated.

VI. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any savings the claimant experiences as a direct result of this statute must be deducted from costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim.

VII. PROFESSIONAL AND CONSULTANT SERVICES

Claimants shall separately show the name of professionals or consultants, specify the functions which the consultants performed relative to the mandate, length of appointment, and the itemized costs for such services. Invoices must be submitted as supporting documentation with the claim. The maximum reimbursable fee for contracted services is \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the above maximum. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

VIII. ALLOWABLE OVERHEAD COSTS

The overhead cost for all of the above reimbursable costs shall be the Non-Restrictive Indirect Cost Rate from the J-141A.

IX. SUPPORTING DATA FOR CLAIMS

- A. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
- B. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.

- C. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
- a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.

X. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of law have been complied with; and

THAT I am the person authorized by the local agency to file claims with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number

WP 1710A

ITEM 19

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements (04-PGA-30)

EXECUTIVE SUMMARY

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course. The Commission adopted parameters and guidelines for the program on March 23, 1988.¹

This proposed amendment addresses Statutes 2004, chapter 895, section 17 (Assem. Bill No. 2855, effective January 1, 2005), which states the following:

Notwithstanding any other law, for purposes of calculating the amount of the state reimbursement pursuant to Section 6 of Article XIII B of the California Constitution for the state-mandated local program imposed by increasing the science course requirement for graduation from one science course to two science courses (Sec. 94, Ch. 498, Stats. 1983), if the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

Discussion

Non-substantive, technical changes were made to all sections for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the parameters and guidelines:

Section III. Period of Reimbursement

Staff modified this section to include a new reimbursement period beginning January 1, 2005.

¹ The Parameters and Guidelines were amended on August 24, 1988 and January 24, 1991. The August 24, 1988 was a technical amendment and the January 24, 1991 amendment required documentation to demonstrate actual need for capital improvements.

Section IV. Reimbursable Activities

Staff moved former Section IX. Supporting Data for Claims in the preamble to the reimbursable activities section.

Section V. Claim Preparation and Submission

Under Section V.A.3., staff inserted language regarding the maximum reimbursable fee for contracted services from former Section VII. Professional and Consultant Services.

Section VII. Offsetting Savings and Reimbursements

As required by Statutes 2004, chapter 895, section 17 (Assem. Bill No. 2855, effective January 1, 2005), staff clarified that if the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

Staff Recommendation

Staff recommends the Commission adopt the proposed amendments to the parameters and guidelines for the *Graduation Requirements* program, beginning on page 3.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Proposed for amendment: December 9, 2005
Amended: 01/24/91
Amended: 08/24/88
Adopted: 03/23/88
J:/mandates/2004/PGA/2855/04pga30/pgadraft

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements (04-PGA-30)

I. SUMMARY OF THE MANDATE

~~Chapter 498, Statutes of 1983, added Section 51225.3 to the Education Code. This section requires that beginning with the 1986/87 school year, no pupil shall receive a high school diploma without completing an additional science course above that which was required prior to enactment of Chapter 498/83. One year of science was required prior to Chapter 498/83 and as a result of Chapter 498/83 two science courses are now required. Chapter 498/83 further specifies that the curriculum include one course each of biological and physical sciences.~~

II. ~~COMMISSION ON STATE MANDATES DECISION~~

~~On November 20, 1986, the Commission on State Mandates determined that Education Code 51225.3 as added by Statutes of 1983, Chapter 498, constitutes a reimbursable state mandate by requiring school districts to provide an additional science course to students prior to their graduation from the twelfth grade.~~

~~On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.~~

III. ELIGIBLE CLAIMANTS

~~All school districts that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3. Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.~~

IIIV. PERIOD OF REIMBURSEMENT

~~The graduation requirement provisions of Chapter 498, Statutes of 1983, which amended Education Code section 51225.3 became effective July 28, 1983. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed November 19, 1985. Therefore, costs incurred on or after July 1, 1984 are reimbursable. If total costs for a given fiscal year total less than \$201.00, no reimbursement shall be allowed, except as provided for in Revenue and Taxation Code Section 2233, which allows County~~

Superintendents and County fiscal officers to consolidate claims of school districts and special districts that, taken individually are less than \$201.00.

The period of reimbursement for the activities in this parameters and guidelines amendment begins on January 1, 2005.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

1. A school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
2. A school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
3. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE COSTS ACTIVITIES

School Districts will be reimbursed for increased costs incurred in providing the additional science course mandated by Chapter 498/83, such as:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the

reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

For this program, supporting documentation shall also include the following:

- A. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
- B. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.
- C. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.
- D. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.
- E. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

- A1. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
- B2. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.
- C3. Increased cost to school district for staffing and supplying the new science classes mandated.

~~VI.—OFFSETTING SAVINGS AND OTHER REIMBURSEMENT~~

~~Any savings the claimant experiences as a direct result of this statute must be deducted from costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim.~~

~~VII.—PROFESSIONAL AND CONSULTANT SERVICES~~

~~Claimants shall separately show the name of professionals or consultants, specify the functions which the consultants performed relative to the mandate, length of appointment, and the itemized costs for such services. Invoices must be submitted as supporting documentation with the claim. The maximum reimbursable fee for contracted services is \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the above maximum. Reasonable expenses will also be paid as identified on the monthly billings of consultants.~~

~~VIII.—ALLOWABLE OVERHEAD COSTS~~

~~The overhead cost for all of the above reimbursable costs shall be the Non-Restrictive Indirect Cost Rate from the J-141A.~~

~~IX.—SUPPORTING DATA FOR CLAIMS~~

- ~~A.—Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.~~
- ~~B.—Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.~~
- ~~C.—Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - ~~a.—Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.~~
 - ~~b.—Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.~~~~
- ~~D.—Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.~~
- ~~E.—Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.~~

~~X.—REQUIRED CERTIFICATION~~

~~The following certification must accompany the claim:~~

~~I DO HEREBY CERTIFY:~~

~~THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of law have been complied with; and~~

~~THAT I am the person authorized by the local agency to file claims with the State of California.~~

Signature of Authorized Representative _____ Date _____

Title _____ Telephone Number _____

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

ITEM 3
REVISED FINAL STAFF ANALYSIS
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES
AS MODIFIED BY STAFF

Education Code Section 51225.3
Statutes 1983, Chapter 498

Graduation Requirements
CSM 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05

San Diego Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, Sweetwater Union High School District, Mountain View-Los Altos High School District, State Controller's Office, Requestors

Executive Summary

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program in Education Code section 51225.3. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

Background

Education Code section 51225.3 requires students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses. The Commission approved the test claim and adopted parameters and guidelines, with an original period of reimbursement beginning July 1, 1984.

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The first lawsuit, (*San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.), dealt with the reimbursement of teacher salaries and concluded that:

- The Commission's finding in the test claim that school districts are eligible to receive reimbursement for the increased costs to staff the second science course mandated by Education Code section 51225.3, is final and binding on the parties.
- The plain language of the test claim statute mandates school districts to *add* a second science course without requiring school districts to replace or eliminate existing course offerings. Education Code section 51225.3 preserves the school districts' right to specify and offer other courses not required for high school graduation on an equal par with the

courses mandated by the state. In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.

- The authority in Education Code section 44955 to lay off teachers when the state mandates new curriculum rests entirely in the *discretion* of a school district. The court determined that the plain language of Education Code section 44955 does not suggest legislative intent to require a school district to use section 44955 as an offset to avoid the actual increased costs for teacher salaries.
- The Controller may not deny or reduce a claim for teacher salary costs on the ground that the district has not exercised its authority under Education Code section 44955 and/or shown a reduction in non-science classes and teachers corresponding to the addition of the new mandated science class.
- The Controller may not require a showing by the school districts that the claimed teacher salary costs could not have been offset pursuant to Education Code section 44955.
- The State Controller may require a school district to submit cost data and documentation to demonstrate whether it experienced any savings to offset the teachers' salary costs as a "direct result" of providing a second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.

Reimbursement for teacher salaries is also required if no changes in a district's instructional service is shown. The Legislature, in Government Code section 17565, has determined that "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, the district would still be entitled to reimbursement under article XIII B, section 6.

The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed for several cost components, including the reimbursement of teacher salaries.

Requests to Amend the Parameters and Guidelines

The issues raised by these proposals are as follows:

1. What is the period of reimbursement for the proposed amendments to the parameters and guidelines?

Staff finds, pursuant to Government Code section 17557, that the period of reimbursement for the request to amend the parameters and guidelines to add a reasonable reimbursement methodology for teacher salary costs by San Diego Unified School District, first filed on August 13, 1996, begins in fiscal year 1995-1996.

Staff further finds that the period of reimbursement for the requests to amend the parameters and guidelines made by Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District (hereafter “Castro Valley”) in the February 28, 2007 filing begins in the 1995-1996 fiscal year. This recommendation is made on the ground that (1) Castro Valley is a co-requestor to the original 1996 request to amend the parameters and guidelines; (2) Government Code section 17557 and section 1183.2 of the Commission regulations are silent with respect to the treatment of new proposals made in response to original requests to amend parameters and guidelines; (3) the Commission has, on occasion, treated subsequent proposals as comments in the past; and (4) Castro Valley’s filing is labeled “comments,” and not “proposed amendments” like the filing of other requestors.

2. Should the Commission amend the Eligible Claimants section of the parameters and guidelines to specifically identify county offices of education? In initial comments, the Department of Finance objected to this request.

Staff finds that Education Code section 51223.5 applies to all pupils that graduate from high school whether or not the science course is provided by a school district or a county office of education. Staff recommends that the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants.

3. Should the Commission amend the parameters and guidelines to clarify that the activities of “acquisition of additional space” and “remodeling existing space” include “planning, design, land, demolition, building construction, fixtures, and facility rental”? There is no dispute regarding this amendment.

Staff recommends that the Commission amend the parameters and guidelines as requested.

4. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased facility costs for acquiring or remodeling space? The proposal authorizes reimbursement for 50% of the actual total cost of acquisition and remodeling for grades 9-12 science instruction facilities expended during the claim year, reduced by 50% of the total amount of restricted construction funding received. The Department of Finance and the State Controller’s Office object to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

5. Should the Commission amend the parameters and guidelines to clarify that “acquisition” of equipment includes the activities of “planning, purchasing, and placement” of additional equipment and “furniture”? There is no dispute to this request.

Staff recommends that the Commission amend the parameters and guidelines as requested.

6. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased costs for acquiring

equipment and furniture? The proposed formula is similar to the formula proposed for acquiring or remodeling space; 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller's Office object to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

7. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased teacher salary costs incurred as a result of the test claim statute? The proposed formula is the "one quarter class load method." This proposal is made by the school districts and the State Controller's Office. The Department of Finance objects to this proposal, and estimates the cost to the state at \$3 billion for fiscal years 1995-1996 through 2007-2008 and \$250 million thereafter if the Commission adopts the proposed methodology.

Staff recommends that the Commission amend the parameters and guidelines to adopt the proposed one quarter class load method, as modified by staff for the *gross* teacher salary costs incurred. Staff finds the proposal satisfies the definition of a reasonable reimbursement methodology in Government Code section 17518.5. Based on the court's decision in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al., any offsetting savings taken by a school district is at the discretion of the district and may only be used to reduce a claim when the offset is taken as a "direct result" of the *Graduation Requirements* mandate. Thus, offsetting savings must be looked at on a case-by-case basis. Offsetting savings and revenue for teacher salary costs are not included in the proposed formula.

Staff further finds, in response to allegations of the Department of Finance, that:

- The adoption of a reasonable reimbursement methodology is not an unlawful retroactive application of the law.
- The proposed reasonable reimbursement methodology provides reimbursement to school districts in a cost-efficient manner.
- The proposed parameters and guidelines amendment allows the State Controller's Office to determine if a school district experiences offsetting savings in accordance with the court's ruling in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.
- The proposed reasonable reimbursement methodology takes into account dropout rates using CBEDs data to calculate total secondary enrollment.
- Based on the history and purpose of article XIII B, section 6, the revenue limit apportionments made to school districts are the districts' "proceeds of taxes" and cannot be considered offsetting revenue under article XIII B, section 6 of the California Constitution, as argued by the Department of Finance. Article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local

spending in other areas.¹ Thus, staff disagrees with the Department of Finance's argument that the proposed reasonable reimbursement methodology for teacher salary costs should be denied because the methodology does not consider revenue limit apportionment funding to school districts.

8. Should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of "other science instruction personnel," such as lab assistants? The Department of Finance and the State Controller's Office object to this proposal.

Staff recommends that the Commission deny this request because there is no evidence in the record or the law to support the claim that using science instruction personnel other than teachers is reasonable necessary to comply with the mandate to provide the second science course, pursuant to section 1183.1, subdivision (a)(4), of the Commission's regulations.

9. Should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies? There is no dispute with this request.

Staff recommends that the Commission approve this request.

In addition, should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for science instruction materials and supplies? There are two separate proposals made. One proposal provides reimbursement for 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller's Office object to this proposal. The second proposal is made by the State Controller's Office and is similar, but not the same as, the one-quarter class load method. The Department of Finance objects to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

10. Should the Commission amend the offset section of the parameters and guidelines to incorporate language from the court's decision in *San Diego Unified School Dist. v. Commission on State Mandates* (Sacramento County Superior Court, Case No. 03CS01401), and to specifically identify potential offsetting revenue?

Staff recommends that the Commission approve this request.

Proposed Amendments to the Parameters and Guidelines

The proposed amendments have different periods of reimbursement based on the filing dates of the requests, with the first period of reimbursement beginning in fiscal year 1995-1996. Because of the different periods of reimbursement, and the fact that the parameters and guidelines for the *Graduation Requirements* program have been amended twice in the past with different periods of reimbursement (in 1991 and 2005), three separate proposed documents reflecting these amendments would be required as follows.

¹ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284.

Proposed Amendments Beginning in Fiscal Year 1995-1996 (See Pink Attachment)

- A. Amend the Eligible Claimants section to specifically identify county offices of education as eligible claimants.
- B. Add the reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs. Staff proposes the following language:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
 2. The number of additional classes is the enrollment in (1) divided by the average science class size.
 3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
 4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.
- C. Add a section to the parameters and guidelines regarding record retention. School districts must retain documentation supporting the data elements for the one quarter class load method; e.g., enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources.
 - D. Amend the parameters and guidelines to clarify the activity of supplying the new science classes as follows: “Increased cost to school district for staffing and supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).”
 - E. Amend the activity of “acquisition of additional space” and “remodeling existing space” as follows:

Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for conducting new science classes the mandated additional year of science instruction, providing that space is lacking in existing facilities. ...

Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.

- F. Identify the “acquisition of additional equipment” in a separate paragraph from the acquisition of additional space for purposes of clarity. Amend the language to

specify that “acquisition” includes “planning, purchasing, and placement” of additional equipment and “furniture” as follows:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes ... the mandated~~ additional year of science instruction.

G. Amend the Offset section of the parameters and guidelines to add the following offsetting revenue:

- Funding for science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5
- Funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498)
- If a school district has previously filed a reimbursement claim for costs incurred beginning July 1, 1995 for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

Proposed Amendments Beginning in Fiscal Year 2004-2005 (See Blue and Green Attachments)

A. For costs incurred beginning July 1, 2004, amend the Offset section of the parameters and guidelines to add offsetting savings language from the court’s decision in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05, 06-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*

3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.

STAFF ANALYSIS

Chronology

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| 01/22/87 | Commission adopts Statement of Decision |
| 03/23/88 | Commission adopts parameters and guidelines on consent |
| 08/24/88 | Commission adopts non-substantive amendment to parameters and guidelines |
| 07/27/89 | Commission adopts statewide cost estimate |
| 01/24/91 | Commission amends parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements, as directed by Statutes 1990, chapter 459 |
| 01/--/91 | Initial claiming instructions issued by State Controller's Office |
| 08/20/93 | The State Controller's Office issues letters to school districts denying reimbursement claims for teacher salary costs. Forty-one (41) incorrect reduction claims filed regarding the reimbursement of teacher salaries and remodeling and leasing additional space |
| 1996-1997 | Commission hearings and workshops between State Controller's Office and school districts to discuss reimbursement methodologies for teacher salary costs |
| 08/13/96 | San Diego Unified School District files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course |
| 09/23/96 | The Commission continues the request to amend the parameters and guidelines filed by San Diego Unified School District until after incorrect reduction claims are resolved |
| 2000-2002 | Commission issues Statements of Decision denying incorrect reduction claims |
| 09/19/03- 1/09/04 | Six lawsuits challenging the incorrect reduction claims for teacher salary costs, and the costs for remodeling and leasing additional space, filed by San Diego Unified School District, Castro Valley Unified School District, Sweetwater Union High School District, San Jose Unified School District, Clovis Unified School District, and Grossmont Union High School District filed in the Sacramento County Superior Court. Court consolidates cases for purposes of hearing (<i>San Diego Unified School District, et al. v. Commission on State Mandates, et al.</i> , Sacramento County Superior Court, Case No. 03CS01401) |
| 12/27/04 | Sacramento County Superior Court issues Ruling on Submitted Matter in <i>San Diego Unified School District, et al. v. Commission on State Mandates, et al.</i> , Sacramento County Superior Court, Case No.03CS01401. Court affirms Commission's decision on classroom construction and remodeling costs, and overrules Commission's decision on teacher salary costs |
| 2/09/05 | Court enters Judgment and issues Peremptory Writ of Mandate in <i>San Diego Unified School District, et al. v. Commission on State Mandates, et al.</i> (2005), Sacramento County Superior Court, Case No.03CS01401 |

- 05/26/05 Commission sets aside Statements of Decision on the incorrect reduction claims relating to teacher salary costs and directs the State Controller's Office to reevaluate claims for teacher salary costs pursuant to court's order in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No.03CS01401
- 10/13/05 Mountain View- Los Altos High School District files request to amend parameters and guidelines to amend the "Offsetting Savings and Reimbursement" section by adding language directly from the court ruling and judgment for teacher salary costs in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401
- 08/24/05-
09/27/05 Sixteen (16) school districts file lawsuits challenging the incorrect reduction claims on teacher salary costs filed in Sacramento County Superior Court. Court consolidates cases for purposes of hearing (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)
- 12/09/05 Commission amends parameters and guidelines to require school districts to reduce a valid reimbursement claim for a new science facility by the amount of state bond funds received, as directed by Statutes 2004, chapter 895, section 17 (AB 2855)
- 05/24/06 Sacramento County Superior Court enters a judgment pursuant to the parties' stipulation in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.* The stipulation acknowledges that the judgment and writ entered in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* is binding for other reimbursement claims pursuant to principles of collateral estoppel
- 07/28/06 Commission sets aside Statements of Decision on the incorrect reduction claims filed by the 16 school districts in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, pursuant to court order and stipulation
- 07/28/06 &
10/26/06 Commission fully complies with Peremptory Writ of Mandate in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* by determining that the State Controller properly reevaluated the reimbursement claims of the six petitioner school districts, adopting decisions sustaining the Controller's reevaluation of the claims, and remanding the reevaluated claims to the Controller for payment
- 10/13/06 San Diego Unified School District requests that the following school districts be added as requesting parties to amend the parameters and guidelines: Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

02/28/07 San Diego Unified School District files letter requesting that the proposed amendments to the parameters and guidelines be amended to reflect the “One Quarter Class Load Method”

03/02/07 Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District file separate request to amend parameters and guidelines to clarify reimbursement components and add methodologies for claiming reimbursement for “other science personnel,” acquisition and remodeling of additional space, and science instruction materials

03/20/07 State Controller’s Office files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course, and requiring supporting documentation for the amount received by a school district to construct a new facility from restricted resources or state bond funds

03/29/07 Pre-hearing conference held on proposed amendments to the parameters and guidelines

04/16/07 San Diego Unified School District requests that its proposal of February 28, 2007, be withdrawn and replaced with proposed language modifying the request to amend the parameters and guidelines, without prejudice to the effective date of the 1996 request

06/08/07 Administrative record for the incorrect reduction claims and *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401, provided to the Department of Finance

06/08/07 Notice of comment period, informational hearing, and background information issued

06/29/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines

07/11/07 State Controller’s Office files comments

07/13/07 Commission grants Department of Finance’s request for extension of time

07/26/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines

08/03/07 Commission grants Department of Finance’s request for extension of time

09/05/07 Department of Finance files comments

10/10/07 Request for postponement of hearing to January 31, 2008, filed by Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

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| 10/09/07 | Commission approves request for postponement of hearing and issues notice of hearing on all the requests to amend the parameters and guidelines for January 31, 2008 |
| 01/09/08 | Commission issues draft staff analysis and notice of hearing |
| 01/25/08 | Commission issues staff's Draft Proposed Parameters and Guidelines |
| 01/30/08 | Castro Valley Unified School District, et al., file comments on draft staff analysis |
| 01/39/08 | State Controller's Office files comments on draft staff analysis |
| 01/31/08 | Pre-hearing Conference |
| 02/15/08 | Department of Finance files comments on draft staff analysis |
| 03/14/08 | Final Staff Analysis issued |
| 03/26/08 | San Diego Unified School District requests postponement of hearing |
| 03/26/08 | Commission approves request for postponement of hearing on one issue only regarding the application of Education Code section 41372 and 41374 and the revenue limit apportionments made to school districts as potential offsetting revenue for teacher salary costs. The request for postponement was denied for all other issues. |
| 03/28/08 | Commission hearing; entire item continued for further briefing |
| 04/03/08 | Notice of informal conference issued |
| 04/14/08 | Notice of additional comment period and hearing date issued |
| 04/18/08 | Informal conference held |
| 05/29/08 | State Controller's Office files comments on final staff analysis issued on March 14, 2008 |
| 05/30/08 | "Graduation Requirements Mandate Resolution Committee Litigation Group" files comments on final staff analysis |
| 05/30/08 | Castro Valley Unified School District, et al., files comments on final staff analysis |
| 05/30/08 | San Diego Unified School District files comments on final staff analysis |
| 05/30/08 | Department of Finance files comments on final staff analysis |
| 06/25/08 | "Graduation Requirements Mandate Resolution Committee Litigation Group" files rebuttal comments |
| 06/27/08 | Castro Valley Unified School Dist., et al., files rebuttal comments |
| 07/01/08 | Department of Finance files rebuttal comments |
| 08/12/08 | Notice of new hearing schedule issued |
| 09/24/08 | Revised Final Staff Analysis issued for comment |
| 10/07/08 | State Controller's Office files comments on Revised Final Staff Analysis |
| 10/17/08 | Department of Finance files comments on Revised Final Staff Analysis |

Background

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines.

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed. The history of this claim and a summary of the proposals follow.

Statement of Decision and Parameters and Guidelines

On January 22, 1987, the Commission adopted a Statement of Decision approving the *Graduation Requirements* test claim on Education Code section 51225.3, as added by Statutes 1983, chapter 498. The Commission determined that Education Code section 51225.3 constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses. Thus, Education Code section 51225.3, subdivision (a), states the following:

- A. Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.
 - [(1)] ...
 - (C) Two courses in science, including biological and physical sciences.

On March 23, 1988, the Commission adopted the parameters and guidelines on the consent calendar. The following reimbursable activities are in the parameters and guidelines:

1. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
2. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.

3. Increased cost to school district for staffing and supplying the new science classes mandated.

The offset paragraph of the parameters and guidelines states the following:

Any savings the Claimant experiences as a direct result of this statute must be deducted from the cost claimed, e.g., *reductions in non-science classes resulting from increase in required science classes*. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim. (Emphasis added.)

The parameters and guidelines were amended on August 24, 1988, and January 24, 1991. The August 24, 1988 amendment was a technical, non-substantive amendment. The January 24, 1991 amendment was based on a statute requiring the Commission to amend the parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements. Documentation requirements and the following language related to the first reimbursable activity was added: “However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.”

The parameters and guidelines were subsequently amended on December 9, 2005, pursuant to Statutes 2004, chapter 895, section 17 (AB 2855), for costs incurred beginning January 1, 2005 (the effective date of the bill). AB 2855 provided that if a school district or county office of education submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility. This language was included in Section VII, the Offsetting Savings and Reimbursements, of the parameters and guidelines. Other non-substantive and technical changes were also made.

Statewide Cost Estimate

From August 1988 until July 1989, the Commission conducted hearings on the adoption of a statewide cost estimate for the *Graduation Requirements* program.² During the hearings, the Department of Finance reported to the Commission that the cost estimates by Commission staff (\$159,413,000) might be inaccurate based on the failure of the school districts to offset the additional science classes with corresponding staff reductions in non-science classes, and the failure of school districts to account for overall increased enrollment.³ In response to a revised estimate, the Department of Finance proposed a statewide cost estimate in the amount of \$16.8 million based on the assumption that the cost of hiring science teachers would be offset by the reduction of non-science, elective courses and the termination of those teachers, pursuant to Education Code section 44955.⁴ On July 27, 1989, the Commission

² SDUSD-Administrative Record, pages 269-283.

³ SDUSD-AR, p. 125.

⁴ SDUSD-AR, pp. 159-162.

adopted, on consent by the parties, a statewide cost estimate in the amount of \$16.8 million for fiscal years 1984-85 through 1989-90 for all school districts.⁵

Incorrect Reduction Claims - Teacher Salary Costs

On August 20, 1993, the State Controller's Office sent school districts a letter denying reimbursement for all teacher salary costs, which stated in relevant part the following: "The addition of science classes should have resulted in offsetting savings due to a corresponding reduction of non-science classes. Your claims do not indicate a corresponding reduction." The Controller took the position that since the Legislature did not increase the minimum school day and year or the credits required for high school graduation, the districts could shift students from non-mandated classes to science classes, eliminate the non-mandated classes, use the authority under Education Code section 44955⁶ to terminate teachers of the non-mandated classes, and thereby offset the costs of the teachers' salaries for the second science course. Thus, by reorganizing the class offerings and reallocating revenues for teacher salaries, the Controller expected that districts could avoid incurring a net increase in the cost of teacher salaries, except for any differential between the salaries of the teachers hired for the second science course and the salaries of the terminated teachers of non-mandated courses.

Forty-one (41) school districts that did not identify any offsetting savings related to the cost of teacher salaries, filed incorrect reduction claims with the Commission based on the reduction of their costs incurred during fiscal years 1984-85 through 1995-96. After several hearings and workshops between the parties, the incorrect reduction claim of San Diego Unified School District was decided first, on September 28, 2000. The Commission upheld the action of the State Controller's Office. The Commission determined that the State Controller's Office did not incorrectly reduce the claim for teacher salaries since the reductions were performed in accordance with the parameters and guidelines, the claiming instructions, and Education Code section 44955. The Commission further determined that the school district did not include any offsetting savings with respect to teacher salaries or claim salary differentials pursuant to Education Code section 44955, or provide any documentation to support its claim for teacher salaries. The other school districts that filed incorrect reduction claims incorporated by reference the arguments and record of San Diego into their claims for teacher salaries. Adopting the same conclusions and findings as the San Diego incorrect reduction claim, the Commission denied the incorrect reduction claims of the other school districts.

Incorrect Reduction Claims - Science Classroom Construction and Remodeling Costs

In November 1996, Grossmont Union High School District filed its initial reimbursement claim with the State Controller's Office for science classroom construction and remodeling in four of its schools for fiscal years 1994-95 through 1995-96 in the amount of \$337,113. In 1994 and 1996, Clovis filed reimbursement claims with the State Controller's Office for leasing portable science classrooms in the amount of \$72,034 for fiscal years 1994-95 through 1995-96.

⁵ SDUSD-AR, pp. 207 [adopted statewide cost estimate], 281 [minutes of the Commission's July 27, 1989 hearing].

⁶ Education Code section 44955 provides authority to school districts to terminate the services of permanent employees when state law requires the modification of curriculum.

The State Controller's Office reduced these reimbursement claims because each school district did not provide documentation to show that the board certified that an analysis of all appropriate science facilities within the district was conducted and a determination made that the existing facilities could not reasonably accommodate the increased enrollment for the additional science class required by Education Code section 51225.3, as required by the parameters and guidelines and claiming instructions.

The school districts then filed incorrect reduction claims with the Commission. On January 24, 2002, the Commission adopted Statements of Decision denying the incorrect reduction claims for the classroom costs of Grossmont and Clovis, and upheld the action of the State Controller's Office to reduce the claims. The Commission found that there was no evidence in the record, as specifically required by the parameters and guidelines, that the governing board conducted an analysis of the science facilities within the district and made specific findings that no facilities existed to reasonably accommodate the increased enrollment in the science course required by Education Code section 51225.3.

First Lawsuit Filed by School Districts Challenging the Reductions (*San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.)

San Diego Unified School District, San Jose Unified School District, Sweetwater Union High School District, Castro Valley Unified School District, Grossmont Union High School District, and Clovis Unified School District filed lawsuits in the Sacramento County Superior Court challenging the Commission's decisions on the incorrect reduction claims.

The Sacramento County Superior Court upheld the Commission's decisions on the classroom construction and remodeling claims of Grossmont Union High School District and Clovis Unified School District. The court held that these districts did not satisfy the certification requirement of the parameters and guidelines when they submitted their reimbursement claims and, thus, the Controller properly reduced the reimbursement claims.

The court, however, disagreed with the Commission's decisions upholding the Controller's reduction of claims for teacher salary costs on the ground that the school districts did not identify any offsetting savings due to a corresponding reduction of non-science teachers pursuant to Education Code section 44955. Thus, the court granted the petitions for peremptory writ of mandate on that issue and remanded the case to the Commission for rehearing with directions.

The court's holding on the teacher salary issue is stated on page 17 of the decision as follows:

The court concludes that the Controller's offsetting savings requirement and the Commission's IRC decision sustaining the requirement are invalid to the extent that the requirement precludes reimbursement under [article XIII B,] section 6 for the teachers' salaries incurred by SDUSD and other school districts in providing the second science course mandated by Education Code section 51225.3 without offsetting the science teachers' salaries by terminating, pursuant to Education Code section 44955, teachers of courses not mandated by the state.

In reaching its conclusion, the court made the following findings:

1. The court determined that the finding in the Statement of Decision, that school districts are eligible to receive reimbursement for the increased costs to staff the second science course mandated by Education Code section 51225.3, is final and binding on the parties.⁷
2. The court concluded that the plain language of the test claim statute mandates school districts to *add* a second science course without requiring school districts to replace or eliminate existing course offerings. The court found that Education Code section 51225.3 preserves the school districts' right to specify and offer other courses not required for high school graduation on an equal par with the courses mandated by the state. In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.⁸
3. The court agreed that the authority to lay off teachers given to a district by Education Code section 44955 applies when the state modifies curriculum. But the court concluded that the authority given by section 44955 rests entirely in the *discretion* of a school district. The court determined that the plain language of Education Code section 44955 does not suggest legislative intent to require the district to use section 44955 as an offset to avoid the actual increased costs for teacher salaries.⁹
4. When determining the teacher salary issue, the court reviewed the legislative history of Education Code section 44955 and found only an enrolled bill report by the Department of Finance that supported the position that school district claims should have identified offsetting savings. The court held that the opinion of the Department of Finance in the enrolled bill report is not indicative of legislative intent and, thus, the court did not rely on the Department's interpretation.¹⁰

In addition, the court acknowledged the opinion of the Department of Education regarding Education Code section 44955, which was consistent with the position that school district claims should have identified offsetting savings. However, the court held that the Department's interpretation of Education Code section 44955 was not binding on the court, and was contrary to the terms and structure of Education Code sections 44955 and 51225.3.¹¹

5. The court also relied on the Supreme Court case of *San Diego Unified School District v. Commission on State Mandates* (2004) 44 Cal.4th 859, 887-888 [*Expulsions*], where the Supreme Court stated in dicta that the underlying intent of section 6 would be

⁷ Exhibit R, page 13, fn. 3.

⁸ Exhibit R, page 15.

⁹ Exhibit R, pages 15-16.

¹⁰ Exhibit R, page 16, fn. 4.

¹¹ Exhibit R, page 17, fn. 5.

contravened if reimbursement were denied for a local agency's costs of providing state-mandated protective clothing and safety equipment for its employees on the ground that the local agency had initial discretion to reduce its employees and thereby avoid incurring increased costs for the mandated clothing and equipment.¹²

The court remanded the case for further review by the State Controller's Office of the school districts' reimbursement claims for teacher salaries. The court held that its conclusion

...does not prevent the Controller, when auditing school district' reimbursement claims ...from requiring claimants to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. Such a documentation requirement has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9). Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do not increase the number of classes that they take overall. Thus, the Controller can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.

However, the court's conclusion regarding the invalidity of the Controller's offset savings requirement does prevent the Controller from denying school districts' claims for reimbursement of science teacher salaries on the ground that the claimants have not shown a reduction in non-science classes and teachers corresponding to the addition of science classes and teachers to comply with the mandate in subdivision (a)(1)(C) of Education Code section 51225.2. As explained in this ruling, this ground for denying reimbursement of science teachers' salaries is premised on an erroneous interpretation of Education Code sections 44955 and 51225.3 that would require school districts to divert their limited revenues from courses specified by the districts' boards pursuant to subdivision (a)(2), in violation of section 6.¹³

The Peremptory Writ of Mandate directed the Commission to set aside the Statements of Decision on the issue of teacher salary costs, directed the State Controller's Office to reevaluate the claims in accordance with the court's ruling, and then required the Commission to review the Controller's reevaluations and determine if the reevaluations were proper. When reevaluating the claims, the court provided the following instructions:

- The Controller may not deny or reduce a claim for teacher salary costs on the ground that the district has not exercised its authority under Education Code section 44955 and/or shown a reduction in non-science classes and teachers corresponding to the addition of the new mandated science class.

¹² Exhibit R, page 17.

¹³ Exhibit R, page 18.

- The Controller may not require a showing by the school districts that the claimed teacher salary costs could not have been offset pursuant to Education Code section 44955.

On July 28, 2006, and October 26, 2006, the Commission fully complied with the Peremptory Writ of Mandate by (1) determining that the State Controller properly reevaluated the reimbursement claims of each petitioner school district; (2) adopting decisions sustaining the Controller's reevaluation of the claims filed by each petitioner school district; and (3) remanding the reevaluated claims to the Controller for payment. The lawsuit in *San Diego Unified School District* resulted in reimbursement to the six school districts for teacher salary costs in the amount of \$32,627,355.

Second Lawsuit Filed by Sixteen School Districts Challenging the Reduction for Teacher Salaries (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)

After the ruling in the *San Diego Unified School District* case, sixteen other school districts challenged the Commission's decisions on the *Graduation Requirements* incorrect reduction claims with respect to reimbursement for teacher salaries. These lawsuits involved reimbursement claims for teacher salary costs for fiscal years 1984-85 through 1991-92 in the amount of \$26,378,028.

To avoid further litigation, the parties stipulated that the court's judgment and peremptory writ of mandate for the *San Diego Unified School District* case was binding in these actions under collateral estoppel principles since the second lawsuit involved the same issues previously litigated; reimbursement for teacher salary costs to implement the *Graduation Requirements* mandate. On May 24, 2006, a judgment pursuant to the stipulation was entered by the court. The stipulation required the Commission to set aside its decisions on the incorrect reduction claims, and required the State Controller's Office to reevaluate the school districts' reimbursement claims in accordance with the Court's judgment and writ in *San Diego Unified School District*. The Commission was not required to hear and determine whether the Controller's reevaluations were correct, unless the school districts and the Controller did not agree on the reevaluation. The Commission set aside the Statements of Decision on the incorrect reduction claims on July 28, 2006. No further action was filed with the Commission on these incorrect reduction claims.

One Incorrect Reduction Claim is Still Pending

Six other incorrect reduction claims were filed with the Commission. Five of these claims were dismissed by the Commission in January 2008 because the school districts were paid in full. One incorrect reduction claim remains pending, which raises issues relating to teacher salary costs, material and supply costs, and science room construction costs.

Requests to Amend the Parameters and Guidelines

San Diego Unified School District – Filed August 13, 1996 (CSM 4181 A)
Proposed language modified April 12, 2007

This proposal requests that the parameters and guidelines be amended to include a standardized method (the "One Quarter Class Load Method") for calculating the increased costs to school districts for staffing and supplying the science course. San Diego, in its letter dated

April 12, 2007, describes the “One Quarter Class Load Method” for reimbursement of teacher salaries as follows:

This method is based on [the] number of teachers needed to teach the additional year of science assuming a student would take the class in one of the four years of high school. Total secondary enrollment is multiplied by one quarter, and then the remainder is divided by the number of classes taught by a full-time equivalent teacher [5 classes]. The increase in teachers is then multiplied by an average salary and benefit amount to determine total costs. The total costs are then discounted by the portion of total teachers that are funded by restricted funds (categorical programs) to arrive at the net costs.

San Diego proposes the following formula for the reimbursement of teacher salary costs:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

San Diego states that a similar formula can be used for supply costs.

This request was continued by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006.

In comments dated May 30, 2008, San Diego Unified School District contends that the revenue limit apportionments made to school districts and the limitations on those funds in Education Code sections 41372 and 41373 must not be considered offsetting revenue for teacher salary costs. San Diego argues that revenue limit apportionments are intended to provide unrestricted general purpose funding to school districts for basic operations and are not intended to reimburse the expenses of any one specific program or activity.

This proposal seeks to amend the “Offsetting Savings and Reimbursement” section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

The State Controller, when auditing school district’s reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers’ salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District - Filed February 28, 2007 (06-PGA-05)

These districts join in the San Diego Unified School District request to add the “one quarter class load method” for reimbursement of teacher salary costs. The districts, however, propose two changes to San Diego’s formula for claiming teacher salary costs: (1) change the default average science class size to 35 students (instead of 30 students proposed by San Diego), and (2) add the following underlined language to the last step in the formula:

- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with total~~ amount of any restricted or specific purpose funding or reimbursement received or used for ~~this purpose~~ grade 9-12 science instructors during the claim year from sources which do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

On February 28, 2007, these districts proposed new amendments to the parameters and guidelines. As co-claimants to San Diego’s original request to amend the parameters and guidelines, these districts contend that the following proposed amendments are reimbursable beginning July 1, 1995:

1. Amend Section III, Eligible Claimants, to include county offices of education. The districts propose the addition of the following underlined language: “All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.”

2. Amend Section IV, Reimbursable Activities, as follows:

a. Increased Facility Costs –

- Clarify that the activities of “acquisition of additional space” and “remodeling existing facilities” includes “planning, design, land, demolition, building construction, fixtures, and facility rental.”
- Add the following methodology for claiming increased facility costs for acquiring or remodeling space: “In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.”¹⁴

b. Increased Equipment Costs

- Clarify that “acquisition of additional equipment” includes “planning, purchasing, and placement of additional equipment and furniture.”
- Add a standardized method of claiming increased equipment costs, similar to the method proposed for increased facility costs.

c. Add language reimbursing “other science instruction personnel,” such as lab assistants. The districts propose the following formula for claiming costs:

In the absence of more precise cost accounting documentation, the calculation of the increased cost of “other (non-classroom teacher) science instruction personnel (e.g., laboratory assistants) for grades 9-12 for each fiscal year, will be calculated according to the following formula:

- 1) The number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by dividing the number of full-time equivalents (five hours of class per day) of “other science instruction personnel” for grades 9-12 for the claim year by the number two (2).
- 2) This increased costs of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased other science instruction personnel” by the average

¹⁴ Castro Valley also requests that the Commission move the documentation requirement for acquisition of space to Section IX, Supporting Data for Claims. The Commission made that change when it amended the parameters and guidelines in 2005.

annual salary and benefit cost for the school district for “other science instruction personnel” for grades 9-12 for the claim year.

- 3) The increased cost of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by one-half of the total amount of any grade 9-12 restricted or specific purpose funding or reimbursement received or used for “other science instruction personnel” during the claim year from sources which do not require repayment by the school district.
- d. Science Instruction Materials – Add a standardized method for claiming costs for science instruction materials as follows:

Increased cost to school district for staffing and supplying the new science classes mandated.

In the absence of more precise cost accounting documentation, the calculated cost of ‘increased science instruction materials (textbooks, materials and supplies)’ shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated cost of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.
3. Amend the section on “Offsetting Savings and Reimbursements” to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.
4. Replace the language setting the maximum reimbursable fee for contracted services with current boilerplate language for claim preparation and submission.

In comments dated May 30, 2008, and June 27, 2008, Castro Valley, et al., argues that funds appropriated pursuant to the revenue limit apportionments are not specifically intended to fund the cost of teacher salaries for the additional mandated science course. Thus revenue limit funds cannot be considered offsetting revenue. Castro Valley, et al., filed other comments on the draft and final staff analyses. These comments are summarized in the analysis below.

State Controller’s Office – Filed March 20, 2007 (06-PGA-04)

The State Controller’s Office agrees with the use of the “one quarter class load” method for teacher salary costs. The State Controller’s Office, however, proposes three modifications to the proposal of San Diego Unified School District: (1) the Controller’s proposal uses the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) the Controller’s proposal requires school districts to submit supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources; and (3) the Controller’s proposal does not add the indirect cost calculation in the last step *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries

by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs.

The State Controller's Office also proposes the following formula for the increased material and supply costs:

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the "one quarter class load method"].
3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes' material and supply costs funded by restricted resources.

The Controller's Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.
- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Controller further requests language in the parameters and guidelines requiring supporting documentation to back up the formulas for materials and supplies as follows: "Supporting documentation shall be required to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources."

State Agency Comments

Department of Finance

On August 31, 2007, May 30, 2008, July 1, 2008, and October 17, 2008, the Department of Finance filed comments opposing many of the requests to amend the parameters and guidelines. Finance argues the following:

1. Eligible Claimants. Finance is opposed to amending the Eligible Claimant section of the parameters and guidelines to include county offices of education. Finance states the following: "Alternative programs that are administered by COEs are intended to provide

temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.”

2. One Quarter Class Load method for calculating teacher salary costs. Finance opposes the reimbursement methodology and states the following:
 - The current definition of a reasonable reimbursement methodology enacted as part of Assembly Bill 1222 should not be applied to any parameters and guidelines amendment requests filed prior to the statutory change to the definition.
 - If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”
 - “It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”
 - The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
 - Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
 - The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. Education Code section 41372 requires that high school districts expend 50% of their current expenses of education for the payment of salaries of classroom teachers. Revenue limit apportionments consist of approximately 60% state aid, “well in excess of the fifty percent the districts must spend on teacher salaries.” While current law does not specifically earmark revenue limit apportionments for the additional course in science or any other course required for graduation, it does not preclude the funds from being used for that purpose. This funding should be identified as an offset.

- If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:
 - (a) Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data.
 - (b) Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.
- 3. Reimbursement for science instruction personnel other than teachers (lab assistants). Finance opposes this request for reimbursement. Finance states that the “use of other personnel such as laboratory assistants or instructional aides is discretionary on the part of the school district and, therefore, is not a state-reimbursable mandated activity.
- 4. Reimbursement methodology for facility, equipment, and instructional material costs. Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. Finance further states that funds appropriated in the Budget Act should be specifically identified as an offset. Specifically, Finance states that the 2007 Budget Act contains Proposition 98 funding for instructional materials for core classes, such as science:

The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.
- 5. Clarifying the activities of acquisition of additional space and remodeling existing facilities to include “planning, design, land, demolition, building construction, fixtures, and facility rental.” Finance does not dispute this request and states that “[i]t is our understanding that these items are already considered reimbursable activities by the State Controller’s Office.”¹⁵

¹⁵ Finance also states that it opposes Castro Valley’s proposed amendment to delete the “Professional and Consultant Services” paragraph from the 1991 version of the parameters and guidelines. Finance argues that “[w]ithout this language contracted services could be charged at any rate.”

Castro Valley requests that the paragraph regarding “Professional and Consultant Services” be replaced with current boilerplate language. The Commission made that change when it amended the parameters and guidelines in 2005. With the 2005 amendment, “Professional and Consultant Services” is in Section V, Claim Preparation and Submission, and still sets the maximum reimbursable fee for contracted services at \$65 per hour, adjusted annually by the GNP Deflator.

State Controller's Office

On July 11, 2007, May 29, 2008, and October 7, 2008, the State Controller's Office filed comments on the school districts' proposals to amend the parameters and guidelines as follows:

1. Proposal of San Diego Unified School District. The State Controller's Office recommends that the Commission adopt the "one quarter class load method" for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the reimbursement period of San Diego's request. The Controller's Office argues that San Diego substantially modified their methodology in 2007 to conform to the method first proposed by the Controller's Office. The Controller's Office further states that amending the parameters and guidelines back to fiscal year 1995-1996 "could significantly impact State finances."
2. Proposal of Castro Valley Unified School District, et al. The Controller's Office states the following:
 - The proposal for reimbursing teacher salary costs "adds the indirect cost calculation before offsetting revenue is applied," which is "potentially confusing in that indirect costs are part of the calculation and part of a separate section in the Ps & Gs."
 - There may not be a mandate for reimbursement for "other science instruction personnel." Also, the method proposed for reimbursing these employees is arbitrary.
 - The method proposed for reimbursing materials, supplies, and facilities (50% of the total costs reduced by 50% of total related revenues), is arbitrary.

Position of Other Interested Parties

On May 30, 2008, and June 25, 2008, the Commission received comments from the "Graduation Requirements Mandate Resolution Committee Litigation Group" regarding the treatment of school district revenue limit apportionments expended on teacher salaries under Education Code section 41372 and 41374 as potential offsetting revenue to the teacher salary costs. The Litigation Group is composed of the following eight school districts: San Jose Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Norwalk-La Mirada Unified School District, Poway Unified School District, and Sweetwater Union High School District. Although some of these districts request specific amendments to the *Graduation Requirements* parameters and guidelines, they are also being represented as part of the Litigation Group by Kronick, Moskovitz, Tiedemann, and Girard, a Law Corporation on this item.

The Litigation Group argues that the revenue limit apportionment provided to school districts is prohibited by article XIII B, section 6 of the California Constitution from being considered offsetting revenue for purposes of mandate reimbursement.

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STAFF ANALYSIS

The proposals are analyzed in the order the issue is presented in the parameters and guidelines.

Issue 1: What is the period of reimbursement for the proposed amendments to the parameters and guidelines?

Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

The parties have raised two issues with respect to the period of reimbursement.

Period of Reimbursement for the San Diego Unified School District's Request

The original period of reimbursement for the *Graduation Requirements* program began July 1, 1984. On August 13, 1996, San Diego Unified School District first requested that the parameters and guidelines be amended to include a reimbursement methodology for teacher salary costs using the one-quarter class load method. San Diego modified the proposed methodology on April 12, 2007. The State Controller's Office recommends that the Commission adopt the one quarter class load method for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the period of reimbursement of the original 1996 filing based on Government Code section 17557.

The Controller's Office contends that San Diego substantially modified its 1996 proposed methodology on April 12, 2007, to conform to the method proposed by the Controller's Office on March 20, 2007, when it filed a request to amend the parameters and guidelines after the Commission hearings on remand of the case, *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al. (hereafter "*San Diego case*.") The Controller's Office explains that the 1996 proposal used the quarter load method to determine teacher salary costs, and also included a class size differential to determine offsetting savings. Once total costs were determined using the quarter load method, the average science class size was compared to the average class size. If the average science class size was smaller than the average class size, then the incremental difference between the two ratios was applied to determine the allowable portion for reimbursement. For example, a decrease in science class size of 6% relative to average class size resulted in only 6% of the increased costs which is reimbursable. If the average class size was greater or equal to the average class size, there was no increased cost.

The 1996 request to amend the parameters and guidelines was continued by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved in the *San Diego case*. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006. The administrative record for these requests to amend the parameters and guidelines closed in September 2007.

On March 20, 2007, the Controller's Office filed a request to amend the parameters and guidelines to include the quarter load method for claiming teacher salary costs, but deleted the class size differential as an offset, and added potential offsetting revenue for the percentage of science teachers funded by restricted resources. The Controller acknowledges that assuming a school district experienced an offset using a class size differential is not consistent with the court's judgment in the *San Diego case*. The Controller correctly states that "[a]ny consideration

of offsetting savings based on the impact of the additional year of science on non-science classes must show a direct relationship between the reduction in non-science classes and the increase in the mandated science class.” Page 2, paragraph 1 (lines 5-13) of the court’s Judgment in the *San Diego* case prohibits the Controller from reducing a claim on the ground that the school district *could* have offsetting savings. The court states the following:

Respondents [The State Controller’s Office and the Commission] *may not deny* reimbursement of costs for teachers’ salaries incurred by a school district providing a second science course pursuant to [the test claim statute] ... *on the ground that the school district could have offset these costs by using its authority* under subdivision (b) of Education Code section 44955 to terminate teachers of other courses provided by the district, in particular courses provided pursuant to subdivision (a)(2) of Education Code section 51225.3 [the courses required by the school district for graduation]. Emphasis added.¹⁶

Rather, the Court’s writ states that

The State Controller may require the petitioner to submit cost data and documentation to demonstrate *whether it experienced any savings to offset the teachers’ salary costs as a direct result of providing a second science course pursuant to subdivision (a)(1) of Education Code section 51225.3 ...*¹⁷

On April 12, 2007, San Diego changed the proposed reasonable reimbursement methodology for teacher salary costs by deleting the class size differential and adding potential offsetting revenue for teacher salaries paid with restricted funds, consistent with the Controller’s proposal. The quarter load method to determine the gross amount of teacher salary costs incurred as a result of the test claim statute remains the same as the 1996 proposal; i.e., dividing the total number of pupils in grades 9-12 by the number four, which represents one additional year of instruction.

Although San Diego modified its original proposal, staff finds that if the Commission amends the parameters and guidelines by adopting the one-quarter class load method for teacher salary costs, the reimbursement period would begin for costs incurred in fiscal year 1995-1996. This conclusion is based on the requirements of Government Code section 17557, subdivision (d), the Commission’s regulations that existed when San Diego filed the request to amend the parameters and guidelines (Cal. Code Regs., tit. 2, former § 1185.3 (Register 87, No. 49)), case law interpreting the filing date of amended pleadings, and on the past practices of the Commission when handling requests to amend parameters and guidelines.

At the time San Diego filed its request to amend the parameters and guidelines in 1996, the Commission had the authority to include an allocation formula or uniform allowance in the parameters and guidelines. (Gov. Code, § 17557, subd. (b); Stats. 1995, ch. 945.) In addition, former section 1185.3 of the Commission’s regulations stated that “a parameters and guidelines amendment filed after the initial claiming deadline must be submitted on or before November 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. Today, Government Code section 17557, subdivision (d), similarly states that “[a] parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims,

¹⁶ Exhibit R.

¹⁷ Exhibit R.

as specified in the claiming instructions pursuant to Section 17561, and on or before the claiming deadline following a fiscal year, *shall establish* reimbursement eligibility for that fiscal year.” (Emphasis added.) Although the Commission has the authority to adopt amendments to the parameters and guidelines, once an amendment is adopted, the period of reimbursement is established by law in former section 1185.3 of the Commission’s regulations and Government Code section 17557. The Commission does not have discretion with respect to the period of reimbursement.

Government Code section 17557 and section 1183.2 of the Commission’s regulations allow a party to request a parameters and guidelines amendment, establish a period of reimbursement for the request, and allow parties and interested parties an opportunity to file comments on the request. These provisions of law, however, are silent with respect to the effect of a subsequent amendment to an original request to amend parameters and guidelines.

Generally, the law allows a party to amend their pleadings.¹⁸ If the subsequent amendment relies on the same set of facts as the original pleading, the subsequent amendment will be deemed filed as of the date of the original amendment.¹⁹ The purpose of the law allowing amendments is to permit correction of errors and omissions, to clarify ambiguities, or to explain mistaken statements made in the original pleadings.²⁰ The courts have also allowed amendments to relate back to the filing date of the original claim when the amendment does not change the obligation sought to be enforced, but merely changes the form of remedy sought.²¹

In this case, the 2007 amended proposal is based on the same set of facts as the original pleading since both proposals use the quarter load method for claiming gross teacher salary costs. The 2007 proposal clarifies and corrects any errors in potential offsetting costs that were addressed by the court in the *San Diego* case. Thus, staff disagrees with the Controller’s Office that the 2007 proposal is “entirely different.”

Moreover, as more fully described in the next issue below, the Commission has treated subsequent proposals to an original request to amend parameters and guidelines as comments and based the period of reimbursement on the filing date of the original request to amend the parameters and guidelines.

Therefore, if the Commission adopts the one-quarter class load method of claiming costs for teacher salaries, the period of reimbursement is established by law, and begins in fiscal year 1995-1996.

Period of Reimbursement for Castro Valley’s Request

On October 13, 2006, San Diego Unified School District requested that Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District (hereafter “Castro Valley”) be joined as co-requestors to San

¹⁸ Code of Civil Procedure sections 472 and 473.

¹⁹ *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

²⁰ California Jurisprudence 3d, Volume 43, Limitation of Actions, section 145.

²¹ *Ibid.*

Diego's request to amend the parameters and guidelines to add the "one quarter class load method" for reimbursing teacher salary costs.

On February 28, 2007, Castro Valley filed a separate document requesting that the Commission further amend the parameters and guidelines in other respects as follows:

- Amend the "Eligible Claimant" section to include county offices of education.
- Clarify the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies.
- Add language reimbursing "other science instruction personnel."
- Establish reasonable reimbursement methodologies for these activities. (See Exhibit H.)

When the February 28, 2007 document was filed with the Commission, it was treated by Commission staff as a new request to amend the parameters and guidelines, and given a separate file number, based on the fact that the proposals of Castro Valley were new and did not involve the reimbursement of teacher salaries.

Throughout these proceedings, however, Castro Valley has contended that its February 28, 2007 filing is not a separate request to amend the parameters and guidelines, but simply comments filed in response to a request for comments on the 1996 San Diego request to amend and the 2005 Mountain View-Los Altos request to amend the parameters and guidelines. Castro Valley argues that the period of reimbursement for the requested amendments identified in its February 28, 2007 letter should go back to the period of reimbursement of San Diego's request that begins in fiscal year 1995-1996.

Thus, the issue is whether Castro Valley's proposed amendments, first requested in 2007, relate back to the original period of reimbursement of San Diego's request (a request joined by Castro Valley), or establishes a new period of reimbursement based on the 2007 filing.

As indicated above, Government Code section 17557 and section 1183.2 of the Commission's regulations are silent with respect to the effect of a subsequent amendment to an original request to amend parameters and guidelines. In the staff analysis issued for the March 2008 Commission hearing, staff interpreted Government Code section 17557 based on general principles of civil procedure; that if the proposed amendment does not rely on the same set of facts as the original pleading, the amendment will be deemed filed as of the date of the subsequent amendment.²²

Staff concluded Castro Valley's February 28, 2007 filing was deemed filed on February 28, 2007, and did not relate back to the August 1996 original request to amend, thus establishing a period of reimbursement beginning in 2006-2007.²³

²² *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

²³ This finding did not apply to Castro Valley's request to clarify that county offices of education are eligible claimants since that issue raised a question of law regarding what the Legislature originally intended to mandate when it amended the test claim statute. The finding stated the following:

The legal interpretation of a statute by a court, even when the statute is interpreted after the effective and operative date of the statute, is retroactive to the date the statute

On May 30, 2008, Castro Valley filed further comments contending that the Commission's past practice has been to accept subsequent filings as comments and approve parameters and guidelines amendments on issues beyond the scope of the original request to amend, making the subsequent proposals applicable to the period of reimbursement of the original request. Castro Valley is correct in these statements. However, the interpretation of subsequent proposals in past practice has not been consistent. Staff recommends, therefore, that the Commission amend its regulations to clearly define these issues.

For purposes of this case, however, staff recommends that the Commission find that Castro Valley's filing of February 28, 2007, be considered comments to the original request, with a period of reimbursement beginning in fiscal year 1995-1996. This recommendation is made on the ground that (1) Castro Valley is a co-requestor to the original 1996 request to amend the parameters and guidelines; (2) Government Code section 17557 and section 1183.2 of the Commission regulations are silent with respect to the treatment of new proposals made in response to original requests to amend parameters and guidelines; (3) the Commission has, on occasion, treated subsequent proposals as comments; and (4) Castro Valley's filing is labeled "comments," and not "proposed amendments" like the filing of Mountain View-Los Altos High School District (Exhibit E), with the following language contained in the document:

On January 31, 2007, the Commission distributed copies of requests by the two above referenced districts to amend the parameters and guidelines for Graduation

became operative. (*Donaldson v. Superior Court* (1983) 35 Cal.3d 24, 36-37. Unlike the court, however, the Commission is a quasi-judicial agency with limited jurisdiction. The Commission does not have the jurisdiction to clarify the interpretation of a test claim statute and make that interpretation retroactive to the original period of reimbursement after the Statement of Decision becomes final. Once a Statement of Decision is issued, it becomes final unless a party seeks reconsideration within a limited period of time, or challenges the decision in court. The Commission does, however, have jurisdiction to amend the parameters and guidelines under such circumstances when requested by a party pursuant to Government Code section 17557, subdivision (d). The period of reimbursement for any changes to the parameters and guidelines adopted by the Commission based on its legal interpretation of the test claim statute is established by Government Code section 17557, subdivision (d), and is based on the filing date of the request to amend the parameters and guidelines.

As indicated above, San Diego filed the initial request to amend the parameters and guidelines in August 1996 to add a method for reimbursing teacher salary costs and Castro Valley is a co-requestor to that proposed amendment. The request has a potential period of reimbursement beginning in fiscal year 1995-1996. If the Commission finds that county offices of education are mandated by the state to comply with the test claim statute and are eligible claimants, county offices of education would be eligible to receive reimbursement for teacher salary costs. Since the courts have allowed amendments that clarify a pleading to relate back to the filing of the original request, staff finds that the potential period of reimbursement for the request to amend the eligible claimant section of the parameters and guidelines goes back to fiscal year 1995-1996.

Requirements and invited comment. This letter transmit the response of the following six districts which I represent ...”

On August 13, 1996, the San Diego Unified School District submitted a request to amend the parameters and guidelines for Graduation Requirements. The language proposed here by the six districts is intended to modify the language proposed in 1996 by San Diego. To avoid confusion, the proposed language modifies the last amended parameters and guidelines dated January 24, 1991, rather than attempt to simultaneously amend both the 1996 San Diego proposed language and 1991 language. With the permission of San Diego, the six districts would in essence modify the 1996 proposed language by substituting the language proposed here without prejudice to the effective date of the 1996 request by San Diego.

Accordingly, if the Commission approves any of Castro Valley’s requests to amend the parameters and guidelines, those amendments would be effective on July 1, 1995. As more fully described in the analysis, staff recommends that the Commission approve only the first two requests of Castro Valley by amending the “Eligible Claimant” section to include county offices of education, and clarifying the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies. The parties do not dispute the second request to clarify the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies.

Issue 2: Should the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants?

Castro Valley requests that Section III, Eligible Claimants, be amended to include county offices of education. The districts propose the addition of the following underlined language: “All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.”

The Department of Finance opposes this request and states the following:

Alternative programs that are administered by COEs are intended to provide temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.

Staff recommends that the Commission amend Section III to specifically include county offices of education as eligible claimants.

The plain language of the test claim statute, Education Code section 51225.3, applies to all pupils receiving a diploma of graduation in high school. That section states in relevant part the following:

- (a) Commencing with the 1988-89 school year, *no pupil shall receive a diploma of graduation from high school* who, while in grades 9 to 12, has not completed all of the following:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[¶] ...

(C) Two courses in science, including biological and physical sciences.
(Emphasis added.)

Section 51223.5 is included in the chapter of the Education Code that prescribes the course of study for all of grades 7 through 12, and does not distinguish between courses of study provided by school districts and county offices of education.²⁴

County offices of education do provide alternative programs for students attending county community schools, as contended by the Department of Finance.²⁵ Pupils enrolled in county community schools, which are administered by the county superintendent of schools, include pupils that are expelled from a school district, pupils referred as a condition of probation, and homeless children.²⁶ The county superintendent of schools is the executive officer of the county office of education.²⁷ County community schools receive revenue from the State School Fund based on the average daily attendance of pupils.²⁸

In some cases, the education provided by the county is temporary; i.e., when an expelled pupil is readmitted to his or her district of residence.²⁹ However, the county superintendent of schools providing educational services to homeless children “shall be deemed to be the district of residence of those children.”³⁰ Furthermore, “[t]he course of study of a county community school shall be adopted by the county board of education and *shall* enable each pupil to continue academic work leading to the *completion of a regular high school program.*” (Emphasis added.)³¹

Thus, there is nothing in the plain language of the test claim statute, or the statutes governing county offices of education that suggests county offices of education are not required to provide the high school science course required by Education Code section 51223.5 when the county is the school district. Moreover, Government Code section 17518 defines a school district eligible to claim reimbursement under article XIII B, section 6 to include the county superintendent of schools.

Finally, when the Legislature enacted Statutes 2004, chapter 895 (AB 2855) to direct the Commission to amend the parameters and guidelines for this program to identify amounts received from state bond funds to construct new science facilities as an offset, the Legislature specifically referred to funds received “by the school district or county office.” Section 17 of AB 2855 states the following:

²⁴ Education Code, division 4, part 28, chapter 2, article, 3, sections 51220, et seq.

²⁵ Education Code section 1983.

²⁶ Education Code sections 1981, 1982, subdivision (a).

²⁷ Education Code section 1010.

²⁸ Education Code section 1982, subdivision (a).

²⁹ Education Code sections 48915.1, 48915.2, 48916.

³⁰ Education Code section 1982, subdivision (c).

³¹ Education Code section 1983, subdivision (d).

Notwithstanding any other law, for purposes of calculating the amount of the state reimbursement pursuant to Section 6 of Article XIII B of the California Constitution for the state-mandated local program imposed by increasing the science course requirement for graduation from one science course to two science courses (Sec. 94, Ch. 498, Stats. 1983), if the school district or *county office* submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or *county office* to construct the new science facility. (Emphasis added.)

The courts have held that subsequent expressions of intent by the Legislature of an earlier act, while not binding, may be considered along with other factors to determine the legislative intent of the earlier-enacted statute.³² Thus, AB 2855 may be properly considered by the Commission, together with other factors described in the analysis above, to determine that the Legislature intended Education Code section 51223.5 to apply to county offices of education.

Staff finds that Education Code section 51223.5 applies to all pupils that graduate from high school whether or not the science course is provided by a school district or a county office of education. Staff recommends that the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants. Pursuant to Government Code section 17557, subdivision (d), and the analysis regarding amendment of pleadings in Issue 1, this proposed amendment is for costs incurred beginning in fiscal year 1995-1996.

Issue 3: Should the Commission amend the parameters and guidelines to clarify that the activities of “acquisition of additional space” and “remodeling existing space” includes “planning, design, land, demolition, building construction, fixtures, and facility rental”?

Castro Valley requests that the Commission add the following underlined language to the activities of “acquisition of additional space” and “remodeling existing space” as a result of the requirement to provide the second year of science:

Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for ~~conducting new science classes~~ the mandated additional year of science instruction, providing that space is lacking in existing facilities. ...

Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction ~~to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets~~ essential to maintaining a level of instruction sufficient to meet college admission requirements.

The parameters and guidelines provide that the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in

³² *Fong Eu v. Chacon* (1976) 16 Cal.3d 465, 470.

high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed the activities of planning, design, demolition, building construction, fixtures, and facility rental were reimbursable activities.

Staff finds that the proposed activities of planning, design, land, demolition, building construction, fixtures, and facility rental are activities that are necessary to carry out the mandated program.³³ In addition, amending the parameters and guidelines to include facility rental is consistent with prior Commission decisions on incorrect reduction claims for this program. In an incorrect reduction claim filed by Clovis Unified School District (CSM 4435-I-06/38), the Commission determined that acquisition of additional space includes leasing portable classrooms.³⁴

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 1995-1996, to include the underlined language proposed by Castro Valley Unified School District with respect to acquisition of additional space and remodeling existing space.

Issue 4: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased facility costs for acquiring or remodeling space?

Castro Valley Unified School District, et al requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring or remodeling space. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller's Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a "reasonable reimbursement methodology" and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17557, subdivision (b), states that the Commission may adopt a reasonable reimbursement methodology when adopting parameters and guidelines. Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a "reasonable reimbursement methodology" to "mean a formula for reimbursing local agencies

³³ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

³⁴ Administrative Record – Clovis, page 307.

and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring or remodeling space for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner.

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring or remodeling space is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”³⁵ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”³⁶ Staff finds that the proposed mathematical method for reimbursing school districts for acquiring and remodeling space at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 is applicable and binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for acquiring or remodeling of space because the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology.”

Issue 5: Should the Commission amend the parameters and guidelines to specify that “acquisition” of equipment includes the activities of “planning, purchasing, and placement” of additional equipment and “furniture”?

The parameters and guidelines authorize reimbursement for the acquisition of equipment necessary for conducting the new science class. The language identifying acquisition of equipment as a reimbursable activity is included in the same paragraph as the activity of acquiring additional space.

Castro Valley requests that the Commission identify the acquisition of equipment in a separate paragraph for purposes of clarity. The requestors further propose that the Commission add language specifying that “acquisition” of equipment includes “planning, purchasing, and

³⁵ Webster’s II New College Dictionary (1999), page 440.

³⁶ The New Oxford American Dictionary (2001), page 666.

placement” of additional equipment and “furniture.” The requestors propose the following amendments, reflected in underline and strikeout:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes~~ ... the mandated additional year of science instruction.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed these activities were already being reimbursed by the State Controller’s Office.

Staff agrees with the requestors’ proposal, and finds that the activities of “planning, purchasing, and placement” of equipment are activities that are necessary to carry out the mandated program.³⁷ In addition, staff agrees that “equipment” includes “furniture.” Staff further agrees that a separate paragraph for the acquisition of equipment and furniture helps to clarify the reimbursable activities.

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 1995-1996, to include the language proposed by Castro Valley with respect to acquisition of equipment and furniture.

Issue 6: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased costs for acquiring equipment and furniture?

Castro Valley requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring equipment and furniture. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of increased equipment and furniture for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of science instruction equipment and furniture for grades 9-12 expended for this purpose during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted funding or reimbursement for this purpose received or used during the claim year by the school district from sources which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller’s Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology” and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among

³⁷ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring equipment and furniture for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner. The proposed formula begins by using the actual total costs for science instruction equipment and furniture. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, “other coursework as the governing board of the school district may by rule specify.” Therefore, the actual total costs for science equipment and furniture for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction equipment and furniture for grades 9-12 expended during the claim year) could result in reimbursement for furniture and equipment for courses that are not mandated by the state. For example, San Diego Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.³⁸ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.³⁹

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring equipment or furniture is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”⁴⁰ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”⁴¹ Staff finds that a proposed mathematical method of reimbursing school districts

³⁸ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8). (See Ex. M.)

³⁹ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3. (See Ex. M.)

⁴⁰ Webster’s II New College Dictionary (1999), page 440.

⁴¹ The New Oxford American Dictionary (2001), page 666.

for acquiring equipment or furniture at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for the acquisition of equipment and furniture because the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology.”

Issue 7: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology of the “one quarter class load method” for claiming increased teacher salary costs?

A. Proposals

San Diego Unified School District, Castro Valley Unified School District, et al., and the State Controller’s Office request that the Commission amend the parameters and guidelines to include the “one quarter class load method” for claiming increased teacher salary costs. The language and methodology proposed by San Diego Unified School District is as follows:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

Castro Valley proposes a similar methodology as follows (language that is different than San Diego’s proposal is noted in underline and strikeout):

In the absence of more precise cost accounting documentation, the calculation of the increased cost of science teachers for each fiscal year, will be calculated according to the following formula:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is ~~30~~ 35 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with total amount of any~~ restricted or specific purpose funding or reimbursement received or used for this purpose grade 9-12 science instructors during the claim year from sources which do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

The State Controller’s Office proposes three modifications to the proposal of San Diego Unified School District: (1) use the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) require districts to retain supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources to support the reimbursement claim; and (3) do not add the indirect cost calculation in last step of the calculation *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs. Thus, the Controller’s last step in the formula simply states the following: “The reimbursable cost is determined by reducing the increased cost in [step] 4 by the portion of all science teachers funded by restricted resources.” References to the indirect cost calculation remains in the boilerplate section of the parameters and guidelines and would be applied after the increased teacher salary is fully calculated using the “one quarter class load method.” The language proposed by the State Controller’s Office is as follows:

The increased teacher costs are calculated based on the number of teachers to teach the additional year of science as follows:

1. Total regular secondary enrollment (grades 9-12) is divided by four representing the additional year of science.

2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (the de facto standard teacher day consists of 5 class periods)
4. The increased cost is determined by multiplying the number of teachers in (3) by the average salary and benefit cost of a science teacher.
5. The reimbursable cost is determined by reducing the increased cost in (4) by the portion of all science teachers funded by restricted resources.

San Diego Unified School District and the State Controller's Office include the following "sample calculation" in their proposals:

Sample Calculation

| | |
|---|-------------|
| A. Secondary Enrollment | 28,000 |
| B. One Quarter Class Load (Line A x 1/4) | 7,000 |
| C. Average Science Class Size | 28 |
| D. Increased Classes (Line B/Line C) | 250 |
| E. Number of Classes Per Teacher | 5 |
| F. Increased Science Teachers (Line D/Line E) | 50 |
| G. Average Teacher (or Science Teacher) | |
| Salary and Benefits | \$ 60,000 |
| H. Total Costs (Line F x Line G) | \$3,000,000 |
| I. Science Teachers Not Funded by | |
| Categorical Programs (90%) | 90% |
| J. Net Science Teacher Costs | |
| (Line H x Line I) | \$2,700,000 |

The Department of Finance opposes the adoption of a reimbursement methodology for teacher salary costs, and states the following:

- The current definition of a reasonable reimbursement methodology enacted as part of Assembly Bill 1222 should not be applied to any parameters and guidelines amendment requests filed prior to the statutory change to the definition.
- If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2008-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. "Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner."
- "It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would

have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”

- The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
- Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
- The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. This funding should be identified as an offset.

If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:

- Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data (a proposal made in the draft staff analysis).
- Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.
- Require claimants to submit with their claims the same documentation the trial court stated the State Controller could require in an audit; “cost data and documentation to demonstrate whether [the district] experienced any savings to offset the teachers’ salary costs as a direct result of providing the second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.”

B. The “one quarter class load method” for teacher salary costs satisfies the definition of a reasonable reimbursement methodology

Staff finds the “one quarter class load method” for *gross* teacher salary costs satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below under sub-issue D.

Government Code section 17557, subdivisions (b) and (f), authorize the inclusion of a reasonable reimbursement methodology in the parameters and guidelines “that balances accuracy with simplicity.” Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state ...,” in lieu of filing detailed documentation of actual costs. Government Code section 17518.5 requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses

local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).)

As more fully explained below, staff recommends that any offsetting savings and revenue for teacher salary costs not be included in the reasonable reimbursement methodology. The court in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al., held that any offsetting savings taken by a school district is at the discretion of the district and may only be used to reduce a claim when the offset is taken as a “direct result” of the *Graduation Requirements* mandate. Thus, offsetting savings must be looked at on a case-by-case basis. Offsetting savings and revenue for teacher salary costs are not included in the proposed formula.

Staff finds that, except for the proposed default class sizes in the formula, the “one-quarter class load method” for *gross* teacher salary costs considers the variation of teacher salary costs among school districts to implement the *Graduation Requirements* mandate. The formulas proposed are calculated using each school district’s actual numbers for enrollment, average science class size, and average teacher salary.

The two proposals from San Diego and Castro Valley use a default class size when the district cannot calculate the average science class size for grades 9-12 for the claim year. As indicated above, San Diego proposes a default science class size of 30, while Castro Valley proposes a default class size of 35. Castro Valley argues that the proposed default class size acknowledges that obtaining district data back to fiscal year 1995-1996 may be impossible since most retention requirements for documents prepared in the normal course of business lapse in three to five years. Castro Valley further states that average class size is reported to the state, but average science class size may not be uniformly available. Castro Valley proposes that the Commission adopt the default class size for the amended claims for costs incurred before fiscal year 2006-2007. Beginning in fiscal year 2006-2007, claimants would be on notice to keep track of the actual average science class size and could reasonably be required to provide that information. Thus, Castro Valley proposes that the default average class size be removed from the formula beginning in fiscal year 2006-2007.

Staff finds, however, that the default class sizes do not comply with the requirements of Government Code section 17518.5. Although Castro Valley’s proposal may be considered equitable, there is no evidence in the record that the default class sizes proposed by San Diego and Castro Valley are based on or consider a variation of actual class sizes among different school districts in the state pursuant to Government Code section 17518.5. Moreover, the difference of five students between the default numbers proposed by San Diego (30) and Castro Valley (35) could be significant statewide. Assuming total secondary enrollment is 1000 and the average annual teacher salary and benefit cost is \$60,000⁴², the annual cost to a district using an average science class size of 30 would result in a \$100,000 reimbursement. A default science class size of 35 would result in an annual reimbursement of \$14,000 less to a district. Without knowing what the proposed default numbers are based on, staff does not recommend that the Commission adopt a default science class size in the methodology.

⁴² This number is for illustrative purposes and is not intended to reflect the current average annual salary and benefit cost for a teacher.

Staff further finds that the “one quarter class load method” for *gross* teacher salary costs reimburses school districts for implementing the mandate in a cost-efficient manner. Education Code section 51225.3, subdivision (a), states the following:

Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:

- (2) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[¶] ...

- (C) Two courses in science, including biological and physical sciences.

The Commission and the court in the *San Diego* case found that the test claim statute increases the number of science courses required for high school graduation from one science course to two science courses. The court, when ruling on the incorrect reduction claims for teacher salary costs, held that the second science class mandated by the test claim statute requires the district to *add* the course to the existing courses offered by the school district.⁴³ Since the course has to be taken in one of the four years from grades 9-12, and it constitutes an additional class required to be provided by the school district, the methodology positively identifies the additional course by dividing total enrollment in grades 9-12 for the claim year by four (4). The methodology also uses actual enrollment and salary data from the school district to calculate the cost.

C. Staff disagrees with the arguments raised by Finance in opposition to the proposed reasonable reimbursement methodology for teacher salary costs

The adoption of a reimbursement formula is not an unlawful retroactive application of the law

The Department of Finance argues that the current definition of a reasonable reimbursement methodology should not be applied retroactively to these requests to amend parameters and guidelines. Finance states the following:

The current definition of a Reasonable Reimbursement Methodology (RRM) (Chapter 329, Statutes of 2007 (AB 1222)) should not be applied to any Ps&Gs amendment request filed prior to the statutory change to the definition of an RRM. A statute should not be applied retroactively unless it is very clear from extrinsic sources that the Legislature intended a retroactive application. (*Bates v. Franchise Tax Board* (2004) 124 Cal.App.4th 367.)

The Department of Finance’s argument is misleading and wrong. The Commission had the authority to adopt an allocation formula or uniform allowance for reimbursement at the time San Diego filed its request to amend the parameters and guidelines in 1996. Government Code section 17557, subdivision (b) (as amended by Stats. 1995, ch. 945) stated the following:

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

⁴³ Exhibit R, page 15.

This authority was broad and contained no limitation on the Commission's adoption of an allocation formula or uniform allowance. Thus, the argument, that the adoption of a formula for reimbursement of state-mandated costs incurred before 2007 is an unlawful retroactive application of the law, is wrong.

Today, the Commission's authority to adopt a formula for reimbursement is *limited* by Government Code section 17518.5, which requires the Commission to find the following two elements in order to ensure that the formula is cost-efficient and representative of costs statewide: (1) the methodology must consider the variation of costs among local agencies and school districts to implement the mandate, and (2) the methodology must reimburse local agencies or school districts for implementing the mandate in a "cost-efficient manner." (Gov. Code, § 17518.5, subd. (c).) Those elements are being analyzed and considered here.

The proposed formula provides reimbursement in a cost-efficient manner

Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner based on its estimate of statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million if the Commission adopted the proposed reasonable reimbursement methodology. Finance argues that: "Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner."

There is evidence of actual teacher salary costs incurred as a result of this program. As a result of the two lawsuits on *Graduation Requirements* that are summarized in the Background section of this analysis, reimbursement for actual teacher salary costs for 22 school districts for fiscal years 1984-1985 through fiscal year 1995-1996 totaled \$59,005,383. This number represents the original amount claimed by these school districts for teacher salary costs as a result of the mandated program. The Controller's revised audits complied with the court's writ and showed that there was no evidence of offsetting savings or revenues specifically intended to fund the cost of the *Graduation Requirements* program that would reduce the amounts claimed. After these lawsuits were resolved, another six incorrect reduction claims were filed, covering fiscal years 1999-2000 through 2001-2002. Five of these claims were dismissed at the Commission's January 2008 hearing because the districts received full payment for teacher salary costs in the amount of \$14,991,452. Thus, there is sufficient evidence of actual teacher salary costs incurred as a result of the *Graduation Requirements* program.

In addition, the court held that the state is required to reimburse school districts for increased teacher salary costs incurred for the new mandated science class pursuant to article XIII B, section 6. The court's judgment is final and binding on the state. Reimbursement is also required if no changes in a district's instructional service is shown as a result of the mandate. The Legislature, in Government Code section 17565, has determined that "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted in 1983, the district would still be entitled to reimbursement under article XIII B, section 6.

It is true that not all school districts in the state have filed reimbursement claims for this program. If the Commission adopts the proposed methodology, these school districts would now be able to file reimbursement claims, signed under penalty of perjury, for teacher salary costs going back to fiscal year 1995-1996. If a district exercised its authority under Education Code section 44955 by terminating teachers of courses not mandated by the state as a “direct result” of the second science course mandated by the test claim statute, resulting in cost savings to the district, reimbursement would not be required for teacher salary costs. As described in the next section below, under the court’s ruling the Controller’s Office has broad authority to seek documentation when evaluating these claims. The court held that its conclusion does not prevent the Controller, when auditing and reevaluating the claims “from requiring the districts to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course.” (Emphasis added.)⁴⁴ The proposed “one quarter class load method” does not prevent the Controller from auditing the claims in this manner.

Although there may be a cost to the state if the parameters and guidelines are amended to add a formula for reimbursing teacher salaries, the proposed methodology uses *actual* enrollment and salary data from the school district to calculate the cost. Staff is also recommending that the Commission adopt the proposal of the State Controller’s Office requiring school districts to retain documentation supporting the data used in the calculation for teacher salary costs.

The proposed parameters and guidelines allow the State Controller’s Office to determine if a school district experiences offsetting savings under Education Code section 44955

Finance argues that the proposed methodology does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. Finance states the following:

It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.

The court acknowledged the possibility that the second science class would not result in an increase in the number of classes provided and teachers required for those classes during the school day and year *if* a school district exercised its discretion under Education Code

⁴⁴ Exhibit M, Ruling, pages 17-18.

section 44955 by terminating the services of permanent employees of courses offered by a school district when the state modified the mandated curriculum.⁴⁵

The use of the authority under Education Code section 44955 is discretionary, however. The court held that “there is no suggestion ... of legislative intent to supply the district with an offset mechanism to reallocate teaching staff resources and avoid actual increased costs for teachers’ salaries otherwise reimbursable under section 6 whenever the district adds a newly state-mandated course to its curriculum.”⁴⁶ The court further held that such an intent would directly conflict with subdivision (a) of the test claim statute, recognizing the district’s right to specify and provide courses for graduation in addition to the state-mandated courses, and would defeat the purpose of article XIII B, section 6. Education Code section 51225.3 mandates school districts to add a second science course without requiring school districts to replace or eliminate its existing course offerings.⁴⁷ In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.⁴⁸

Although, under the court’s ruling, the Controller cannot require a school district to show an offset pursuant to Education Code section 44955 in order to receive reimbursement, the Controller “can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.”⁴⁹ The court’s judgment and writ further stated that “the State Controller may require the petitioner to submit cost data and documentation to demonstrate whether it experienced any savings to offset the teachers’ salary costs as a *direct result* of providing the second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.” (Emphasis added.) This finding is binding on the State Controller’s Office when auditing other reimbursement claims for teacher salary costs for this program under principles of collateral estoppel. In this respect, when the *San Diego* cases came back to the Commission on remand, the Commission determined that the State Controller’s Office may properly request the following documentation when auditing the claim for teacher salaries:

- Documentation supporting cost savings by reducing course offerings.
- Documentation showing the year the district began to implement the additional science course to satisfy the mandate.
- Documentation that the second science course increased the number of classes provided during the school day and year.

⁴⁵ Exhibit M, Ruling, pages 16-18.

⁴⁶ *Id.* at page 16.

⁴⁷ *Id.* at pages 15-16.

⁴⁸ *Id.* at page 15.

⁴⁹ *Id.* at page 18.

- Documentation showing the number of teachers required for the classes provided.
- Documentation showing whether the second science course resulted in an overall increase in the number of classes taken by students.
- Documentation justifying the lack of offsetting savings.

As described below under Issue 10, staff recommends that the language from the court's ruling, judgment, and writ be added to the offset language of the parameters and guidelines beginning fiscal year 2004-2005. The proposed language states the following:

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

Thus, if a district exercises its authority under Education Code section 44955 as a "direct result" of the second science course mandated by the test claim statute that resulted in cost savings, reimbursement is not required for teacher salary costs.⁵⁰ The proposed "one quarter class load method" does not prevent the Controller from requiring the claimants to show that they have not experienced any cost savings.

Furthermore, the claimants are not required to show that the number of classes provided during the school day and year along with the number of teachers required for the classes provided has increased in order to receive reimbursement for teacher salary costs, as suggested by the Department of Finance. Reimbursement is also required if no changes in a district's instructional service is shown. The Legislature, in Government Code section 17565, has determined that "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, the district would still be entitled to reimbursement under article XIII B, section 6.

⁵⁰ There is no evidence in the record on the *Graduation Requirements* incorrect reduction claims that any of the school districts used their authority under Education Code section 44955 for cost savings.

The proposed formula takes into account dropout rates using CBEDs data to calculate total secondary enrollment

Finance further argues that the formula does not take into account dropout rates. The formula, however, does require districts to report total secondary enrollment for the claim year. Each year, school districts report total enrollment, which, by definition does not include students that have dropped out of school, to the Department of Education for the California Basic Educational Data System (or CBEDS) on “Information Day.”⁵¹ CBEDS Information Day has historically been a date in October when the CBEDS coordinator for each school district submits the requested data to the Department of Education. School enrollment, which is determined by an unduplicated count by grade, gender, and racial/ethnic designation of students enrolled on Information Day, is reported to the state. The CBEDS Manual defines a dropout as a student “*not* enrolled and attending school as of Information Day ...”⁵² Thus, in order to capture total enrollment that does not include students that drop out, staff recommends that the proposed formula identify total secondary enrollment by using the number reported to the state on the CBEDS Information Day for the claim year. Moreover, the CBEDS manual states that CBEDS data is used by school districts to determine certificated employee ratios, curriculum offerings, course enrollments, and identification of areas of teacher needs – information a school district uses to determine the number of teachers required to teach mandated courses.⁵³

In this respect, Finance argues that if the Commission adopts the proposed methodology, that it should use the average daily attendance (ADA) of pupils rather than CBEDS data to calculate total secondary enrollment, since ADA is primarily used for funding purposes. ADA is used for purposes of school funding under Proposition 98 pursuant to Education Code sections 41000, et seq. The ADA number, however, does not include student absences.⁵⁴ Thus, even though a student may be enrolled in school, the ADA enrollment figures may be lower than the enrollment data reported to the state under the CBEDS program on the CBEDS Information Day. Despite student absences, a school district is still required to teach and provide the science course mandated by the test claim statute. The costs incurred in a claim year to provide the science course are *not* affected, or lowered, by student absences. Article XIII B, section 6 of the California Constitution requires reimbursement for the increased costs mandated by the state. Staff finds that the ADA of pupils in a school district does not provide the accurate enrollment data necessary to determine the increased costs incurred by school districts for teacher salary costs as a result of this mandated program.

Finance also argues that the formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.” However, there is no evidence in the record to support Finance’s argument. As indicated above, the test claim statute requires that the second science course be taken in one of the four years from

⁵¹ A copy of 2004 CBEDS Manual is in Exhibit C to Item 19, page 151, of the July 28, 2006 Commission hearing.

⁵² *Id.* at page 159.

⁵³ 2007 CBEDS Manual, page 4.

⁵⁴ Education Code sections 41601, 46010.

grades 9-12. The court concluded that the class constitutes an additional class required to be provided by the school district.

Revenue limit apportionments made to school districts cannot be considered offsetting revenue under article XIII B, section 6

Finally, Finance opposes the adoption of the proposed formula because it does not take into consideration “significant increases” in school district revenue limits, or general purpose funding provided to school districts, since the mandate went into effect. Finance states that revenue limit apportionments are the primary source of general purpose funding for school districts and that Education Code section 41372 requires high school districts to expend 50% of their current expense of education for the payment of teacher salaries. Finance contends that the general purpose funding applied toward the salaries of teachers teaching the second science course should be identified as an offset.

The school districts and their Litigation Group disagree. The school districts contend that identifying revenue limit apportionments as offsetting revenue violates the purpose of article XIII B, section 6. The Litigation Group argues as follows:

However, the revenue limit apportionments which are the subject of the spending requirements [in Education Code sections 41372 and 41374] are specifically excluded by the Constitution as being considered as meeting the State’s financial obligation to reimburse districts for the cost of implementing new mandates. That is the underlying intention of the Gann Limitation from Proposition 4 – to limit the expenditure of tax revenue and to require the State to fund new mandates from sources other than from revenue limits paid out of state and local taxes. To find that such revenue limit dollars constitute offsetting revenue against the costs imposed by a new mandate is in direct conflict with the California Constitution, Article XIII B, §§ 6 [state mandates and 9(b) [mandates of the courts or federal government]].

Based on the history and purpose of article XIII B, section 6, staff finds that the revenue limit apportionments cannot be considered offsetting revenue under article XIII B, section 6 of the California Constitution and, thus, the receipt of the apportionment funding does not affect reimbursement through the proposed reasonable reimbursement methodology as argued by Finance.

Articles XIII A and XIII B were enacted by the voters in 1978 and 1979 to limit the power of state and local governments, including school districts, to adopt and levy taxes, and to further limit government spending by these entities for public purposes. Article XIII B establishes an appropriations limit for both state and local governments and allows no appropriations subject to limitation in excess of the spending limit.⁵⁵ Article XIII B defines the relevant “appropriations subject to limitation” as “any authorization to expend during a fiscal year the [entity’s] proceeds of taxes ...”⁵⁶ “Proceeds of taxes” include *all* tax revenues of the entity; “[P]roceeds of taxes’

⁵⁵ Article XIII B, section 2.

⁵⁶ Article XIII B, section 8, subdivision (b).

generally contemplates only those impositions which raise the general tax revenues for the entity.”⁵⁷

The courts have recognized that articles XIII A and XIII B “severely” restricted the taxing and spending powers of local government entities.⁵⁸ In light of these restrictions, article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.⁵⁹ The courts have found that article XIII B, section 6 “provide[s] local entities with the assurance that state mandates would not place additional burdens on their increasingly limited revenue resources,”⁶⁰ and that “section 6, ... is expressly concerned with ‘costs’ incurred by local government as a result of state-mandated programs, particularly when the costs of compliance with a new program restrict local spending in other areas.”⁶¹

The proceeds of taxes for school districts are different than those of other local government entities, such as counties and cities, because the general purpose revenue of school districts has always been partially provided by the state’s general fund. Since 1849, article XVI, section 8 of the California Constitution has required a State School Fund for support of the public school system: “[f]rom all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.” Before Proposition 13 limited the power of school districts to levy additional tax revenue, school districts received a large percentage of their financial support from local property taxes, which was then supplemented by the State School Fund. “Specifically, in this ...pre-Proposition 13 period, 55.7 percent of school revenues came from local property taxes and 35.3 percent came from state aid.”⁶² State aid was provided in two forms; basic aid, which consisted of a flat dollar amount per pupil, and equalization aid, which was distributed in inverse proportion to the wealth of the district.⁶³ In 1971, the California Supreme Court, in *Serrano v. Priest*, determined that the system of public school financing in California created an unconstitutional equal protection disparity in funding based on the reliance on the wealth of a school district’s real estate. The court held that public school financing that failed to equalize school spending for each student was unconstitutional.⁶⁴ In response to *Serrano*, the Legislature enacted Senate Bill 90 in an attempt to equalize school funding. Senate Bill 90 increased state funding for school districts and created “revenue limits,” which limited the expenditures per pupil in school districts with

⁵⁷ Article XIII B, section 8, subdivision (c); *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 983.

⁵⁸ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

⁵⁹ *Ibid.*

⁶⁰ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6.

⁶¹ *County of Sonoma, supra*, 84 Cal.App.4th at page 1284.

⁶² *Id.* at page 1271.

⁶³ *Id.* at page 1272, fn. 6.

⁶⁴ *Serrano v. Priest* (1971) 5 Cal.3d 584, 598, 614-615.

ample local funding.⁶⁵ But Senate Bill 90 created special exceptions to the revenue limits that still allowed wealthier districts to raise more local revenue. The court found that Senate Bill 90 was also unconstitutional.⁶⁶ Before the Legislature could resolve the equal protection problems with school funding, Proposition 13 was enacted in 1978 and significantly reduced and capped the property tax revenues used to fund school districts. “Proposition 13 ensured that the state, rather than local school districts, would control funding for public schools.”⁶⁷ In 1979, the Legislature reduced the share of local property tax revenues allocated to schools from approximately 53 percent to approximately 35 percent and made up the difference with state funds.⁶⁸ Joint state and local funding responsibility for school districts existed when article XIII B, section 6 became effective on July 1, 1980.⁶⁹

The proceeds of taxes or general purpose revenue for school districts remain jointly funded with state and local revenues today. Education Code section 14002 requires the State Controller’s Office, each fiscal year, to transfer from the General Fund to that portion of the State School Fund restricted for elementary and high school purposes, a total amount per pupil in average daily attendance (ADA) during the preceding fiscal year credited to all elementary, high school, and unified school districts, and to county superintendent of schools, of \$180. This money is allocated through base revenue limit apportionments to each school district based on the district’s ADA pursuant to Education Code sections 41300 and 42238 et seq. Generally, pursuant to Education Code section 42238, each school district receives the state aid share of the revenue limit minus the sum of local revenues that count toward the revenue limit of the district. Local revenues include the district’s share of the 1% maximum property rate on secured and unsecured property tax rolls under article XIII A, supplemental secured roll taxes, timber yield taxes, and property tax revenue shifted under the Educational Revenue Augmentation Fund (ERAF) from cities, counties, and special districts to schools.⁷⁰

The money apportioned to the school districts through revenue limit apportionments is unrestricted, unless otherwise provided by law, and can be used for any purpose. (Ed. Code, § 41370.) One of the limitations for use of the revenue limit apportionments is provided in Education Code sections 41372 and 41374. These sections require high school districts (except small districts as specified in section 41374) to expend 50%, and unified school districts to expend 55%, of the district’s current expense of education on the salaries of classroom teachers for grades 9 through 12. The “current expense of education” is specifically defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.

Although Education Code sections 41372 and 41374 direct the expenditure of a portion of the district’s revenue, the amount spent by the district on teacher salaries cannot be considered

⁶⁵ *Belanger v. Madera Unified School Dist.* (1992) 963 F.2d 248, 251.

⁶⁶ *Ibid*, citing *Serrano v. Priest* (1976) 18 Cal.3d 728 (*Serrano II*).

⁶⁷ *Ibid*.

⁶⁸ *County of Sonoma, supra*, 84 Cal.App.4th at page 1274.

⁶⁹ *Ibid*.

⁷⁰ “Revenue and Revenue Limits, A Guide to School Finance in California,” by Paul M. Goldfinger, 2006 Edition, page 72.

offsetting revenue for purposes of the *Graduation Requirements* mandated program. Such an interpretation would require school districts to use their proceeds of taxes on a state-mandated program. This violates the purpose of article XIII B, section 6. As indicated above, article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local spending in other areas.⁷¹

Therefore, staff finds that a school district's receipt of apportionment funding does not affect the reimbursement required by article XIII B, section 6, or the proposed reasonable reimbursement methodology.⁷²

Moreover, there is no evidence that the state has appropriated funds specifically intended to fund the cost of providing the second science course mandated by Education Code section 51225.3, as required by Government Code section 17556, subdivision (e). If funds are specifically appropriated for this program in the future, the parameters and guidelines already require school districts to identify such funds as offsetting revenue. The offset paragraph currently provides in relevant part the following:

In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

The proposed "one quarter class load method" does not alter these potential future offsets.

Accordingly, staff finds the "one quarter class load method" satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below.

D. Staff's proposed modifications to the methodology

San Diego Unified School District recommends that the methodology use the average teacher salary for claiming costs, while the State Controller's Office proposes the use of the average *science* teacher salary. Staff recommends that the Commission adopt the proposal using the average teacher salary because school districts are already reporting that number to the state Department of Education (Form J-90). School districts voluntarily report to the state the salary

⁷¹ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d at page 836, fn. 6; *County of Sonoma*, *supra*, 84 Cal.App.4th at page 1284.

⁷² The Department of Finance argues in its October 17, 2008 filing that "to disallow revenue limit funding as an available offset to teacher salaries is inconsistent with the Commission's Reconsideration of Prior Statement of Decision for School Accountability Report Cards [SARC] (No 04-RL-9721-11, 05-RL-9721-03) wherein the Commission recognized revenue limit funding as not unavailable for teacher salaries." The Commission's decision on reconsideration of the SARC test claim denied the claim on multiple grounds, including no new program or higher level of service and no increased costs mandated by the state based on Government Code sections 17556, subdivision (f), and the funding provisions of Proposition 98 that created the SARC program. School districts have challenged the SARC decision, and other reconsideration decisions, alleging multiple constitutional violations in *California School Boards Association, et al. v. State of California, et al.*, Third District Court of Appeal, Case No. C055700. The case remains pending.

and benefits of their certificated personnel on state Form J-90, and in fiscal year 2005-2006, 84% of the school districts in the state (representing 98% of the state's ADA) reported the average teacher salary to the state.

Staff further recommends that the last step in the proposed formula, which reduces the increased teacher cost by the portion of science teachers funded by restricted resources, be identified in the offset paragraph of the parameters and guidelines and not included in Section IV, Reimbursable Activities. Leaving the offset language in the formula in Section IV of the parameters and guidelines, and having a separate paragraph for offsetting revenues in Section VII, is confusing. All potential offsetting revenue should be identified in one location of the parameters and guidelines. Thus, staff recommends that the offset paragraph be amended to add the following language: "total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual shall be identified and deducted from this claim."

In addition, the San Diego and Castro Valley proposals discuss the application of the indirect cost rate in the last step of the formula and apply the indirect cost rate to the direct costs before deducting teacher salary costs by the amount of revenue received for salaries from restricted resources. The Controller's Office does not agree with this language. Staff notes that the current claiming instructions issued by the State Controller's Office in its School Mandated Cost Manual for the *Graduation Requirements* program requires claimants to calculate indirect costs before applying the offsets. Staff recommends that the indirect cost language remain in the boilerplate language and not be included in the proposed formula.

Finally, the State Controller's Office requests the addition of language in the parameters and guidelines to state that supporting documentation shall be retained to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average teacher salary and benefits, and costs funded by restricted resources. This request is supported by the Court's judgment and ruling in the *San Diego Unified School District* case. The Court held that a documentation requirement for the costs incurred under a mandated program "has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9)."⁷³ As described below, staff proposes that the Commission add record retention language to the parameter and guidelines consistent with the Controller's request.

The Department of Finance wants the Commission to go farther if it adopts the one quarter class load method, and require school districts to retain documentation on science courses offered by a school district that are not mandated by the state and on the number of students completing more than the two science courses mandated by the state. Finance states the following:

We note that while [the draft staff analysis] acknowledges, for purposes of calculating instructional material costs, that the San Diego Unified School District requires three years of science instruction for graduation and the Grossmont Union High School District offers several science courses that do not meet the state's science course requirements for biological and physical sciences, the staff's proposed Record Retention section does not include language requiring districts to retain this information. According to the State Department of

⁷³ Ruling, page 18.

Education, not all science courses offered in California high schools meet the state's high school graduation requirements for physical and biological sciences. We contend that retention of these two data elements, science courses offered with relevant CBEDS course code and number of students completing more than two science courses, is relevant and necessary for an accurate cost calculation. Teacher salaries and other instructional costs related to science courses not meeting the state standard for graduation and science classes provided beyond the state's graduation requirement do not qualify as state-mandated reimbursable activities and should be included in the calculation of reimbursable costs.⁷⁴

The Commission does not have the authority to require school districts to retain documentation regarding science courses that are *not* mandated by the state, or students taking these non-mandated courses. These courses are not reimbursable, and are not included in the proposed one quarter class load method for determining teacher salary costs for the mandated science course. Thus, Finance's request goes beyond the scope of this mandate.

In its October 17, 2008 filing, the Department of Finance further requests that the parameters and guidelines require claimants *to submit with their claim* the same documentation the trial court stated the State Controller could require in an audit. This request defeats the purpose of a reasonable reimbursement methodology, which "balances accuracy with simplicity" and is used in lieu of filing detailed documentation of actual costs. The State Controller's Office has the authority, pursuant to Government Code section 17561, subdivision (d)(2) and the court's decision in the *San Diego* case, to audit the application of the reasonable reimbursement methodology and to request additional documentation from a claimant.

Accordingly, staff recommends that the following record retention language be included in the parameters and guidelines:

RECORD RETENTION

Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter⁷⁵ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size,

⁷⁴ Exhibit Q.

⁷⁵ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

Accordingly, staff recommends that the following reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs be added to the parameters and guidelines beginning in fiscal year 1995-1996:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

The parameters and guidelines adopted on January 24, 1991, would be amended for costs incurred beginning in fiscal year 1995-1996 to include a section on “Claim Preparation and Submission: Reasonable Reimbursement Methodology to clarify the claiming methods for the reimbursable activities.

Issue 8: Should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of “other science instruction personnel”?

Castro Valley requests reimbursement for the salaries and benefits of “other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants)” for grades 9-12. Castro Valley argues that the Statement of Decision and the first parameters and guidelines indicate as a matter of law that reimbursement was not limited to science teachers and, thus, there is no need to determine if other personnel, such as lab assistants, are reasonably necessary within the context of the parameters and guidelines.

The Department of Finance and the State Controller’s Office oppose this request, contending that any increased costs incurred for science instruction personnel other than teachers has not been mandated by the state.

For the reasons below, staff disagrees with Castro Valley and recommends that the Commission not adopt this proposal.

The test claim statute mandates school districts to provide a second science course, either biological or physical, in order for students to graduate from high school. The statute is silent with respect to how a school district is to provide the course. Thus, the test claim statute, on its face, does not mandate school districts to hire science instruction personnel, such as lab assistants. It is clear, however, that certificated teachers are required to teach this science course.

Since the 1943 Education Code, school districts have been required to conform their educational program to state standards. (Ed. Code, § 51041.) Section 51041 states the following:

The governing board of every school district shall evaluate its educational program, and shall make such revisions as it deems necessary. *Any revised educational program shall conform to the requirements of this division* [Division 4, Instruction and Services, Elementary and Secondary Education]. (Emphasis added.)

The test claim statute, Education Code section 51225.3, is within Division 4 of the Education Code and describes the state-mandated courses of instruction required for high school graduation, including the science course at issue here. Education Code section 44805, enacted before the test statute, further states that “every teacher in the public schools shall enforce the course of study . . . prescribed for schools.”

Moreover, despite Castro Valley’s assertion that the Commission has already determined that reimbursement is not limited to science teachers, neither the Statement of Decision nor the original parameters and guidelines make a finding that reimbursement is required for “other science instruction personnel.” The Statement of Decision states in relevant part that “[s]ome of the Santa Barbara High School District’s increased costs resulting from compliance with Education Code Section 51225.3 are costs mandated by the State,” but the decision provides no specificity with regard to the reimbursable activities.⁷⁶ (Emphasis added.) The parameters and guidelines authorize reimbursement for the “increased cost to school district for staffing . . .,” but do not specifically authorize reimbursement for instructional personnel or lab assistants.⁷⁷ Accordingly, staff finds that hiring science instruction personnel, other than teachers, is not mandated by the state.

Thus, pursuant to section 1183.1, subdivision (a)(4), of the Commission’s regulations, the issue is whether using science instruction personnel other than teachers to help provide the science course is reasonably necessary to comply with the mandate to provide the second science course to high school students.

There is no evidence in the record or the law to support the claim that using science instruction personnel other than teachers is reasonably necessary to comply with the mandate to provide the second science course. Therefore, staff recommends that the Commission deny this request for amendment.⁷⁸

Issue 9: Should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies, and include a reimbursement methodology for the cost of the activity?

⁷⁶ Exhibit A.

⁷⁷ Exhibit B.

⁷⁸ Since staff recommends that the Commission deny the request for reimbursement for instructional personnel other than teachers, staff will not address the requestors’ proposed reimbursement methodology for this alleged cost.

The parameters and guidelines authorize reimbursement for “supplying” the new mandated science course. This reimbursable activity is currently in the same paragraph as the activity for “staffing,” or teaching, the science course.

Castro Valley requests that the Commission amend the parameters and guidelines to identify the reimbursement of supplying the science course in a separate paragraph than staffing for purposes of clarity. The requestors further propose the following reimbursement methodology for supplying science instruction materials.

Increased cost to school district for staffing and supplying the new science classes mandated.

In the absence of more precise cost accounting documentation, the calculated cost of “increased science instruction materials (textbooks, materials and supplies)” shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated costs of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.

The State Controller’s Office opposes the reimbursement methodology proposed by Castro Valley on the ground that the methodology is arbitrary. Instead, the State Controller’s Office and San Diego Unified School District propose another formula similar to the one-quarter class load method for teacher salary costs. Although San Diego has not proposed a specific formula or any language for the proposed reasonable reimbursement methodology, the Controller’s Office has proposed the following language for materials and supplies for the science course.

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the “one quarter class load method”].
3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes’ material and supply costs funded by restricted resources.

The Controller’s Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.

- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Department of Finance is opposed to the adoption of a reimbursement methodology for instructional materials. Finance states the following:

Finance is opposed to adopting a cost methodology for instructional materials that uses total costs for all science materials as its basis. The claims submitted for any instructional materials costs should be based on actual procurement costs, which are offset by any State Instructional Materials Fund (commencing with CA Education Code Section 60240) resources provided by the state directly on a per pupil basis, or indirectly as expenditures out of a local instructional materials account which received its revenue from the state fund, or any revenue limit or discretionary funding provided by the state which local education agencies use for purchasing the required materials.

By assuming one-half of science instructional materials costs should be reimbursed by the state, the proposed methodology precludes the possibility that state funds may be sufficient to fund all one-time costs for all classes including science.

The Annual Budget contains funding specifically dedicated to offset costs for instructional materials. The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.

First, staff finds that a separate paragraph for supplying the mandated science course helps to clarify the reimbursable activities. Thus, with respect to supplying the science course, staff recommends that the Commission amend the parameters and guidelines, beginning in fiscal year 2006-2007, with the following language:

Increased cost to school district for staffing and supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).

Staff finds, however, that the proposed formulas for reimbursing science instructional materials do not satisfy the requirements of a “reasonable reimbursement methodology” and, thus, recommends that the Commission not adopt the proposed formulas.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for

reimbursing local agencies and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

There is no evidence in the record that the proposed methodologies reimburse school districts for implementing the mandate in a cost-efficient manner. Both formulas begin by using the actual total costs for science materials and supplies. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, “other coursework as the governing board of the school district may by rule specify.” Thus, the actual total costs for science materials and supplies for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, reduced by 50% of the restricted funding received for materials) could result in reimbursement for materials and supplies for courses that are not mandated by the state. Although the proposal of the State Controller’s Office uses the average material cost per science class offered in their formula, which is then multiplied by the increased science classes (total enrollment divided by four), the average cost per science class may also include costs for courses that are not mandated by the state. For example, San Diego Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.⁷⁹ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.⁸⁰

Moreover, staff disagrees with the assumption that the proposed formula for reimbursing materials and supplies is based on the same assumption as the formula for reimbursing teacher salary costs. The proposed formulas are very different. The one quarter class load method for teacher salary costs starts with, and is based on, total enrollment in grades 9 to 12. Every student enrolled in high school is mandated by the state to take and complete the science course at issue in this case to graduate from high school. The proposed formula for materials and supplies, however, is based on the total science material and supply costs of a district, which as indicated above, includes costs that are not mandated by the state.

Thus, staff recommends that the Commission deny these proposed reasonable reimbursement methodologies because the proposed formula does not satisfy the requirements of a “reasonable

⁷⁹ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8).

⁸⁰ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3.

reimbursement methodology,” and continue to authorize reimbursement based on actual costs claimed.

In response to the draft staff analysis, Castro Valley argues that its proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring materials and supplies is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”⁸¹ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”⁸² Staff finds that a proposed mathematical method of reimbursing school districts for acquiring 50 % of their science material and supply costs is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding.

Staff further recommends that the Commission amend the offsetting revenue and reimbursement section of the parameters and guidelines, beginning in fiscal year 1995-1996, to specifically identify the sources of revenue appropriated from the state and used by school districts for instructional materials for the second science course mandated by the test claim statute. The Schiff-Bustamante Instructional Materials Program (Ed. Code, §§ 60450 et seq.), a funding source identified by Finance, was in effect from August 19, 1998 until January 1, 2004, when the program was repealed for lack of funding. (Stats. 2002, ch. 1168 (AB 1818, § 71), eff. Jan. 1, 2004). These provisions provided a supplemental appropriation to school districts, apportioned according to the number of pupils enrolled in the preceding fiscal year as evidenced by CBEDS data, for instructional materials in core curriculum areas, including science, that were aligned with state content standards adopted in 1997 and 1998. The legislation does not prioritize the expenditure of funds, or require that the funding be used first for the *Graduation Requirements* mandate. The statutes require only that the money be used on purchasing instructional materials for core curriculum. Thus, staff recommends that the funding appropriated under the Schiff-Bustamante Instructional Materials Program (Ed. Code, §§ 60450 et seq.) be identified as an offset and deducted from the claim to the extent school districts used this funding for purchasing materials for the *Graduation Requirements* mandate.

Beginning in fiscal year 2002-2003, Education Code section 60240 et seq. provided funding for instructional materials from the State Instructional Materials Fund. Under these provisions, annual appropriations are made for instructional materials. There is no requirement in state law, however, that these funds must be used to pay the cost of the *Graduation Requirements* mandate. Rather, commencing with the 2002-2003 fiscal year, the State Controller is required to transfer from the General Fund to the State Instructional Materials Fund money to be allotted to school districts by the Board of Education for instructional materials for grades 9 to 12.⁸³ School

⁸¹ Webster’s II New College Dictionary (1999), page 440.

⁸² The New Oxford American Dictionary (2001), page 666.

⁸³ Education Code section 60247.5.

districts shall use the funds apportioned solely for the purchase of instructional materials for grades 9 to 12.⁸⁴ In addition, the Superintendent of Public Instruction may allocate to school districts funds that were recovered from publishers and deposited into the Instructional Materials Fund as a result of proceedings against the publisher.⁸⁵ In the 2006 Budget Act, \$403.5 million was appropriated to the State Instructional Materials Fund.⁸⁶ In the 2007 Budget Act, \$419.8 million was appropriated to the State Instructional Materials Fund.⁸⁷ See Issue 10 below, for the proposed language for the offsetting revenue and reimbursement section of the parameters and guidelines.

Issue 10: Should the Commission amend the Offset section of the parameters and guidelines?

As indicated above, staff recommends that the Commission amend the offset section of the parameters and guidelines, beginning fiscal year 1995-1996, to clarify that the direct and indirect science teacher salary costs incurred as a result of the test claim statute that are funded by restricted resources and program funding as identified by the California Department of Education School Accounting Manual be identified as an offset. In addition, beginning in fiscal year 1995-1996, staff recommends that the offset paragraph be amended to specifically identify funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004)) and the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used by school districts for supplying the second science course mandated by the test claim statute.

In addition to these proposals, Castro Valley requests that the Commission amend the offset section to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.

Staff recommends that the Commission deny Castro Valley's request. If the parameters and guidelines are amended by the Commission, the State Controller's Office will be required to issue revised claiming instructions pursuant to Government Code section 17558. Eligible claimants may be allowed to file new claims under the revised claiming instructions. If a claimant has received state mandate reimbursement, in whole or in part, for the claim year for an activity listed in the revised claiming instructions, the claimant would not be eligible to receive 100% reimbursement for the same activity for same claim year that has already been reimbursed.

Mountain View-Los Altos High School District further proposes to amend the "Offsetting Savings and Reimbursement" section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

⁸⁴ Education Code section 60248.

⁸⁵ Education Code section 60251.

⁸⁶ Statutes 2006, chapter 47, Item 6110-189-0001.

⁸⁷ Statutes 2007, chapter 171, Item 6110-189-0001.

The State Controller, when auditing school district's reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

With the exception of the second sentence, the language proposed by Mountain View-Los Altos High School District is consistent with the court's Judgment (paras. 1 and 2 (b)), and can also be found on pages 17 and 18 of the court's Ruling on Submitted Matter). The second sentence, as proposed, states the following: "The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided." The second proposed sentence, however, does not appear in the court's ruling or judgment, and is not consistent with Government Code section 17565; "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, and did not increase the school day or year with the addition of the second science course, the district would still be entitled to reimbursement under article XIII B, section 6.

The court's ruling, on page 18, does state the following: "Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do *not* increase the number of classes that they take overall." (Emphasis added.) Taken in context, the court's decision addresses potential cost savings in the school day or year with respect to a district's authority under Education Code section 44955 to eliminate courses and terminate teachers when the state mandates new curriculum. The court did not have facts before it to address Government Code section 17565 and the ability of a district to seek reimbursement when it did not increase the school day or year with the addition of the second science course.

Thus, staff recommends that the second sentence be deleted and a citation to the court case be added as follows:

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing school district's reimbursement claims under ~~section VI~~ of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired

for the second science course. ~~The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.~~ The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

Pursuant to Government Code section 17557, the reimbursement period for this request to amend the parameters and guidelines begins July 1, 2004.

The State Controller's Office is required to comply with the court's ruling when auditing and reimbursing teacher salary costs for the *Graduation Requirements* program under principles of collateral estoppel.⁸⁸ Collateral estoppel precludes a party from re-litigating the matters previously litigated and determined in a prior proceeding and makes the decision on the matter in the prior proceeding binding in the subsequent matter. Thus, even if the Commission does not amend the parameters and guidelines to include this language, it is still binding on the Controller. Staff recommends that the language be added for purposes of clarity and notice to all eligible claimants.

Staff further recommends that the offset section be amended to the current boilerplate language for claims filed beginning July 1, 2004. Staff's proposed amendments are as follows:

[Proposed Amendment to the parameters and guidelines adopted on January 24, 1991 for Costs Incurred Beginning in Fiscal Year 1995-1996]

VI. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be

⁸⁸ California Rules of Court, Rule 8.1115.

identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred from July 1, 1995 through June 30, 2004, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

[Proposed Amendment to the Parameters and Guidelines for Costs Incurred From July 1, 2004, until December 31, 2004]

X. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred from July 1, 2004, through December 31, 2004, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

XI. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

[Proposed Amendment to the parameters and guidelines adopted December 9, 2005 for Costs Incurred Beginning January 1, 2005)

VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred beginning January 1, 2005, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

XIII. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate

teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05, 06-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*
3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.