



DEPARTMENT OF  
**FINANCE**

ARNOLD SCHWARZENEGGER, GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

February 13, 2004

**RECEIVED**

FEB 18 2004

**COMMISSION ON  
STATE MANDATES**

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

Dear Ms. Higashi:

The Department of Finance has received and reviewed Commission on State Mandates Test Claim No. 02-TC-12, Crime Statistics Reports, submitted by the Santa Monica Community College District (SMCCD). Based on our review of the claim and the relevant State statutes, we believe that the decision to establish a police department on a community college campus is a voluntary action taken by each district, and by extension, reports required of such a department are themselves a voluntary activity undertaken by such an entity. As a result, we must conclude that the State laws and regulations at issue in this test claim do not create a State-mandated reimbursable activity, and we therefore request that the test claim be denied in its entirety.

Education Code Section (ECS) 72330 states:

"...The governing board of a community college district *may* establish a community college police department under the supervision of a community college chief of police and, in accordance with Chapter 4 (commencing with Section 88000) of Part 51, may employ personnel as necessary to enforce the law on or near the campus of the community college and on or near other grounds or properties owned, operated, controlled, or administered by the community college or by the state acting on behalf of the community college. Each campus of a multi-campus community college district may designate a chief of police...**[emphasis added]**"

The plain language of ECS 72330 indicates that the governing board of a community college district has the power and the authority to establish a police department, but the section does not in any way compel the governing board to do so. Given that the decision to establish a police department lies with the individual districts, and is not specifically compelled by language in these statutes, the requirements for which the claimant seeks reimbursement are not State-mandated activities. Further support for this conclusion is provided in recent decision by the Commission on State Mandates on 02-TC-09 "False Reports of Police Misconduct, K-14" at their January 29<sup>th</sup>, 2004 hearing. Specifically, the decision rendered by the commission found the following:

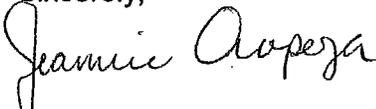
"Thus, pursuant to statutory law, school districts and community college districts are neither legally compelled to initially form their own police departments, nor to continue to provide their own police departments and employ peace officers. That decision is solely a local decision. Pursuant to the California Supreme Court, any statutory duties...that follow from such voluntary underlying activities do not impose a reimbursable state mandate...**[emphasis added]**"

Additional support for this conclusion is also found in *City of Merced v State of California*, 153 Cal. App. 3d 777 (1984).

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your February 19, 2003, letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Pete Cervinka, Principal Program Budget Analyst, at (916) 445-0328 or Keith Gmeinder, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

A handwritten signature in cursive script that reads "Jeannie Oropeza". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Jeannie Oropeza  
Program Budget Manager

Attachment

Attachment A

DECLARATION OF PETE CERVINKA  
DEPARTMENT OF FINANCE  
CLAIM NO. CSM-02-TC-12

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the various statutes sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

2/3/2004

at Sacramento, CA



Pete Cervinka

**PROOF OF SERVICE**

**Test Claim Name:** Crime Statistics Reports (K-14)  
**Test Claim Number:** CSM-02-TC-12

I, Jennifer Nelson, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On February 13, 2004 I served the attached request of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and non-state agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

**A-16**  
Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**B-8**  
State Controller's Office  
Division of Accounting & Reporting  
Attention: Michael Havey  
3301 C Street, Room 500  
Sacramento, CA 95816

**B-29**  
Legislative Analyst's Office  
Attention Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

**G-01**  
California Community Colleges  
Attention: Ralph Black  
1102 Q Street, Suite 300  
Sacramento, CA 95814-6549

Education Mandated Cost Network  
Attention: Carol Berg, Ph.D.  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Ms. Cheryl Miller  
Santa Monica Community College District  
1900 Pico Blvd.  
Santa Monica, CA 90405-1628

SixTen & Associates  
Attention: Keith B. Petersen, President  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

Spector, Middleton, Young & Minney, LLP  
Attention: Paul Minney  
7 Park Center Drive  
Sacramento CA 95825

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd. #307  
Sacramento, CA 95842

Reynolds Consulting Group, Inc.  
Attention: Sandy Reynolds  
P.O. Box 987  
Sun City, CA 92586

Mandated Cost Systems  
Attention: Steve Smith  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

Ms. Annette Chin  
Cost Recovery Systems  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

San Diego Unified School District  
Attention: Arthur Palkowitz  
4100 Normal Street, Room 3159  
San Diego, CA 92103-8363

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

Centration, Inc.  
Attention: Beth Hunter  
8316 Red Oak Street, Suite 101  
Rancho Cucamonga, CA 91730

Mr. Keith B. Petersen  
SixTen & Associates  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

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 February 13, 2004 at Sacramento, California.

*Clad Palmer for*  
\_\_\_\_\_  
Jennifer Nelson