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September 23, 2011

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

**RE: Request to Postpone Action Concerning:**  
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

Dear Mr. Bohan:

I represent a group of school districts that have formed an organization called the Graduation Requirements Mandate Resolution Committee (“GRMRC”), and I am writing on behalf of those districts. They include: San Jose Unified School District; Castrol 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. We are requesting that the Commission postpone any further action on the above request to amend the *Graduation Requirements Parameters and Guidelines*, including the filing of responses to the above Request, since the legality of the underlying statute on which the Request is based is the subject of a Declaratory Relief action currently pending in the Alameda County Superior Court (*California School Boards Association v. The State of California*, Case No. RG11554698, filed January 6, 2011).

In the pending court action, in which the Commission has appeared and filed an answer, the Petitioner California School Boards Association (“CSBA”) and its Education Legal Alliance (“ELA”), along with various named school districts (collectively referred to herein as “Petitioners”), have challenged the legality of AB 1610, Chapter 724, Statutes of 2010. Petitioners contend, among other assertions, that newly-adopted section 42238.24 violates the California Constitution and is unlawful. Should Petitioners prevail in that litigation, it will render moot the Department of Finance’s request to amend the Parameters and Guidelines in this matter, along with any Commission action that might be taken to approve such request.

ATTORNEYS AT LAW

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Mr. Drew Bohan, Executive Director  
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September 23, 2011  
Page 2

The Commission has previously postponed action on various test claim-related issues pending before it while awaiting the outcome of litigation that challenged an underlying statute or bases for the filing before the Commission. See, for example, the following:

1. *Academic Performance Index* (01-TC-22 867/01- San Juan Unified School District) and *School Accountability Report Card IV* (01-TC-22A 695/00 - San Juan Unified School District) – The COSM postponed the test claims until the resolution of the CSBA AB 138 litigation.
2. *California Public Records Act* (02-TC-51 355/01 – Santa Monica Community College District and Riverside Unified School District) – Same reason as #1
3. *Mandate Reimbursement Process 2* (03-TC-10 890/04 AB 3000 – City of Newport Beach) – same reason as #1
4. *Open Meetings Act 2* (06-TC-01 72/05 – County of Santa Barbara) – same reason as #1

The Department and other interested parties will not suffer any prejudice as a result of such postponement, since the issue of reimbursement for the increased cost of science teachers has been the subject of litigation for the past two decades, and the State has yet to fund the bulk of the mandate claims. Indeed, the Department of Finance filed a writ action that is pending in the Sacramento County Superior Court that challenges the last action taken by the Commission to adopt parameters and guidelines. (*Department of Finance v. Commission on State Mandates*, Sacramento County Superior Court Case No. 34-2010-80000529, filed 04/30/2010). On the contrary, postponement is in the public interest, as it will avoid the necessity of filing yet another round of litigation to challenge any action the Commission might take – either granting the Request or denying it.

We request that a decision on postponement be made at the earliest possible time. In addition, we request additional time for filing our response to the Department of Finance's Request to avoid any unnecessary expenses.

Thank you for your prompt consideration of this request.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Law Corporation



Diana D. Halpenny

DDH/hv  
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## Commission on State Mandates

Original List Date: 8/1/2011  
Last Updated: 9/30/2011  
List Print Date: 09/30/2011  
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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**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 30, 2011, I served the:

**Request to Postpone Further Action**

Request to Amend Parameters and Guidelines

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

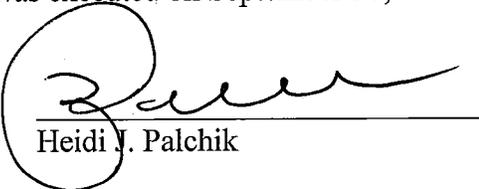
Education Code Sections 51225.3 and 42238.24

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 30, 2011 at Sacramento, California.



Heidi J. Palchik