

Hearing: May 25, 2012

ITEM 13

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

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

New Filings

None.

Litigation Calendar

<u>Case</u>	<u>Hearing Date</u>
1. <i>Department of Finance v. Commission on State Mandates, San Diego Unified School Dist., et al.</i> Sacramento County Superior Court, Case No. 34-2010-80000529 [<i>Graduation Requirements Parameters and Guidelines Amendment, November 2008</i>]	Continued to September 21, 2012

Cases of Interest

- *Fenton Avenue Charter School, Granada Hills Charter High School, Palisades Charter High School, and Vaughn Next Century Learning Center v. John Chiang, as State Controller*, Sacramento County Superior Court, Case No. 34-2010-00088619
Court grants State's motion for judgment on the pleadings and dismisses lawsuit (April 18, 2012)

This case challenges the Controller's return of reimbursement claims filed by the charter schools on 21 reimbursable state-mandated programs. The Commission is not a party to this action.

The charter schools allege that they are "school districts" within the meaning of Government Code section 17519 and, thus, eligible to claim reimbursement for state-mandated local programs under article XIII B, section 6 of the California Constitution. The charter schools request that the court declare charter schools to be school districts within the meaning of Government Code section 17519, that the

¹ Based on information available as of May 11, 2012. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

Controller is obligated to accept and fully reimburse charter schools on their claims for reimbursement, and that the Controller's actions are unconstitutional. The charter schools also request a petition for writ of mandate directing the Controller to make full payment on the claims, and an injunction against the Controller to prevent the Controller from returning reimbursement claims filed by charter schools.

The State Controller's Office filed a motion for judgment on the pleadings asking the court to dismiss the claim on the ground that the charter schools have not exhausted their administrative remedies with the Commission. The Controller's Office further argues that there is no legal authority to provide reimbursement since the Commission decided in 2006 that charter schools are not eligible claimants under Government Code section 17519 in the *Charter Schools III* test claim.

On April 18, 2012, the court issued its statement of decision granting the State's motion and dismissing the complaint on the following grounds:

- The plaintiffs' claim - that they are "eligible claimants" - is not relevant in a claim against the Controller. The Legislature has vested the Commission with the sole and exclusive authority to determine the existence of a state-mandate program and the eligible claimants. The Controller has the ministerial duty to follow the determinations made by the Commission.
- Plaintiffs have failed to exhaust their administrative remedies by not filing incorrect reduction claims.