

ITEM 14

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

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

New Filings

None.

Recent Decisions

San Diego Unified School District, et al. v. Commission on State Mandates, et al.
Third District Court of Appeal, Case Number C044162
CSM Case No. 02-L-05 [*Physical Performance Tests*]

On July 27, 2004, in an unpublished decision, the court upheld the Commission's decision that school districts are not entitled to state reimbursement for the "redirected" time that teachers spend giving tests during normal classroom hours. The programs at issue were physical fitness testing and the STAR (Standardized Testing and Reporting) tests.

San Diego Unified School District v. Commission on State Mandates, et al.
California Supreme Court, Case Number S109125
CSM Case No. 02-L-02 [*Pupil Expulsions*]

On August 2, 2004, the California Supreme Court ruled that that all hearing costs resulting from state-mandated expulsions (specifically, for possession of a gun at school) are reimbursable state-mandated costs. However, the Court found no state-mandated new program or higher level of service in other instances of expulsion because authority for those expulsions existed in prior law.

¹ Based on information available as of September 8, 2004. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

Litigation Calendar

Case Reference	Hearing Date
<i>County of Los Angeles and Los Angeles County Flood Control District v. State of California, Commission on State Mandates, et al.</i> Los Angeles Superior Court Case Number BS089769 CSM Case No. 03-L-12 [<i>Transit Trash Receptacles, et al.</i>]	October 19, 2004
<i>City of Artesia, et al. v. State of California, Commission on State Mandates, et al.</i> Los Angeles Superior Court Case Number BS089785, CSM Case No. 03-L-13 [<i>Waste Discharge Requirements</i>]	October 19, 2004