



August 11, 2003

**RECEIVED**

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

AUG 11 2003

**COMMISSION ON  
STATE MANDATES**

Dear Ms. Higashi:

As requested in your letter dated July 10, 2003, the Office of Public School Construction (OPSC) has reviewed the test claim submitted by the Clovis Unified School District asking the Commission to determine whether specified costs are incurred by the school district as required by statute in the levying of developer fees (Claim Number 02-TC-42). Following please find responses to the questions addressed in your letter:

- 1. Do the provisions listed in the notice impose a new program or higher level of service within an existing program upon local entities within the meaning of Section 6, Article XIII B of the California Constitution and costs mandated by the State pursuant to Section 17514 of the Government Code?**

Participation in the School Facility Program (SFP), Chapter 12.5 of the Education Code, by a school district is voluntary. The Education Code does not compel a district to obtain funding from the State through the SFP as a condition of building schools. School districts may choose to build facilities through the use of district raised funds. Program elements are only required if a district chooses to participate in the program.

Additionally, the levying of developer fees is not a requirement to participate in the SFP. Many school districts do levy fees to assist with local matching share requirements; however, other funding sources are available for districts such as the passage of local school facility bonds.

- 2. Does Government Code Section 17556 preclude the Commission from finding that any of the test claim provisions impose costs mandated by the State?**

Yes. It appears that Government Code Section 17556(d) precludes the Commission from finding that any provisions of the test claim impose costs mandated by the State.

Education Code Section 17556(d) states:

*The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increase level of service.*

Statute allows a school district the authority to raise program costs through the passage of local bonds, other revenue sources including developer fees for capital outlay needs.

**3. Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?**

State funding is not provided for developer fees.

I have also enclosed for your review the State School Facility Programs Overview brochure, which provides information on the State Allocation Board and the various programs administered by our office. If you have any questions regarding this letter, please contact Ms. Elizabeth Dearstyne, Project Manager, at edearsty@dgs.ca.gov or (916) 323-0073.

Sincerely,



LUISA M. PARK  
Executive Officer  
Office of Public School Construction

LMP:ED:rm

Enclosures

cc: Commission's Parties and Interested Parties List as of 7/8/2003 (Enclosure)

# Commission on State Mandates

Original List Date: 7/8/2003  
Last Updated:  
List Print Date: 07/10/2003  
Claim Number: 02-TC-42  
Issue: Developer Fees

Mailing Information: Completeness Determination

## 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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