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December 13, 2011

VIA EMAIL

Ms. Nancy Patton
Interim Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

**Re: Charter School IV
03-TC-03**

Dear Ms. Patton:

Please be advised claimant submits the following comments in response to the Draft Staff Analysis ("DSA").

The draft staff analysis recommends several activities be approved by the Commission as a reimbursable state mandate. The following comments address the activities not recommended to be approved as a reimbursable state mandate.

On page six of the DSA staff concludes, "Due to the lack of evidence, staff finds that Education Code sections 1628, 42100(a), 47604.4(a), 47605(j)(1) and 47605.6, (Statutes 2002, ch. 1058) as they effect County Offices of Education do not impose a reimbursable state-mandated new program or higher level of service." A declaration was submitted with the test claim that staff concluded failed to include costs "that are unique to county of offices or charter schools."

Please be advised we submit the attached Declaration from Keith Butler, employee of the San Diego County of Education. The Declaration supports Claimant's allegations the test claim statutes impose unique activities that affect County Offices of Education and such activities impose state mandated new programs or a high level of service.¹

The test claim includes the following, Education Code 47605 "Section (P) a description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of

¹ Education Code sections 1628, 42108, 47604.48, 47605(j)(1) and 47605.6, (Statutes 2002, ch. 1058)

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Commission on State Mandates

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**Charter School IV
03-TC-03**

the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.”

Section P may be considered “activities of charter school petitioners in obtaining approval of charter schools.” However, claimant seeks reimbursement to review the additional information in the charter petition that is required by the test claim statutes. Claimant further seeks reimbursement to review the additional **cash flow** information requested.²

CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.


Arthur M. Palkowitz
Attorney for the Claimant

² Education Code 47605, Section D “The petitioner or petitioners shall also be required to provide financial statements that include a proposed first year operational budget, including start up costs, and **cash flow** and financial projections for the first three years of operation.”

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Charter Schools IV) Case No: 03-TC-03
Education Code Sections 1628, 42100,
47602, 47604.3, 47604.4, 47605,
47605.1, 47605.6, 47605.8, 47611.5,
47612.1, 47613.1, 47626, 47652
Government Code Section 3540.1
Statutes 1999, Chapter 828,
Statutes 2002, Chapter 1058
San Diego Unified School District,
Claimant

DECLARATION OF KEITH BUTLER

I, Keith Butler, declare as follows:

1. I am Consultant, Business Advisory Services for San Diego County of Education.
2. I have personal knowledge of the facts stated herein. If called as a witness, I could and would competently testify thereto.
3. The activities performed by the San Diego County of Education related to Charter Schools are as follows:

1 ///

2 (a) Receive from each school district an approved annual statement of all
3 receipts and expenditures of the charter school for the preceding fiscal year, review the
4 contents, and transmit the annual statement to the Superintendent of Public Instruction.

5 (b) Review, require information, hold a public hearing, and approve or deny a
6 petition for the operation of a charter school that operates at one or more sites within the
7 geographic boundaries of the county and that provides instructional services that are not
8 generally provided by a county office of education.

9 (c) Review appeals of a charter petition denied by the school district, after
10 which a petitioner could appeal to the State Board of Education.

11 (d) Review appeals of a charter revoked by the school district, after which a
12 petitioner could appeal to the State Board of Education.

13 (e) In addition, county offices of education may monitor the operations of a
14 charter school and investigate its operations.

15 (e) It is my experience that other County Offices of Education in California
16 perform the same and/or similar activities stated above.

17 The mandated state activities performed have resulted in increased costs in an amount
18 greatly exceeding \$1,000.

19 I declare under penalty of perjury that the foregoing is true and correct under the laws of
20 the State of California.

21 Executed this 12th day of December in San Diego, California.

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23
24  12/12/2011
25 KEITH BUTLER