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November 15, 2012

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
And Interested Parties and Affected State Agencies (See Mailing List)

RE: Comments on the Draft Staff Analysis
Parental Involvement Programs, 03-TC-16
Education Code Sections 11500 et al.
San Jose Unified School District, Claimant

Dear Ms. Halsey:

As requested in your letter of October 23, 2012, the Department of Finance (Finance) has reviewed the Commission on State Mandate's (CSM) Draft Staff Analysis and Proposed Statement of Decision to partially approve the test claim submitted by the San Jose Unified School District regarding *Parental Involvement Programs*, 03-TC-16.

The Draft Staff Analysis concluded that specific activities contained within Education Code sections 11504, 49091.10(a), 49091.10(b), 51101(b), and 51101.1(a), as added or amended by the test claim statutes, impose a partial reimbursable state-mandated program or higher level of service on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Thus, staff recommended that the CSM adopt the Proposed Statement of Decision to partially approve this test claim as specified below:

- 1) Education Code section 11504: School districts formed, or school districts with schools formed, during the reimbursement period that could not have adopted parent involvement policies prior to the 2002-2003 fiscal year, and that do not receive federal funding, are eligible for reimbursement for the one-time activity to adopt a parent involvement policy consistent with purposes and goals set forth in Education Code section 11502.
- 2) Education Code section 49091.10(a): School districts are eligible for reimbursement for promptly making all pupil assessments, excluding standardized tests, available for inspection by a parent or guardian, upon request, in a reasonable timeframe or in accordance with procedures determined by the governing board of the school district.
- 3) Education Code section 49091.10(b): School districts are eligible for reimbursement to arrange for the parental observation of the requested class or classes or activities by the parent or guardian, upon written request, within a reasonable timeframe and in accordance with procedures determined by the governing board of the school district.

- 4) Education Code section 51101(b): All school districts formed, or school districts with schools formed, during the reimbursement period that could not have adopted parent involvement policies prior to the 2002-2003 fiscal year are eligible for reimbursement for the one-time activity to develop jointly with parents and guardians, and adopt, a policy that outlines how parents or guardians of pupils, school staff, and pupils may share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils at each schoolsite, as specified in subsections (1) through (3).
- 5) Education Code section 51101.1(a): School districts that contain a school where 15 percent or more of the pupils in a particular school speak a language other than English at home are eligible for reimbursement to notify parents and guardians of English learners of certain rights as specified in Education Code subsections 51101(a)(1), (a)(2), (a)(3), (a)(4), and (a)(11). In addition, these schools must notify such parents of the retention and promotion policies as specified in Education Code subsections 51101(a)(12) and (a)(16) and in Education Code subsections 51101.1(b)(2) and (b)(4).

Finance notes the following points:

- 1) With regard to Education Code section 11504, we acknowledge that certain school districts are eligible for reimbursement for the one-time activity to adopt a parent involvement policy consistent with purposes and goals set forth in Education Code section 11502. However, the cost to a governing board to adopt such a policy is minimal.
- 2) With regard to Education Code section 49091.10(a), we disagree with the staff's determination that the requirement to make pupil assessments, other than standardized tests, available for inspection by a parent or guardian constitutes a new program or higher level of service.

Education Code section 49069 (Stats. 1976, Ch. 1010) states:

Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children that are maintained by school districts or private schools. The editing or withholding of any of those records, except as provided for in this chapter [Ch. 6.5, Pupil Records, addressing certain non-material exceptions], is prohibited. Each school district shall adopt procedures for the granting of requests by parents for copies of all pupil records pursuant to Section 49065 [addressing the reasonable charge for transcripts], or to inspect and review records during regular school hours, provided that the requested access shall be granted no later than five business days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the availability of qualified certificated personnel to interpret records if requested.

Education Code section 49061(a) defines a "parent" to mean a natural parent, an adopted parent, or legal guardian. Education Code section 49061(b) defines "pupil record" to mean any item of information directly related to an identifiable pupil, other than directory information, that is maintained by a school district or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm or other means. Education Code section 49061(e) defines "access" to mean a personal inspection and review of a record or an accurate copy of a record, or

receipt of an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

We assert that "assessments" fall under the definition of pupil records and parents or guardians already have a right to inspect these. For example, an individual parent can make a request to see their child's test. In addition, Education Code section 49070 allows parents or guardians to challenge the content of any pupil record and describes the administrative proceedings to do so, including the superintendent's authority to order a pupil's grade to be changed. Without access to assessments, or tests, under the definition of pupil records, a parent would not be able to challenge a grade. The requirement for schools districts to make pupil records, including assessments, available for inspection by a parent or guardian existed prior to January 1, 1975. Therefore, Education Code section 49091.10(a) does not constitute a new program or higher level of service beyond what was required by the former statutes and would not require a subvention of funds pursuant to section 6 of Article XIII B of the California Constitution.

- 3) With regard to Education Code section 49091.10(b), we disagree with the staff's determination that arranging for a parental observation of a requested class or activity constitutes a new program or higher level of service. The law does not prescribe when these meetings must take place and since any observation of a class or school activity would be within the normal working hours of the school, districts should be able to accommodate these requests without incurring additional costs.
- 4) With regard to Education Code section 51101(b), we acknowledge that school districts are eligible for reimbursement for the one-time activity to develop jointly with parents and guardians, and adopt, a policy with specific content related to parental involvement. However, we note the law requires **one** policy to be developed and adopted at a district level, not a separate policy for each school site. Thus, we assert that the cost to a governing board is minimal.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Elisa Wynne, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,



NICK SCHWEIZER
Program Budget Manager