DEPARTMENT OF FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

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April 28, 2004

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COMMISSION ON STATE MANDATES

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

Dear Ms. Higashi:

As requested in your letter of October 7, 2003, the Department of Finance has reviewed the test claim submitted by the San Jose Unified School District, claimant, asking the Commission to determine whether specified costs incurred under various statutes are reimbursable State mandated costs (Claim No. CSM-03-TC-16 "Parental Involvement Programs"). Commencing with page 20 of the test claim, the claimant asserts the following activities are reimbursable State mandates:

1) Pursuant to Chapter 16 commencing with Education Code (EC) Section 11500:
   - EC Section 11502(a), engaging parents positively in their children's education by helping parents develop skills to use at home.
   - EC Section 11502(b), informing parents that they can directly affect the success of their children's learning, by providing parents with techniques and strategies that they may utilize to improve their children's academic success and to assist their children in learning at home.
   - EC Section 11502(c), building consistent and effective communication between the home and the school.
   - EC Section 11502(d), training teachers and administrator to communicate effectively with parents.
   - EC Section 11502(e), integrating parent involvement programs into the school's master plan for academic accountability.
   - EC Section 11504, adopting a policy on parent involvement, consistent with the purposes and goals set forth in EC Section 11502, for schools that are not required to establish a parental involvement program under EC Section 11503.

2) Pursuant to EC Section 49091.10:
   - Subdivision (a), making all primary supplemental instructional materials available for inspection by a parent or guardian.
   - Subdivision (b), upon written request by a parent or guardian, arranging for the parental observation of the requested class or classes or activities.

3) Pursuant to EC Section 49091.14:
   - Compiling and making available a prospectus at least once annually and, upon request, reproducing and making copies available.

4) Pursuant to EC Section 51101(a) informing parents and guardians and where appropriate, allowing the participation by parents and guardians, as follows:
   - Allowing the observation of the classroom in which their child is enrolled.
   - Enabling the teacher and the principal to meet with the parent or guardian within a reasonable time after a request for such a meeting.
   - Supervising parents and guardians who volunteer their time and resources for improvement of school facilities and programs.

5) Pursuant to EC Section 51101(a) (4) and (5):
   - Notifying parents and guardians if their child is absent from school without permission.
   - Providing to parents and guardians results of their child's performance on standardized tests and statewide tests and providing information on the performance of the school that their child attends on standardized statewide tests.

6) Pursuant to EC Section 51101(a) (6) and (7):
   - Responding to requests of parents and guardians that their child be enrolled in a particular school.
   - Providing a school environment that is safe and supportive of learning.

7) Pursuant to EC Section 51101(a), (8) to (13) and (15) to (16):
   - Allowing parents and guardians to examine curriculum materials.
   - Informing parents and guardians of their child's progress in school and of the appropriate school personnel whom they should contact if problems arise with their child.
   - Providing parents and guardians with access to the school records of their child.
   - Providing parents and guardians with information concerning the academic performance standards, proficiencies, or skills their child is expected to accomplish.
   - Informing parents and guardians, in advance, about school rules.
   - Providing parents and guardians with information about any psychological testing the school does involving their child and to cease such testing when they deny permission to give the test.
   - Responding to parent's and guardian's questions about anything in their child's record that they may feel is inaccurate or misleading or is an invasion of privacy.
   - Notifying parents and guardians of their rights as early in the school year as practicable pursuant to EC Section 48070.5 if their child is identified as being at risk of retention.

8) Pursuant to EC Section 51101(a) (14):
   - Scheduling and implementing a biannual open forum for the purpose of informing parents about current school issues and answering parents' questions.

9) Pursuant to EC Section 51101(b):
   - Working with parents and guardians to help children succeed in school
   - Developing jointly with parents and guardians and adopting a policy that outlines how parents and 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.

10) Pursuant to EC Section 51101.1(a) and (b):
   - Taking all reasonable steps to ensure all parents and guardians of pupils who speak a language other than English are properly notified in English and in their home language of rights and opportunities available to them.

- Providing results of a child's standardized test.
- Giving any required written notification in English and the pupil's home language.
- Allowing participation in school and district advisory bodies in accordance with federal and state laws and regulations.
- Encouraging parents and guardians of English learners to support their child's progress.
- Informing parents and guardians about statewide and local academic standards, testing programs, accountability measures, and school improvement efforts.

11) Pursuant to EC Section 51101.1(c):
- Establishing parent centers with personnel who can communicate with the parents and guardians of these children when a school has a substantial number of English learners.

Finance notes the following points:

1) With regard to Chapter 16, commencing with EC Section 11500:
- EC Section 11502 only states the purpose and goal of the chapter, and does not create a mandate for a new program or higher level of service. EC Section 11503 does mandate the establishment of parent involvement programs. However, it is clear that the establishment of a parental involvement program is only required for schools which receive federal funds. Since the decision to receive the federal funds is an option, the costs are not reimbursable. This is consistent with previous Commission rulings wherein if participation in the overall program is optional or voluntary, that any succeeding requirement would not result in a state-mandate. Specifically, EC Section 11502 states: "The governing board of each school district shall establish a parent involvement program for each school in the district that receives funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988."
- Since the statute simply implemented a federal law and resulted in costs mandated by the federal government, the costs would not be reimbursable. GC Section 17556(c) states that a statute or executive order which implements a federal law or regulation and results in costs mandated by the federal government, will not result in a State-mandated local program. EC Section 11500(c) states: "The federal government has recognized the critical role of parents in the education process and now mandates parental involvement programs as a condition of eligibility for funds under the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988."
- EC Section 11504 requires the governing board of each school district that is not required to establish a parental involvement program under EC Section 11503 to adopt a policy on parent involvement consistent with the purposes set forth in EC Section 11502. The cost to a governing board to adopt such a policy is minimal and one-time, and does not necessarily impose a higher level of service on the schools.

2) With regard to EC Section 49091.10:
- Schools must, as a practical matter, currently store the existing instructional materials. Therefore, storing and compiling them for inspection is not imposing a higher level of service. Similarly, arranging for parent class observation and inspection of materials does not represent a higher level of service imposed on the schools, and the costs should be minimal to none.

3) With regard to EC Section 49091.14:
   - The development of a curriculum is a public process and schools already have titles, descriptions, and instructional aims of courses, thus making these existing materials available for parents does not constitute a new program or higher level of service. Additionally, school officials were given the authority to charge a fee for the cost of duplication, thus the costs are not reimbursable per GC Section 17556(d).

4) With regard to EC Section 51101(a):
   - Allowing for parent observation of classrooms is not a higher level of service imposed on the schools, and the costs of arranging and accommodating these observations should be minimal to none. With respect to accommodating requests for meetings with teachers and administrators, the law does not prescribe when these meetings must take place. Thus we believe that the meetings can normally be accommodated during normal /base pay working hours for teachers and principals. To claim costs, districts should have to show that they have so many requested meetings with parents that it is not feasible to accommodate the requests during normal working hours.
   - Schools also have to approve the volunteer activities of the parent. The school has a choice whether or not to allow the activities, and thus the cost of supervision is not reimbursable.

5) With regard to EC Section 51101(a) (4) and (5):
   - We concur that requiring schools to notify parents and guardians of unexcused absences is a higher level of service required of the schools, thus the costs associated with the notification are reimbursable. However we note the costs should be minimal, as schools already collect absence records, and can notify parents by phone call or mailed form letter. We note that such notices are already provided under EC Section 48263 and reimbursed under the Notification of Truancy and Habitual Truant mandates.

6) With regard to EC Section 51101(a) (6) and (7):
   - EC Section 48980(j) already requires schools to notify parents of all current statutory attendance options and local attendance options available in the school district. Therefore this does not constitute a new program or higher level of service. Furthermore providing a safe and supportive learning environment has always been a general goal of public education and does not constitute a new program of higher level of service. The statute prescribes no specific methods or activities that must be implemented to provide a safe and supportive learning environment, thus there are no mandated activities.

7) With regard to EC Section 51101(a), (8) to (13) and (15) to (16):
   - Schools already keep curriculum materials and student records, thus allowing parents to examine them do not constitute a higher level of service. Schools were already required under EC Section 48980 to notify parents of their child's progress, school rules, available programs, and other options. Therefore, this does not constitute a new program or higher level of service.

8) With regard to EC Section 51101(a) (14):
   - This section states that scheduling a biannual open forum is encouraged, not required. Therefore, the activity is not reimbursable.

9) With regard to EC Section 51101(b):
   - We concur that the costs of developing and adopting these policies <u>in schools that do not receive federal funds</u> constitutes a higher level of service. However, similar to the

policy development required by Education Code Section 11504, these costs are one-time and would be minimal.

10) With regard to EC Section 51101.1 (a) and (b):

- EC Section 48985 already requires all notices, reports, statements, or records sent to parents or guardians be sent in their primary language if other than English, therefore this does not constitute a new program or higher level of service and thus is not reimbursable.
- Providing parents results of state-mandated standardized tests is already provided for in the State's funding for those programs, and is covered by mandate test claims for those exams.

11) With regard to EC Section 51101.1(c):

- We note that in EC Section 51101.1(c) the establishment of parent centers in schools with a substantial number of English learners is encouraged, not required, and thus is not reimbursable.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your October 7, 2003, letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Matt Aguilera, Principal Program Budget Analyst at (916) 445-0328 or Keith Gmeinder, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

Jeannie Oropeza

Jeannie Oropeza
Program Budget Manager

Attachment

Attachment A

DECLARATION OF MATT AGUILERA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-03-TC-16, PARENTAL INVOLVEMENT PROGRAMS

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

2. We concur that the various statutes sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

4/28/04
at Sacramento, CA

Matt Aguilera
Matt Aguilera

PROOF OF SERVICE

Test Claim Name: Parental Involvement Programs
Test Claim Number: CSM-03-TC-16

I, the undersigned, declare as follows:
I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On April 28, 2004, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and non-state agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: Michael Havey
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention: Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

E-8
Department of Education
Fiscal and Administrative Services Division
Attention: Gerald Shelton
1430 N Street, Suite 2213
Sacramento, CA 95814

Spector, Middleton, Young, Minney, LLP
Attention: Paul Minney
7 Park Center Drive
Sacramento, CA 95825

Reynolds Consulting Group, Inc.
Attention: Sandy Reynolds, President
P.O. Box 987
Sun City, CA 92586

Shields Consulting Group, Inc.
Attention: Steve Shields
1536 36th Street
Sacramento, CA 95816

San Diego Unified School District
Attention: Arthur Palkowitz
4100 Normal Street, Room 3159
San Diego, CA 92103-8363

Centration, Inc.
Attention: Beth Hunter
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates
Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

San Jose Unified School District
Attention: Patrick Day
855 Lenzen Avenue
San Jose, CA 95126-2736

Mandate Resource Services
Attention: Harmeet Barkschat
5325 Elkhorn Blvd., Suite 307
Sacramento, CA 95842

Steve Smith Enterprises, Inc.
Attention: Steve Smith
One Capitol Mall, Suite 200
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 28, 2004, at Sacramento, California.

Jennifer Nelson

Jennifer Nelson