

ITEM 4
TEST CLAIM
PROPOSED DECISION

Education Code Sections 69432.9, 69432.92

Statutes 2014, Chapter 679 (AB 2160), Statutes 2015, Chapter 637 (AB 1091),
Statutes 2016, Chapter 82 (AB 2908)

Cal Grant: Grade Point Average and Graduation Certification

16-TC-02

Fairfield-Suisun Unified School District, Claimant

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Assembly Floor, Analysis of AB 2160 (2013-2014 Reg. Sess.) as amended August 18, 2014.

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June 1, 2015.

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State's Opposition to Petition for Writ of Mandate (Second Cause of Action), *California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance*, filed April 3, 2015, Alameda County Superior Court, Case No. RG11554698

MGT of America, LLC
2251 Harvard Street, Suite 134
Sacramento, CA 95815

RECEIVED
August 03, 2017
*Commission on
State Mandates*

July 31, 2017

**RE: Incomplete Test Claim Filing - Fairfield Suisun Unified School
District**

Dear Ms. Exec. Director Halsey and Ms. Magee,

Enclosed please find the Fairfield Suisun Unified School District's response to your letter dated July 6, 2017 regarding the incomplete filing of the Cal Grant: Grade Point Average and Graduation Certification Test Claim.

The District has also uploaded this response and refiling of the test claim to the Commission on State Mandate's website to ensure the refiling complies with all applicable requirements.

The District has responded to the letter the COSM sent on July 7, 2017 below as well as adding and changing all pertinent sections of the original test claim filing.

Please review and let us know if you have any questions or need any additional information at all as we will be happy to provide it.

Thank you,



Jolene Tollenaar
Senior Consultant
MGT of America
916 243-8913

Sent via email to: michellehe@fsusd.org and jolenetollenaar@mail.com

July 6, 2017

Ms. Michelle Henson
Assistant Superintendent of Business Services
Fairfield Suisun Unified School District
2490 Hilborn Road
Fairfield, CA 94534

Ms. Jolene Tollenaar
MGT of America, LLC
2251 Harvard Street, Suite 134
Sacramento, CA 95815

Re: Notice of Incomplete Test Claim

Cal Grant: Grade Point Average and Graduation Certification

Education Code Sections 69432.9(2), 69432.9(3), 69432.9(5), 69432.9(6)(d)(1), and 69432.9(6)(d)(2); as added or amended by Statutes 2014, Chapter 679 (AB 2160); and Education Code Sections 69432.9 and 69432.92; as added or amended by Statutes 2015, Chapter 637 (AB 1091)
Fairfield Suisun Unified School District, Claimant

Dear Ms. Henson and Ms. Tollenaar:

On June 26, 2017, the Fairfield Suisun Unified School District filed a Test Claim with the Commission on State Mandates (Commission) on the above-named matter.

Upon initial review, Commission staff finds this Test Claim to be incomplete because: (1) it is not timely filed; (2) the person listed in *Section 2. Claimant Information* and *Section 8. Claim Certification* of the test claim form is not clearly among those authorized to file a test claim under section 1183.1(a)(3) of the Commission's regulations; (3) prior mandate determinations made by the Commission on State Mandates that may be related to the alleged mandate are not identified in *Section 5. Written Narrative as required by Government Code section 17553(b) (1) (G) and the instructions on the test claim form*; (4) the date that costs were first incurred, the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed (fiscal year 16-17) to implement the alleged mandate, and the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed (fiscal year 17-18) are not provided in *Section 5. Written Narrative* and *Section 6. Declarations as required by Government Code section 17553(b)(1)*; (5) both *Section 5. Written Narrative* and *Section 7. Documentation* of the Test Claim cite a statute that is not listed in *Section 4. Test Claim Statutes or Executive Orders Cited* and therefore is not properly pled (this is ok if you are not alleging that the section imposes the mandate); and (6) copies of statutes or executive orders cited are not attached to the Test Claim in *Section 7. Documentation*, as required.

All Test Claims Must Be Timely Filed

Government Code section 17551(c), states: "Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later."

In addition, 1183.1(c) of the Commission's regulations, states:

Except as provided in Government Code sections 17573 and 17574, any test claim or amendment filed with the Commission must be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months *of first* incurring increased costs as a result of a statute or executive order, whichever is later. For purposes of claiming based on the date of first incurring costs, 'within 12 months' means by June 30 or the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant. (Emphasis added.)

The following code sections and statutes are listed on the test claim form in *Section 4. Test Claim Statutes or Executive Orders Cited*: Education Code sections 69432.9(2), 69432.9(3), 69432.9(5), 69432.9 (6)(d)(1), and 69432.9 (6)(d)(2); as added or amended by Statutes 2014, Chapter 679 (AB 2160); and Education Code sections 69432.9 and 69432.92; as added or amended by Statutes 2015, Chapter 637 (AB 1091). The effective dates of both test claim statutes pled, January 1, 2015 and January 1, 2016, respectively, are more than 12 months prior to the filing date of this test claim, June 26, 2017. In addition, both the narrative and declarations specify that costs were incurred in fiscal year 14-15 and 15-16, but neither specify a date that the test claimant first incurred increased costs as a result of either statute within 12 months of the filing date.

DISTRICT RESPONSE:

As stated above and listed specifically in the COSM Test Claim and Test Claim Amendment Instructions:

Local agency and school district test claims shall be filed no later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later. "Within 12 months of incurring increased costs" means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.

The initial costs for Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A) were incurred by the Fairfield Suisun Unified School District (FSUSD) on September 1, 2015 which falls within the 2015-16 fiscal year. Based on the above language "Within 12 months of incurring costs" meaning by June 30 of the following fiscal year in which increased costs were first incurred which in this case was June 30, 2017. The Cal Grant: Grade Point Average and Graduation Certification test claim was filed on June 26, 2017 which 4 days is prior to the deadline of June 30, 2017 which meets the timely filing requirements for all test claims.

The initial costs for Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b) were incurred by the FSUSD on November 1, 2016 which by the same definition quoted above makes them eligible for test claim filing until June 30, 2018 which is more than a year after

the filing of the Cal Grant: Grade Point Average and Graduation Certification test claim on June 26, 2017.

In the letter from the COSM it was stated the following:

“both the narrative and declarations specify that costs were incurred in fiscal year 14-15 and 15-16, but neither specify a date that the test claimant first incurred increased costs as a result of either statute within 12 months of the filing date”.

After thorough review of both the Narrative and the Declarations for the Cal Grant: Grade Point Average and Graduation Certification test claim filing the District was unable to identify any specific reference to costs incurred in the 2014-15 fiscal year.

The specific dates all costs were first incurred for each Education Code Sections pled in this test claim are referenced above.

Please let us know if there are specific paragraphs of the test claim filing that state or show costs were incurred in the 2014-15 fiscal year as this is clearly a typographical error and the FSUSD would gladly update the language once it is identified.

Finally, the following additional code section and statute is referenced in Section 5. (A) Written Narrative and Section 7. (A) Documentation but is not pled in Section 4. Test Claim Statutes or Executive Orders Cited: Education Code section 69432.92; as added or amended by Statutes 2016, Chapter 82, Section 3 (bill number not provided), effective January 1, 2017.

DISTRICT RESPONSE:

Below are the details for 2016 AB 2908, Education Code 69432.9 (d) (1) & (2) 69432.9

- (d) (1) The school district or charter school shall, no later than January 1 of a pupil's grade 11 academic year, notify, in writing, each grade 11 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission and the submission deadline of October 1. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.*
- (2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.*

(Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.

FOR YOUR CONVENIENCE HERE ARE THE LINKS TO THE PERTINENT LEGISLATION BELOW:

[20132014 AB2160 Section 1. \(Amends\) - Chaptered \(Stats.2014 Ch.679\)](#)

[20152016 AB1091 Section 1. \(Amends\) - Chaptered \(Stats.2015 Ch.637\)](#)

[20152016 AB2908 Sec. 3. \(Amends\) - Chaptered \(Stats.2016 Ch.82\)](#)

Who May File a Test Claim on Behalf of a Local Agency?

Pursuant to section 1183.1(a)(3) of Commission regulations, only specified authorized school district officials may file on behalf of a school district.

Section 1183.1(a)(3) of Commission regulations state that only a "district superintendent may file on behalf of a school district." Therefore, only an official authorized in section 1183.1(a)(3) of the Commission's regulations may be named as claimant contact in *Section 2. Claimant Information* on the test claim form, or act as the authorized signatory in *Section 8. Claim Certification* of the test claim form. Ms. Henson's title is "Assistant Superintendent Business Services." Thus, Ms. Henson may not be named as claimant contact in *Section 2. Claimant Information* on the test claim form, nor may she act as the authorized signatory for the purposes of *Section 8. Claim Certification* of the test claim form. However, anyone who specifically requests to be on the mailing list for a matter is included on all service of written materials and may participate in the mandate determination process.

DISTRICT RESPONSE:

The Cal Grant: Grade Point Average and Graduation Certification Test Claimant Section 2 and Certification Section 8 have be updated with the FSUSD Superintendent's information and signature to comply with the above request.

A Detailed Description of Costs and Prior Mandate Determinations Is Required.

Government Code section 17553(b)(1)(A-G) specifies that all test claims shall contain at least the following elements:

- (A) *A detailed description of the new activities and costs that arise from the mandate.*
- (B) *A detailed description of existing activities and costs that are modified by the mandate.*
- (C) *The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.*
- (D) *The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.*
- (E) *A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.*
- (F) *Identification of all of the following:*
 - (i) Dedicated state funds appropriated for this program.
 - (ii) Dedicated federal funds appropriated for this program.
 - (iii) Other nonlocal agency funds dedicated for this program.
 - (iv) The local agency's general purpose funds for this program.

(v) Fee authority to offset the costs of this program.

(G) *Identification of prior mandate determinations made by the Commission on State Mandates* or a predecessor agency that may be related to the alleged mandate.

Government Code section 17553(b)(2)(A-D) specifies that the written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so, as follows:

(C) *Declarations of actual or estimated increased costs* that will be incurred by the claimant to implement the alleged mandate.

(D) *Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs* that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

(E) *Declarations describing new activities performed to implement specified provisions of the new statute or executive order* alleged to impose a reimbursable state-mandated program. Specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program.

(F) If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Section 17573, and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of Section 17574.

The Narrative and Any Allegations of Fact Must Be Supported with Evidence in the Record.

In *Section 5. (G) Written Narrative* you state that there are no prior mandate determinations related to this mandate and do not reference the 2009 Commission Decision *Cal Grants, 02-TC-28* as is required by the Government Code. Although this prior mandate determination applied only to community college districts, the same code section, Education Code section 69432.9 is being pled in this new filing and may be related to the prior determination. Please revise your narrative and include your analysis of this previous Decision and evaluate any potential impact on the alleged mandate per Government Code section 17553(b)(1)(G).¹

Regarding Education Code section 69432.9 and the 2009 Commission Decision *Cal Grants, 02-TC-28*. Analysis by the FSUSD shows the following:

1. In the 2009 decision on *Cal Grants, 02-TC-28* the COSM addressed a portion of Education Code 69432.9 pled in this test claim. After careful review of the COSM decision by the test claimant it is clear that the prior mandate determination applied only to community college districts and in no-way applied to school districts, county offices of education or charter schools. Additionally, the statutes pleaded in this test claim are newly added to the referenced sections of Education Code 69432.9 and were not in any way noted or listed in the Education Code 69432.9.

In addition, there are several charts included in the narrative purporting to show some costs incurred for some of the activities alleged to impose a state mandate. However, the charts are considered hearsay since they are intended to prove the truth of the matter asserted. Although there is a declaration that attests to the total costs identified in the charts included in the narrative, and an additional declaration that attests to the activities alleged, neither describes the

breakdown of costs beyond the total or attests to the date costs were *first* incurred as a result of the test claim statutes that impose the alleged mandate.

DISTRICT RESPONSE:

The District has updated both narrative and declarations to include a breakdown of costs and to show the dates costs were first incurred as a result of the test claim statutes. Please review the updated narrative and declarations and let the FSUSD if you have any further questions at all.

Further, both the narrative and the declarations specify that costs were incurred in fiscal year 14-15 and 15-16.

DISTRICT RESPONSE:

After thorough review of both the Narrative and the Declarations the District was unable to identify any specific reference to costs incurred in the 2014-15 fiscal year.

The specific dates costs were first incurred for each Education Code Section pled in this test claim are referenced above.

Please let the District know if there is are specific paragraphs of the Cal Grant: Grade Point Average and Graduation Certification test claim filing that state or show costs were incurred in the 2014-15 fiscal year as this is clearly a typographical error and the FSUSD would gladly update the language once it is identified.

However, this test claim was filed on June 26, 2017 and does not provide: (1) the date costs were *first* incurred to implement the alleged mandate;

DISTRICT RESPONSE:

The District first incurred costs as specified below:

Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). - September 1, 2015

Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). - September 1, 2016

Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1). - Projected to be September 1, 2017.

(2) the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed, fiscal year 16-17, to implement the alleged mandate;

DISTRICT RESPONSE: Actual increased costs incurred in 2016-17:

DISTRICT ACTUAL COSTS 2016-17										
FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT										
Fiscal Year	Costs first Incurred	Position	Average Salary & Benefits - Registrar 2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	total direct costs 16-17	Indirect costs 16-17 5.97%	cost per student
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Training on reporting requirements GPA & graduation verification	4	5	20.00	\$671.29	\$40.08	\$0.45
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,483.77	\$745.28	\$8.30
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Mailing opt out forms to all seniors	1	5	5.00	\$167.82	\$10.02	\$0.11
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41.96	\$2.50	\$0.03
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Execute certification	0.08	5	0.40	\$13.43	\$0.80	\$0.01
2016-17	September 1, 2016	AB 1091	Registrar	\$33.56 Electronically submit graduation verification	9	5	45.00	\$1,510.40	\$90.17	\$1.00
2016-17		Districtwide Total						\$14,888.66		\$9.90

or (3) the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed, fiscal year 17-18.

DISTRICT RESPONSE: Estimated costs that will be incurred in 2017-18:

DISTRICT ESTIMATED COSTS 2017-18										
FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT										
Fiscal Year	Costs first Incurred	Position	Average Salary & Benefits - Registrar 2017-18	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Total direct costs 17-18	Indirect costs 17-18 6.57%	cost per student
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Training on reporting requirements GPA & graduation verification	4	5	20	\$684.72	\$44.99	\$0.46
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Calculate and key grades into Cal Grant form - 14 min each student	0	1594	371.93	\$12,733.44	\$836.59	\$8.51
2017-18	September 1, 2017	AB 2908	Registrar	\$34.24 Mailing opt out forms to all juniors	1	5	5	\$171.18	\$11.25	\$0.11
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Comply with CSAC requests for social security numbers	0.25	5	1.25	\$42.79	\$2.81	\$0.03
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Execute certification	0.08	5	0.4	\$13.69	\$0.90	\$0.01
2017-18	September 1, 2016	AB 1091	Registrar	\$34.24 Electronically submit graduation verification	9	5	45	\$1,540.61	\$101.22	\$1.03
		Districtwide Total						\$15,186.44		\$10.15

All written representations of fact must be signed under penalty of perjury by a person competent to do so and must be based on the declarant's personal knowledge, information, or belief pursuant to section 1187.5 of the Commission's regulations.

Finally, although two statutes are cited in *Section 4. Test Claim Statutes or Executive Orders Cited* and a third is mentioned in *Section 5. Written Narrative* and *Section 7. Documentation*, none are attached to the test claim. Please attach copies of all test claim statutes that include the bill number and statute, chapter, alleged to impose or impact a mandate per Government Code section 17553(b)(3)(A)(i).

DISTRICT RESPONSE:

The District provided PDF attachments for the cited statutes included with the initial filing of this test claim, however the attachments must have been lost in transmission. To eliminate the possibility of this occurring again the District will include the test claim and all statutes and executive orders as Exhibit A with this letter, and will reinsert them into the actual test claim on the COSM website.

Government Code section 17559(b) provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record. This requires that each finding of fact that the

Commission makes (including whether there are costs mandated by the state, which is a mixed issue of law and fact) must meet the *Topanga* standard.² In *Topanga* the court explained:

Section 1094.5 clearly contemplates that at minimum, the reviewing court must determine both whether substantial evidence supports the administrative agency's findings and whether the findings support the agency's decision. Subdivision (b) of Code of Civil Procedure section 1094.5 prescribes that when petitioned for a writ of mandamus, a court's inquiry should extend, among other issues, to whether 'there was any prejudicial abuse of discretion.' Subdivision (b) then defines "abuse of discretion" to include instances in which the administrative order or decision 'is not supported by the findings, or the findings are not supported by the evidence.' (Emphasis added.) Subdivision (c) declares that 'in all . . . cases'

¹ *Cal Grants*, 02-TC-28, <https://www.csm.ca.gov/matters/02-TC-28.php> (accessed on July 3, 2017).

² *Topanga Association for a Scenic Community v. County Of Los Angeles* (1974) 11 Cal.3d 506.

DISTRICT RESPONSE:

The District has reviewed all pertinent bills and Education code and reattached it to the test claim. Please review and let the FSUSD know if any further documentation is needed.

(emphasis added) other than those in which the reviewing court is authorized by law to judge the evidence independently, 'abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.'.. .

Government Code section 17553 provides that a claimant must enter the specific statutes pled on the test claim form. Specific pleading is required and, as is indicated on the test claim form, pursuant to Government Code section 17553 and Title 2, California Code of Regulations section 1183, the Commission will not exercise jurisdiction over statutes and executive orders which are not properly pled. Proper pleading requires that all code sections (including the relevant statute, chapter and bill number), regulations (including the register number and effective date), and executive orders (including the effective date) that impose the alleged mandate are listed in section 4 of the test claim form. Please carefully review your pleading before filing. Test claims may not be amended after the draft proposed decision is issued and the matter is set for hearing, or if the statute of limitations on the statute or executive order being added has expired.³

Curing This Test Claim

1. A revised test claim form that provides the claimant information of an individual authorized to file on behalf of the school district under section 1183.1 of the Commission's regulations in *Section 2. Claimant Information*; provides the name, title, signature and date, and contact information (if different from the claimant contact) of an individual authorized to file on behalf of the agency under section 1183.1 of the Commission's regulations in *Section 8. Claim Certification*; and identifies all code sections (include statutes, chapters, and bill numbers), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate in *Section 4. Test Claim Statutes or Executive Orders Cited*.
2. A revised narrative, declarations, and documentation in accordance with the revised test claim form, as appropriate, that (1) consistently specify the date costs were first

incurred by the test claimant due to test claim statutes that impose the alleged mandate pled with effective dates earlier than 12 months prior to the June 26, 2017 filing date of this test claim; (2) consistently specify *actual* increased costs incurred by the claimant during the fiscal year for which the claim is filed (16-17) and the *estimated* costs for the fiscal year immediately following the fiscal year for which the test claim is filed (17-18) to implement the alleged mandate; and (3) identifies prior mandate determinations made by the Commission on State Mandates or a predecessor agency that may be related to the alleged mandate.

3. Attach copies of all statutes or executive orders pled on the test claim form in *Section 1. Test Claim Statutes or Executive Orders Cited* and cited in *Section 5. Written Narrative, Section 6. Declarations*, and in *Section 7. Documentation* that impose the alleged mandate.

Retaining Your Original Filing Date

To retain the original filing date of June 26, 2017, please refile the required elements to cure this test claim within 30 days of the date of this letter by **August 7, 2017**. If a complete test claim is not received within 30 calendar days from the date of this letter, the executive director may disallow the original test claim filing date. (Cal. Code Regs., tit. 2, § 1183.1(f).)

As provided in the Commission's regulations, a real party in interest may appeal to the Commission for review of the actions and decisions of the executive director. Please refer to California Code of Regulations, title 2, section 1181.1(c).

The revised test claim may be submitted electronically via the Commission's e-filing system pursuant to section 1181.3 of the Commission's regulations and will replace the original filing. Please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.php

I wish to thank the COSM on behalf of FSUSD and myself for all the time and effort put forth to review our original test claim filing and provide this detailed letter in order for the District to cure the test claim.

Please don't hesitate to reach out and let me know if you have any questions or need any further information.

Sincerely,



Jolene Tollenaar
Senior Consultant
MGT of America
916 243-8913
jolenetollenaar@gmail.com

1. TEST CLAIM TITLE

Cal Grant: Grade Point Average and
Graduation Certification

2. CLAIMANT INFORMATION

Fairfield Suisun Unified School District

Name of Local Agency or School District

Kris Corey

Claimant Contact

Superintendent

Title

2490 Hilborn Road

Street Address

Fairfield, CA 94534

City, State, Zip

707-399-5009

Telephone Number

707-399-5160

Fax Number

KrisC@fsusd.org

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Jolene Tollenaar/MGT of America

Claimant Representative Name

Senior Consultant

Title

MGT of America, LLC

Organization

2251 Harvard Street, Suite 134

Street Address

Sacramento, CA 95815

City, State, Zip

916 243-8913

Telephone Number

916 290-0121

Fax Number

jolenetollenaar@gmail.com

E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 26, 2017
**Commission on
State Mandates**

Test Claim #: 16-TC-02

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 2 to 6.

6. Declarations: pages 9 to 14.

7. Documentation: pages 15 to 43.

Test Claim Name: Name: Cal Grant Program: Grade Point Average and High School Graduation Certification
Test Claimant: Fairfield-Suisun Unified School District
Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

5. WRITTEN NARRATIVE

Name: Cal Grant Program: Grade Point Average and High School Graduation Certification

Specific Test Claim Statutes or Executive Order Cited: Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9(c)(5), 69432.9, (d) (1), 69432.9 (d)(2)(A) Statutes 2015, Chapter 637, A.B. 1091 Education Code Section 69432.92(a) & (b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

Statement: The test claimant, Fairfield Suisun Unified School District hereby states that the actual costs resulting from this alleged mandate exceeds one thousand dollars (\$1,000).

Required elements for each statute or executive order:

(A) Detailed description of the new activities and costs that arise from the mandate:

SUMMARY: Prior to the passage of AB 2160 in 2014 school districts, county offices of education, and charter schools were not required to submit grade point averages to the California Student Aid Commission (CSAC) for all pupils enrolled in grade 12 and were not required to verify all students' graduation status. School districts, county offices of education, and charter schools were only required to submit grade point averages to the CSAC for those pupils who submitted applications requesting they be considered as a Cal Grant applicant.

After the passage of AB 2160 all school districts, county offices of education, and charter schools are now required to submit a grade point average electronically, on a standardized form, for all grade 12 pupils, each academic year, beginning in the 2015-16 fiscal year, except for pupils who have opted out as provided in Education Code Section 69432.9 subdivision (d). The school district, county office of education or charter school must also certify the GPA in writing.

Also required by AB 2106 is the new provision that when CSAC determines a social security number is required to complete the application for financial aid, the school district, county office of education or charter school may obtain permission from the parent or guardian, or the pupil if he or she is 18 years of age, to submit the pupil's social security number to the commission.

Per the CSAC website <http://www.csac.ca.gov/doc.asp?id=983>, Non-SSN GPA's are only allowed for high schools without WebGrants website access, which means almost all, if not all the high schools in California must provide the CSAC with the students SSN when submitting a student's GPA. Thus



2251 Harvard Street, Suite 134
Sacramento, CA 95815
Phone: 916-443-3411

5. WRITTEN NARRATIVE

requiring the school district, county office of education or charter school to obtain permission and submit the SSN electronically as well as the GPA for each student in 12th grade.

After the passage of AB 1091, Education Code 69432.92 (a) & (b) in 2015 all school districts, county offices of education, and charter schools are now required to submit graduation verifications, for all former grade 12 pupils who graduated from public schools, including charter schools in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.

Also, adding new requirements to Education Code 69432.9 is AB 2908 passed in 2016 which requires grade point averages for grade 12 pupils to be submitted by October 1, instead of October 15, of each academic year, and requires pupils be notified by **costs** that January 1 of their grade 11 academic year of their option to opt out of the Cal Grant program.

(A) Description of new activities and arise from this mandate:

1. Time and costs incurred by school districts, county offices of education, and charter schools to prepare for, provide and attend training in order to instruct the employees on the requirements imposed by Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d) (1), 69432.9 (d)(2). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92(a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1) .
2. Time and costs incurred by school districts, county offices of education, and charter schools to review records, correct, update and submit grade point averages to the CSAC for all grade 12 pupils prior to October 15 of each year. AB 2160 - Statutes 2014, Education Code Section 69432.9 (c)(2).
3. Time and costs incurred by school districts, county offices of education, and charter schools to submit each student's grade point averages electronically, on a standardized form, for all grade 12 pupils at public schools, including charter schools. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(2).
4. Time and costs incurred by school districts, county offices of education, and charter schools to comply with CSAC requests for social security numbers including time and costs to obtain permission from the parent or guardian, or pupil, if he or she is 18, and to submit the pupil's



5. WRITTEN NARRATIVE

- social security number to the CSAC. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(2).
5. Time and costs incurred by school districts, county offices of education, and charter schools for including a certification to the CSAC, executed under penalty of perjury by a school official, that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the CSAC or its designee. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(3).
 6. Time and costs incurred by school districts, county offices of education, and charter schools to ensure the grade point average certification is submitted to CSAC in time to meet the application deadline imposed by this chapter. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(5).
 7. Time and costs incurred by school districts, county offices of education, and charter schools, no later than October 15 of a pupil's grade 12 academic year, to notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district, county office of education or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant. Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out. Statutes 2014, Chapter 679, A.B. 2160, Education Code Section 69432.9 (6) (d) (1) and Education Code Section 69432.9 (d)(1) & (d)(2)
 8. Time and costs incurred by school districts, county offices of education, and charter schools to submit the required grade point averages for grade 12 pupils to be submitted by October

5. WRITTEN NARRATIVE

1 of each academic year. Statutes 2016, Chapter 82, AB 2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

9. Time and costs incurred by school districts, county offices of education, and charter schools to notify pupils by January 1 of their grade 11 academic year so the pupil can opt out of the program. Additionally, school districts, county offices of education, and charter schools are now required to send an "Opt Out" notice to each pupil in grade 12 Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (d)(1) & (2).

(Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.)

10. Time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent. Education Code Section 69432.92 (a).
11. Time and costs to electronically submit the graduation data for all former grade 12 pupils, in the prior academic year, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69433.9, when required by the CSAC. Education Code Section 69432.92(a)
12. Time and costs incurred by school districts, county offices of education, and charter schools to verify the graduation of their pupils, when requested by CSAC in time to meet the deadlines imposed by subdivision (e) of Section 69433.9. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year. Education Code Sections 69432.92(b)

(B) Detailed description of the existing activities and modified activities and costs modified by the mandate:

1. There are no modified activities or costs from the mandate.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the mandate: Actual: \$13,099 FY 2015-16 and \$14,888 for FY 2016-17.



2251 Harvard Street, Suite 134
Sacramento, CA 95815
Phone: 916-443-3411

Test Claim Name: Name: Cal Grant Program: Grade Point Average and High School Graduation Certification
 Test Claimant: Fairfield-Suisun Unified School District
 Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

5. WRITTEN NARRATIVE

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the mandate: Actual: \$13,099 FY 2015-16 and \$14,888 for FY 2016-17.

DISTRICT ACTUAL COSTS 2015-16			FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT							
Fiscal Year	Actual Costs first Incurred	Position	Average Salary & Benefits - Registrar 2015-16	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	total direct costs 15-16	Indirect costs 15-16 6.05%	cost per student
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86 Training on Cal Grant Reporting Requirements	4	5	20	\$657	\$40	\$0.44
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86 Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,223	\$740	\$7.67
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86 Mailing opt out forms to all seniors	1	5	5	\$164	\$10	\$0.10
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86 Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41	\$2	\$0.03
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86 Execute certification	0.08	5	0.4	\$13	\$1	\$0.01
2015-16		Districtwide Total						\$13,099.25		\$8.24

DISTRICT ACTUAL COSTS 2016-17			FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT							
Fiscal Year	Costs first Incurred	Position	Average Salary & Benefits - Registrar 2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	total direct costs 16-17	Indirect costs 16-17 5.97%	cost per student
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Training on reporting requirements GPA & graduation verification	4	5	20.00	\$671.29	\$40.08	\$0.45
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,483.77	\$745.28	\$8.30
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Mailing opt out forms to all seniors	1	5	5.00	\$167.82	\$10.02	\$0.11
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41.96	\$2.50	\$0.03
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56 Execute certification	0.08	5	0.40	\$13.43	\$0.80	\$0.01
2016-17	September 1, 2016	AB 1091	Registrar	\$33.56 Electronically submit graduation verification	9	5	45.00	\$1,510.40	\$90.17	\$1.00
2016-17		Districtwide Total						\$14,888.66		\$9.90

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the mandate during the fiscal year immediately following the fiscal year for which the claim was filed: Estimated: \$15,186 FY 2017-18

DISTRICT ESTIMATED COSTS 2017-18			FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT							
Fiscal Year	Costs first Incurred	Position	Average Salary & Benefits - Registrar 2017-18	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Total direct costs 17-18	Indirect costs 17-18 6.57%	cost per student
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Training on reporting requirements GPA & graduation verification	4	5	20	\$684.72	\$44.99	\$0.46
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Calculate and key grades into Cal Grant form - 14 min each student	0	1594	371.93	\$12,733.44	\$836.59	\$8.51
2017-18	September 1, 2017	AB 2908	Registrar	\$34.24 Mailing opt out forms to all juniors	1	5	5	\$171.18	\$11.25	\$0.11
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Comply with CSAC requests for social security numbers	0.25	5	1.25	\$42.79	\$2.81	\$0.03
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24 Execute certification	0.08	5	0.4	\$13.69	\$0.90	\$0.01
2017-18	September 1, 2016	AB 1091	Registrar	\$34.24 Electronically submit graduation verification	9	5	45	\$1,540.61	\$101.22	\$1.03
		Districtwide Total						\$15,186.44		\$10.15



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 Sacramento, CA 95815
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Test Claim Name: Name: Cal Grant Program: Grade Point Average and High School Graduation Certification
 Test Claimant: Fairfield-Suisun Unified School District
 Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

5. WRITTEN NARRATIVE

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed: \$4,792,337 FY 2016-17 FY 2017-18 \$4,915,860

STATEWIDE COST ESTIMATE 2016-17										
Fiscal Year	Costs first Incurred		Position	Average Salary & Benefits - Registrar 2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Total costs 16-17	cost per student
2016-17		AB 2160	Registrar	\$33.56	Training on reporting requirements GPA & graduation verification		484169		\$216,074	\$0.45
2016-17		AB 2160	Registrar	\$33.56	Calculate and key grades into Cal Grant form - 14 min each student		484169		\$4,018,252	\$8.30
2016-17		AB 2160	Registrar	\$33.56	Mailing opt out forms to all seniors		484169		\$54,018	\$0.11
2016-17		AB 2160	Registrar	\$33.56	Comply with CSAC requests for social security numbers		484169		\$13,505	\$0.03
2016-17		AB 2160	Registrar	\$33.56	Execute certification		484169		\$4,321	\$0.01
2016-17		AB 1091	Registrar	\$33.56	Electronically submit graduation verification		484169		\$486,166	\$1.00
2016-17		Statewide Total							\$4,792,337	\$9.90

STATEWIDE ESTIMATED COSTS 2017-18										
Fiscal Year	Costs first Incurred		Position	Average Salary & Benefits - Registrar 2017-18	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	total costs 17-18	cost per student
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Training on reporting requirements GPA & graduation verification		484169		\$221,643	\$0.46
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Calculate and key grades into Cal Grant form - 14 min each student		484169		\$4,121,824	\$8.51
2017-18	September 1, 2017	AB 2908	Registrar	\$34.24	Mailing opt out forms to all juniors		484169		\$55,411	\$0.11
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Comply with CSAC requests for social security numbers		484169		\$13,853	\$0.03
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Execute certification		484169		\$4,433	\$0.01
2017-18	September 1, 2016	AB 1091	Registrar	\$34.24	Electronically submit graduation verification		484169		\$498,697	\$1.03
2017-18		Statewide Total							\$4,915,860	\$10.15

(F) Identification of all of the following funding sources available for this program:

- (i) Dedicated state funds: None**
- (ii) Dedicated federal funds: None**
- (iii) Other nonlocal agency funds: None**
- (iv) The local agency's general purpose funds: None**
- (v) Fee authority to offset costs: None**

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate:



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Test Claim Name: Name: Cal Grant Program: Grade Point Average and High School Graduation Certification

Test Claimant: Fairfield-Suisun Unified School District

Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d)(1) (d)(2)(A). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92 (a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

5. WRITTEN NARRATIVE

In the 2009 decision on test claim Cal Grants, 02-TC-28 the COSM did address a portion of the 69432.9 Education Code pled in this test claim. After careful review of the decision by the test claimant it is clear that this prior mandate determination applied only to community college districts and in no-way applied to school districts, county offices of education or charter schools.

(H) Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order:

1. There are no prior legislatively determined mandates pursuant to Government Code section 17573 that is on the same statute or executive order.



2251 Harvard Street, Suite 134
Sacramento, CA 95815
Phone: 916-443-3411

Test Claim Name: Cal Grant Program: Grade Point Average
 Test Claimant: Fairfield-Suisun Unified School District
 Section Numbers: Education Code Sections 69432.9 (2), 69432.9 (3), 69432.9 (5),
 69432.9 (6) (d) (1), 69432.9 (6) (d) (2), and Education Code Section 69432.92

6. DECLARATIONS

Section (A). Declaration of the actual or estimated costs that will be incurred by the claimant to implement the alleged mandated:

(I) The actual and estimated increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the mandate are detailed below:

DISTRICT ACTUAL COSTS 2015-16		FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT									
Fiscal Year	Actual Costs first Incurred	Position	2015-16	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Indirect			
								total direct costs 15-16	costs 15-16 6.05%	cost per student	
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86	Training on Cal Grant Reporting Requirements	4	5	20	\$657	\$40	\$0.44
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86	Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,223	\$740	\$7.67
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86	Mailing opt out forms to all seniors	1	5	5	\$164	\$10	\$0.10
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41	\$2	\$0.03
2015-16	September 1, 2015	AB 2160	Registrar	\$32.86	Execute certification	0.08	5	0.4	\$13	\$1	\$0.01
2015-16 Districtwide Total									\$13,099.25		\$8.24

DISTRICT ACTUAL COSTS 2016-17		FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT									
Fiscal Year	Costs first Incurred	Position	2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Indirect			
								total direct costs 16-17	costs 16-17 5.97%	cost per student	
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56	Training on reporting requirements GPA & graduation verification	4	5	20.00	\$671.29	\$40.08	\$0.45
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56	Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,483.77	\$745.28	\$8.30
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56	Mailing opt out forms to all seniors	1	5	5.00	\$167.82	\$10.02	\$0.11
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41.96	\$2.50	\$0.03
2016-17	September 1, 2015	AB 2160	Registrar	\$33.56	Execute certification	0.08	5	0.40	\$13.43	\$0.80	\$0.01
2016-17	September 1, 2016	AB 1091	Registrar	\$33.56	Electronically submit graduation verification	9	5	45.00	\$1,510.40	\$90.17	\$1.00
2016-17 Districtwide Total									\$14,888.66		\$9.90

DISTRICT ESTIMATED COSTS 2017-18		FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT									
Fiscal Year	Costs first Incurred	Position	2017-18	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Indirect			
								total direct costs 17-18	costs 17-18 6.57%	cost per student	
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Training on reporting requirements GPA & graduation verification	4	5	20	\$684.72	\$44.99	\$0.46
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Calculate and key grades into Cal Grant form - 14 min each student	0	1594	371.93	\$12,733.44	\$836.59	\$8.51
2017-18	September 1, 2017	AB 2908	Registrar	\$34.24	Mailing opt out forms to all juniors	1	5	5	\$171.18	\$11.25	\$0.11
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$42.79	\$2.81	\$0.03
2017-18	September 1, 2015	AB 2160	Registrar	\$34.24	Execute certification	0.08	5	0.4	\$13.69	\$0.90	\$0.01
2017-18	September 1, 2016	AB 1091	Registrar	\$34.24	Electronically submit graduation verification	9	5	45	\$1,540.61	\$101.22	\$1.03
Districtwide Total									\$15,186.44		\$10.13

I Michelle Henson, Asst. Supt. of Business Services for the Fairfield Suisun Unified School District, certify and declare by my signature below, under penalty of perjury, that I am competent to do so, and that the actual and estimated cost alleged in this test claim filing are based on my personal knowledge, information, or belief pursuant to section 1187.5 of the Commission's regulations.

Dated: July 31, 2017



Michelle Henson
 Asst. Supt. Business Services
 Fairfield Suisun Unified School District



2251 Harvard Street, Suite 134
 Sacramento, CA 95815
 Phone: 916-443-3411

6. DECLARATIONS

Section (B). Declaration identifying all local, state, or federal funds and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect cost:

1. The Fairfield Suisun Unified School District (claimant) has determined that no local, state or federal funds and no fee authority may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandated, including direct and indirect costs.

I Michelle Henson, Asst. Supt. of Business Services for the Fairfield Suisun Unified School District, declare and certify by my signature below, under penalty of perjury, that I am competent to do so, and that there are no local, state or federal funds and fee authority that may be used to offset increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect cost. This declaration is based on my personal knowledge, information, or belief pursuant to section 1187.5 of the Commission's regulations.

Dated: July 31, 2017


Michelle Henson
Asst. Supt. Business Services
Fairfield Suisun Unified School District

6. DECLARATIONS

Section (C.) Declaration describing new activities preformed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program. Specific references shall be made to chapters, articles, sections or page numbers alleged to impose a reimbursable state-mandated program:

1. Time and costs incurred by school districts, county offices of education, and charter schools to prepare for, provide and attend training in order to instruct the employees on the requirements imposed by Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9 (c)(5), 69432.9 (d) (1), 69432.9 (d)(2). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92(a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1) .
2. Time and costs incurred by school districts, county offices of education, and charter schools to review records, correct, update and submit grade point averages to the CSAC for all grade 12 pupils prior to October 15 of each year. AB 2160 - Statutes 2014, Education Code Section 69432.9 (c)(2).
3. Time and costs incurred by school districts, county offices of education, and charter schools to submit each student's grade point averages electronically, on a standardized form, for all grade 12 pupils at public schools, including charter schools. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(2).
4. Time and costs incurred by school districts, county offices of education, and charter schools to comply with CSAC requests for social security numbers including time and costs to obtain permission from the parent or guardian, or pupil, if he or she is 18, and to submit the pupil's social security number to the CSAC. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(2).
5. Time and costs incurred by school districts, county offices of education, and charter schools for including a certification to the CSAC, executed under penalty of perjury by a school official, that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the CSAC or its designee. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(3).



6. DECLARATIONS

6. Time and costs incurred by school districts, county offices of education, and charter schools to ensure the grade point average certification is submitted to CSAC in time to meet the application deadline imposed by this chapter. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(5).
7. Time and costs incurred by school districts, county offices of education, and charter schools, no later than October 15 of a pupil's grade 12 academic year, to notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district, county office of education or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant. Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out. Statutes 2014, Chapter 679, A.B. 2160, Education Code Section 69432.9 (6) (d) (1) and Education Code Section 69432.9 (d)(1) & (d)(2)
8. Time and costs incurred by school districts, county offices of education, and charter schools to submit the required grade point averages for grade 12 pupils to be submitted by October 1 of each academic year. Statutes 2016, Chapter 82, AB 2908, Education Code Sections 69432.9 (c)(2) & (d)(1).
9. Time and costs incurred by school districts, county offices of education, and charter schools to notify pupils by January 1 of their grade 11 academic year so that they can opt out of the program. Additionally, school districts, county offices of education, and charter schools are now required to send an "Opt Out" notice to each pupil in grade 12 Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (d)(1) & (2).
(Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.)

6. DECLARATIONS

10. Time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent. Education Code Section 69432.92 (a).
11. Time and costs to electronically submit the graduation data for all former grade 12 pupils, in the prior academic year, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69433.9, when required by the CSAC. Education Code Section 69432.92(a)
12. Time and costs incurred by school districts, county offices of education, and charter schools to verify the graduation of their pupils, when requested by CSAC in time to meet the deadlines imposed by subdivision (e) of Section 69433.9. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year. Education Code Sections 69432.92(b)

I Michelle Henson, Asst. Supt. of Business Services for the Fairfield Suisun Unified School District, declare and certify by my signature below, under penalty of perjury, that I am competent to do so, and that the new activities preformed to implement specified provisions of the new statute or executive order which impose a reimbursable state-mandated program are listed directly below. In addition, that this declaration is based on my personal knowledge, information, or belief pursuant to section 1187.5 of the Commission's regulations.

Dated: July 31, 2017


Michelle Henson
Asst. Supt. Business Services
Fairfield Suisun Unified School District

Test Claim Name: Cal Grant Program: Grade Point Average
Test Claimant: Fairfield-Suisun Unified School District
Section Numbers: Education Code Sections 69432.9 (2), 69432.9 (3), 69432.9 (5),
69432.9 (6) (d) (1), 69432.9 (6) (d) (2), and Education Code Section 69432.92

6. DECLARATIONS

Section (D). Declaration If applicable, describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to section 17573 and the authority to file a test claim pursuant to paragraph (1) of Section 17574 (c).

I Michelle Henson, Asst. Supt. of Business Services for the Fairfield Suisun Unified School District, declare and certify by my signature below, under penalty of perjury, that I am competent to do so, and that there were no reimbursement of costs and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Section 17573 and the authority to file a test claim pursuant to paragraph (1) of Section 17574 (c), and the authority to file a test claim pursuant to paragraph (1) of Section 17574(c). In addition, that this declaration is based on my personal knowledge, information, or belief pursuant to section 1187.5 of the Commission's regulations.

Dated: July 31, 2017



Michelle Henson
Asst. Supt. Business Services
Fairfield Suisun Unified School District



2251 Harvard Street, Suite 134
Sacramento, CA 95815
Phone: 916-443-3411

7. DOCUMENTATION

(A) The test claim statute that includes the bill number alleged to impose or impact a mandate:

Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9 (c)(2), 69432.9 (c)(3), 69432.9(c)(5), 69432.9, (d) (1), 69432.9 (d)(2)(A) Statutes 2015, Chapter 637, A.B. 1091 Education Code Section 69432.92(a) & (b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9 (c)(2) & (d)(1).

EDUCATION CODE SECTION 69432.9 and 69432.92 (as of 5-13-17)

69432.9.

(a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission. Each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.

(b) Financial need shall be determined to establish an applicant's initial eligibility for a Cal Grant award and a renewing recipient's continued eligibility using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(1) "Expected family contribution," with respect to an applicant or renewing recipient, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) "Financial need" means the difference between the student's cost of attendance as determined by the commission and the expected family contribution. The calculation of financial need shall be consistent with Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial and renewal Cal Grant A or C award shall be no less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars (\$1,500) of financial need.



7. DOCUMENTATION

(B) The minimum financial need required for receipt of an initial and renewal Cal Grant B award shall be no less than seven hundred dollars (\$700).

(c) (1) The commission shall require that a grade point average be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

(2) The commission shall require that a grade point average be submitted to it electronically on a standardized form for all grade 12 pupils at public schools, including charter schools, no later than October 1 of each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

(3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

(4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.

(5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

(6) It is the intent of the Legislature that the commission make available to each high school and school district a report identifying all grade 12 pupils within the high school or school district, respectively, who have and have not completed the Free Application for Federal Student Aid or the California Dream Act Application.

(d) (1) The school district or charter school shall, no later than January 1 of a pupil's grade 11 academic year, notify, in writing, each grade 11 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The

7. DOCUMENTATION

required notice shall indicate when the school will first send grade point averages to the commission and the submission deadline of October 1. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant. (2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

(Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.)

69432.92.

(a) The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.

(b) If the commission requires verification of high school graduation or its equivalent pursuant to subdivision (a), the commission shall provide guidance to high schools or high school districts to ensure that high schools and high school districts verify the graduation of their pupils as soon as possible upon a pupil's graduation and no later than August 31 of the academic year following the pupils' graduation. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year.

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AB-2160 Cal Grant Program: grade point average. (2013-2014)

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Assembly Bill No. 2160

CHAPTER 679

An act to amend Section 69432.9 of the Education Code, relating to postsecondary education.

[Approved by Governor September 27, 2014. Filed with Secretary of State September 27, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, Ting. Cal Grant Program: grade point average.

The Cal Grant Program establishes the Cal Grant A and B Entitlement Awards, the California Community College Transfer Cal Grant Entitlement Awards, the Competitive Cal Grant A and B Awards, the Cal Grant C Awards, and the Cal Grant T Awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions.

A provision of the program specifies that the commission shall require that a grade point average be submitted, as specified, to the commission for Cal Grant A and B applicants, except for those applicants permitted to provide test scores in lieu of a grade point average.

This bill would require that each pupil enrolled in grade 12, except for pupils who opt out, as specified, be deemed a Cal Grant applicant. The bill would require that a grade point average be submitted for all Cal Grant A and B applicants, and submitted electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out, as specified, and would provide that grade point averages submitted shall be subject to review by the commission or its designee. The bill would require the school district or charter school, no later than October 15 of a pupil's grade 12 academic year, to notify, in writing, each grade 12 pupil and his or her parent or guardian that the pupil will be deemed a Cal Grant applicant unless the pupil is opted out, and would specify a procedure for opting out. To the extent that these provisions would impose new duties on local educational agencies and community college districts, they would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 69432.9 of the Education Code is amended to read:

69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission. Each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.

(b) Financial need shall be determined to establish an applicant's initial eligibility for a Cal Grant award and a renewing recipient's continued eligibility using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(1) "Expected family contribution," with respect to an applicant or renewing recipient, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) "Financial need" means the difference between the student's cost of attendance as determined by the commission and the expected family contribution. The calculation of financial need shall be consistent with Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial and renewal Cal Grant A or C award shall be no less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars (\$1,500) of financial need.

(B) The minimum financial need required for receipt of an initial and renewal Cal Grant B award shall be no less than seven hundred dollars (\$700).

(c) (1) The commission shall require that a grade point average be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

(2) The commission shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

(3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

(4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.

(5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

(d) (1) The school district or charter school shall, no later than October 15 of a pupil's grade 12 academic year, notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

(2) (A) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Assembly Bill No. 2908

CHAPTER 82

An act to amend Sections 66028.6, 67380, 69432.9, 69439, 89226, and 99161.5 of the Education Code, relating to postsecondary education.

[Approved by Governor July 22, 2016. Filed with
Secretary of State July 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2908, Committee on Higher Education. Postsecondary education: omnibus.

(1) Existing law requires the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing boards of postsecondary educational institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of specified crimes and noncriminal acts reported to campus police, campus security personnel, campus safety authorities, or designated campus authorities and transmit a report containing a compilation of that information to the Legislative Analyst's Office.

This bill would repeal the requirement that the information be reported to the Legislative Analyst's Office.

(2) The Cal Grant Program establishes the Cal Grant A and Cal Grant B Entitlement awards, the California Community College Transfer Entitlement awards, the Competitive Cal Grant A and B awards, the Cal Grant C award, and the Cal Grant T award under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions. As part of these eligibility requirements, existing law requires the commission to require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for those pupils who, after being notified by October 15 of their grade 12 academic year, have opted out of being deemed a Cal Grant applicant.

This bill would specify that the grade point averages for grade 12 pupils are to be submitted by October 1 of each academic year, and would require that pupils be notified by January 1 of their grade 11 academic year so that they can opt out. To the extent that these provisions would impose new duties on local educational agencies and community college districts, they would constitute a state-mandated local program.

(3) Existing law requires the Legislative Analyst's Office to submit a report, containing specified information, to the Legislature on or before

April 1, 2015, and a report with more limited information each odd year thereafter, regarding outcomes of the Cal Grant C program.

This bill would require that the report to be submitted on or before April 1, 2018, include all of the information required in the April 1, 2015, report. The bill would require the Student Aid Commission, instead of the Legislative Analyst's Office, to submit a report with the more limited information on or before April 1, 2020, and on or before April 1 of each even-numbered year thereafter.

The bill would also make conforming changes and connect a cross-reference.

(4) Existing law requires the Legislative Analyst, on or before October 1, 2017, to submit a status update to the Legislature regarding the California State University's implementation of specified provisions of law and an assessment of the extent to which the online programs of the California State University are operating in a manner consistent with legislative intent and statutory requirements.

This bill would make the deadline for that status update on or before January 1, 2018.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 66028.6 of the Education Code is amended to read:
66028.6. (a) Notwithstanding Section 10231.5 of the Government Code, commencing with the 2012–13 academic year, the regents and the trustees shall annually provide the Legislature, by February 1 of each year, with detailed information regarding expenditures of revenues derived from student fees and uses of institutional financial aid, and shall provide information regarding the systemwide average total cost of attendance per student. For purposes of meeting the requirements of this section, the regents and the trustees may include this information in their respective annual reports on institutional financial aid pursuant to Section 66021.1.

(b) Notwithstanding Section 10231.5 of the Government Code, the regents and trustees shall each submit a report to the Legislature, by March 1 of each year, describing their respective institution's compliance with the policies set forth in this article.

(c) A report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. Section 67380 of the Education Code is amended to read:

67380. (a) Except as provided in subparagraph (C) of paragraph (6), the governing board of each community college district, the Trustees of the

California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) (A) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to subdivision (f) of Section 6254 of the Government Code, in which case the information is not required to be disclosed. Notwithstanding subdivision (f) of Section 6254 of the Government Code, the name or any other personally identifying information of a victim of any crime defined by Section 243.4, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed without the permission of the victim, or the victim's parent or guardian if the victim is a minor.

(B) For purposes of this paragraph and subparagraph (A) of paragraph (1), the campus police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of "state or local police agency" and "state and local law enforcement agency," as those terms are used in subdivision (f) of Section 6254 of the Government Code.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request, a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, make a report containing a compilation of that information available to the general public on the Internet Web site of each respective institution. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary educational institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent with each other as possible. These guidelines shall be developed in consultation with the Department of Fair Employment and Housing and the California Association of Human Relations Organizations.

(6) (A) Notwithstanding subdivision (f) of Section 6254 of the Government Code, require any report made by a victim or an employee pursuant to Section 67383 of a Part 1 violent crime, sexual assault, or hate crime, as described in Section 422.55 of the Penal Code, received by a campus security authority and made by the victim for purposes of notifying the institution or law enforcement, to be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with which the institution has a written agreement pursuant to Section 67381 without identifying the victim, unless the victim consents to being identified after the victim has been informed of his or her right to have his or her personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency, unless the institution determines both of the following, in which case the institution shall disclose the identity of the alleged assailant to the local law enforcement agency and shall immediately inform the victim of that disclosure:

(i) The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution.

(ii) The immediate assistance of the local law enforcement agency is necessary to contact or detain the assailant.

(B) The requirements of this paragraph shall not constitute a waiver of, or exception to, any law providing for the confidentiality of information.

(C) This paragraph applies only as a condition for participation in the Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42.

(b) Any person who is refused information required to be made available pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action for damages against any institution that refuses to

provide the information, and the court shall award that person an amount not to exceed one thousand dollars (\$1,000) if the court finds that the institution refused to provide the information.

(c) For purposes of this section:

(1) “Hate violence” means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, gender identity, gender expression, disability, or political or religious beliefs of that person or group.

(2) “Part 1 violent crime” means willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation.

(3) “Sexual assault” includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

(d) This section does not apply to the governing board of a private postsecondary educational institution receiving funds for student financial assistance with a full-time enrollment of less than 1,000 students.

(e) This section shall apply to a campus of one of the public postsecondary educational systems identified in subdivision (a) only if that campus has a full-time equivalent enrollment of more than 1,000 students.

(f) Notwithstanding any other provision of this section, this section shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this section.

SEC. 3. Section 69432.9 of the Education Code is amended to read:

69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission. Each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.

(b) Financial need shall be determined to establish an applicant’s initial eligibility for a Cal Grant award and a renewing recipient’s continued eligibility using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(1) “Expected family contribution,” with respect to an applicant or renewing recipient, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) “Financial need” means the difference between the student’s cost of attendance as determined by the commission and the expected family

contribution. The calculation of financial need shall be consistent with Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial and renewal Cal Grant A or C award shall be no less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars (\$1,500) of financial need.

(B) The minimum financial need required for receipt of an initial and renewal Cal Grant B award shall be no less than seven hundred dollars (\$700).

(c) (1) The commission shall require that a grade point average be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

(2) The commission shall require that a grade point average be submitted to it electronically on a standardized form for all grade 12 pupils at public schools, including charter schools, no later than October 1 of each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

(3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

(4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.

(5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

(6) It is the intent of the Legislature that the commission make available to each high school and school district a report identifying all grade 12 pupils within the high school or school district, respectively, who have and have not completed the Free Application for Federal Student Aid or the California Dream Act Application.

(d) (1) The school district or charter school shall, no later than January 1 of a pupil's grade 11 academic year, notify, in writing, each grade 11 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when

the school will first send grade point averages to the commission and the submission deadline of October 1. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

(2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

SEC. 4. Section 69439 of the Education Code is amended to read:

69439. (a) For the purposes of this section, the following terms have the following meanings:

(1) “Career pathway” has the same meaning as set forth in Section 88620.

(2) “Economic security” has the same meaning as set forth in Section 14005 of the Unemployment Insurance Code.

(3) “Industry cluster” has the same meaning as set forth in Section 88620.

(4) “Long-term unemployed” means, with respect to an award applicant, a person who has been unemployed for more than 26 weeks at the time of submission to the commission of his or her application.

(5) “Occupational or technical training” means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

(b) A Cal Grant C award shall be utilized only for occupational or technical training in a course of not less than four months. There shall be the same number of Cal Grant C awards each year as were made in the 2000–01 fiscal year. The maximum award amount and the total amount of funding shall be determined each year in the annual Budget Act.

(c) The commission may use criteria it deems appropriate in selecting students to receive grants for occupational or technical training and shall give special consideration to the social and economic situations of the students applying for these grants, giving additional weight to disadvantaged applicants, applicants who face economic hardship, and applicants who face particular barriers to employment. Criteria to be considered for these purposes shall include, but are not limited to, all of the following:

(1) Family income and household size.

(2) Student’s or the students’ parent’s household status, including whether the student is a single parent or child of a single parent.

(3) The employment status of the applicant and whether the applicant is unemployed, giving greater weight to the long-term unemployed.

(d) The Cal Grant C award recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. A determination by the commission for a subsequent award year that the program under which a Cal Grant C award was initially awarded is no longer deemed to receive priority shall not affect an award recipient’s renewal. In no case shall the grants exceed two calendar years.

(e) Cal Grant C awards may be used for institutional fees, charges, and other costs, including tuition, plus training-related costs, such as special clothing, local transportation, required tools, equipment, supplies, books, and living expenses. In determining the individual award amounts, the commission shall take into account the financial means available to the student to fund his or her course of study and costs of attendance as well as other state and federal programs available to the applicant.

(f) (1) To ensure alignment with the state's dynamic economic needs, the commission, in consultation with appropriate state and federal agencies, including the Economic and Workforce Development Division of the Office of the Chancellor of the California Community Colleges and the California Workforce Investment Board, shall identify areas of occupational and technical training for which students may utilize Cal Grant C awards. The commission, to the extent feasible, shall also consult with representatives of the state's leading competitive and emerging industry clusters, workforce professionals, and career technical educators, to determine which occupational training programs and industry clusters should be prioritized.

(2) (A) Except as provided in subparagraph (B), the areas of occupational and technical training developed pursuant to paragraph (1) shall be regularly reviewed and updated at least every five years, beginning in 2012.

(B) By January 1, 2016, the commission shall update the priority areas of occupational and technical training.

(3) (A) The commission shall give priority in granting Cal Grant C awards to students pursuing occupational or technical training in areas that meet two of the following criteria pertaining to job quality:

(i) High employer need or demand for the specific skills offered in the program.

(ii) High employment growth in the occupational field or industry cluster for which the student is being trained.

(iii) High employment salary and wage projections for workers employed in the occupations for which they are being trained.

(iv) The occupation or training program is part of a well-articulated career pathway to a job providing economic security.

(B) To receive priority pursuant to subparagraph (A), at least one of the criteria met shall be specified in clause (iii) or (iv) of that subparagraph.

(g) The commission shall determine areas of occupational or technical training that meet the criteria described in paragraph (3) of subdivision (f) in consultation with the Employment Development Department, the Economic and Workforce Development Division of the Office of the Chancellor of the California Community Colleges, and the California Workforce Investment Board using projections available through the Labor Market Information Data Library. The commission may supplement the analyses of the Employment Development Department's Labor Market Information Data Library with the labor market analyses developed by the Economic and Workforce Development Division of the Office of the Chancellor of the California Community Colleges and the California Workforce Investment Board, as well as the projections of occupational

shortages and skills gap developed by industry leaders. The commission shall publish, and retain, on its Internet Web site a current list of the areas of occupational or technical training that meet the criteria described in paragraph (3) of subdivision (f), and update this list as necessary.

(h) Using the best available data, the commission shall examine the graduation rates and job placement data, or salary data, of eligible programs. Commencing with the 2014–15 academic year, the commission shall give priority to Cal Grant C award applicants seeking to enroll in programs that rate high in graduation rates and job placement data, or salary data.

(i) (1) The commission shall consult with the Employment Development Department, the Office of the Chancellor of the California Community Colleges, the California Workforce Investment Board, and the local workforce investment boards to develop a plan to publicize the existence of the grant award program to California’s long-term unemployed to be used by those consulting agencies when they come in contact with members of the population who are likely to be experiencing long-term unemployment. The outreach plan shall use existing administrative and service delivery processes making use of existing points of contact with the long-term unemployed. The local workforce investment boards are required to participate only to the extent that the outreach efforts are a part of their existing responsibilities under the federal Workforce Investment Act of 1998 (Public Law 105-220).

(2) The commission shall consult with the Workforce Services Branch of the Employment Development Department, the Office of the Chancellor of the California Community Colleges, the California Workforce Investment Board, and the local workforce investment boards to develop a plan to make students receiving awards aware of job search and placement services available through the Employment Development Department and the local workforce investment boards. Outreach shall use existing administrative and service delivery processes making use of existing points of contact with the students. The local workforce investment boards are required to participate only to the extent that the outreach efforts are a part of their existing responsibilities under the federal Workforce Investment Act of 1998 (Public Law 105-220).

(j) (1) The Legislative Analyst’s Office shall submit a report to the Legislature on the outcomes of the Cal Grant C program on or before April 1, 2018. This report shall include, but not necessarily be limited to, information on all of the following:

(A) The age, gender, and segment of attendance for recipients in two prior award years.

(B) The occupational and technical training program categories prioritized.

(C) The number and percentage of students who received selection priority as defined in paragraph (3) of subdivision (f).

(D) The extent to which recipients in these award years were successfully placed in jobs that meet local, regional, or state workforce needs.

(2) For the report submitted pursuant to paragraph (1), the Legislative Analyst's Office shall include data for two additional prior award years and shall compare the mix of occupational and technical training programs and institutions in which Cal Grant C award recipients enrolled before and after implementation of subdivision (f).

(3) Notwithstanding Section 10231.5 of the Government Code, the commission shall submit a report to the Legislature on or before April 1, 2020, and on or before April 1 of each even-numbered year thereafter, that includes the information specified in paragraph (1).

(4) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 5. Section 89226 of the Education Code is amended to read:

89226. (a) On or before January 1, 2017, and on or before January 1 every two years thereafter, the trustees shall report to the Legislature key performance data on online courses as defined in Section 89225, including, but not necessarily limited to, all of the following:

- (1) The number of students enrolled at each campus.
- (2) Course completion rates for courses other than online courses.
- (3) Completion rates for degree programs that include no online courses.
- (4) Grade point average for students enrolled in online courses.
- (5) The number of students cross-enrolled in online courses at a California State University campus other than the campus at which they are matriculated.

(6) Course completion rates for students enrolled in online courses.

(7) Completion rates for degree programs that include online courses.

(b) (1) On or before January 1, 2017, the trustees shall report to the Legislative Analyst the key performance data described in subdivision (a).

(2) On or before January 1, 2018, the Legislative Analyst shall submit a status update to the Legislature regarding the California State University's implementation of the provisions of the bill that added this section and an assessment of the extent to which the online programs of the California State University are operating in a manner consistent with legislative intent and statutory requirements.

(c) Student enrollment and completion rate data included in a report to be submitted pursuant to this section shall be made available by demographics, including age, gender, and ethnicity.

(d) (1) The requirement for submitting a report imposed under subdivision (a) is inoperative on July 1, 2021, pursuant to Section 10231.5 of the Government Code.

(2) The report prepared pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 6. Section 99161.5 of the Education Code is amended to read:

99161.5. (a) (1) The test sponsor of the Law School Admission Test shall provide testing accommodations to a test subject with a disability who makes a timely request to ensure that the Law School Admission Test accurately reflects the aptitude, achievement levels, or other factors that the test purports to measure and does not reflect the test subject's disability.

This paragraph does not constitute a change in, but is declaratory of, existing law.

(2) The process for determining whether to grant an accommodation under paragraph (1) shall be made public, and the decision whether or not to approve a request for an accommodation shall be conveyed to the requester within a reasonable amount of time. If the test sponsor of the Law School Admission Test does not approve a request for accommodation, the test sponsor shall state the reasons for the denial of the request to the requester in writing.

(3) The test sponsor of the Law School Admission Test shall establish a timely appeals process for a test subject who is denied an accommodation request. The test sponsor of the Law School Admission Test shall clearly post on the Law School Admission Test Internet Web site information regarding refund policies for individuals whose requests for accommodation are denied.

(b) Whenever a test subject has received formal testing accommodations from a postsecondary educational institution for a disability as defined in subdivision (j), (m), or (n) of Section 12926 of the Government Code, the test sponsor of the Law School Admission Test shall, consistent with existing law, give considerable weight to documentation of past modifications, accommodations, or auxiliary aids or services received by the test subject in similar testing situations when determining whether to grant an accommodation to the test subject.

(c) (1) The test sponsor of the Law School Admission Test shall not notify a test score recipient that the score of any test subject was obtained by a subject who received an accommodation pursuant to this section.

(2) The test sponsor of the Law School Admission Test shall not withhold any information that would lead a test score recipient to deduce that a score was earned by a subject who received an accommodation pursuant to this section.

(3) This subdivision does not constitute a change in, but is declaratory of, existing law.

(d) This section shall not be construed to limit or replace any other right or remedy that exists under state or federal law.

(e) This section shall not provide greater protections to persons with disabilities than those provided by Section 51 of the Civil Code.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Assembly Bill No. 1091

CHAPTER 637

An act to amend Section 69432.9 of, and to add Section 69432.92 to, the Education Code, relating to student financial aid.

[Approved by Governor October 8, 2015. Filed with
Secretary of State October 8, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1091, Eduardo Garcia. Student financial aid: Cal Grant Program.

The Cal Grant Program establishes the Cal Grant A and B Entitlement awards, the California Community College Transfer Entitlement awards, the Competitive Cal Grant A and B awards, the Cal Grant C award, and the Cal Grant T award under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions. As part of these eligibility requirements, existing law requires the commission to require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except as specified.

This bill would require this electronic submission to be on a standardized form. The bill would also authorize the commission to require that verification of high school graduation or its equivalent be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out, as specified. By requiring the electronic submission of grade point average information to be on a standardized form, and authorizing the commission to additionally require verification of graduation information of prior grade 12 pupils, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 69432.9 of the Education Code is amended to read:
69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations

adopted by the commission. Each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.

(b) Financial need shall be determined to establish an applicant's initial eligibility for a Cal Grant award and a renewing recipient's continued eligibility using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(1) "Expected family contribution," with respect to an applicant or renewing recipient, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) "Financial need" means the difference between the student's cost of attendance as determined by the commission and the expected family contribution. The calculation of financial need shall be consistent with Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial and renewal Cal Grant A or C award shall be no less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars (\$1,500) of financial need.

(B) The minimum financial need required for receipt of an initial and renewal Cal Grant B award shall be no less than seven hundred dollars (\$700).

(c) (1) The commission shall require that a grade point average be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

(2) The commission shall require that a grade point average be submitted to it electronically on a standardized form for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

(3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

(4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and

that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.

(5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

(6) It is the intent of the Legislature that the commission make available to each high school and school district a report identifying all grade 12 pupils within the high school or school district, respectively, who have and have not completed the Free Application for Federal Student Aid or the California Dream Act Application.

(d) (1) The school district or charter school shall, no later than October 15 of a pupil's grade 12 academic year, notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

(2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

SEC. 2. Section 69432.92 is added to the Education Code, to read:

69432.92. (a) The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.

(b) It is the intent of the Legislature that high schools or high school districts verify the graduation of their pupils in time to meet the deadlines imposed by subdivision (e) of Section 69433.9.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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EDUCATION CODE - EDC
TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060] (Title 3 enacted by Stats. 1976, Ch. 1010.)

DIVISION 5. GENERAL PROVISIONS [66000 - 70110] (Division 5 enacted by Stats. 1976, Ch. 1010.)

PART 42. STUDENT FINANCIAL AID PROGRAM [69400 - 70110] (Part 42 enacted by Stats. 1976, Ch. 1010.)

CHAPTER 1.7. Ortiz-Pacheco-Poohigian-Vasconcellos Cal Grant Program [69430 - 69460] (Chapter 1.7 added by Stats. 2000, Ch. 403, Sec. 4.)

ARTICLE 1. General Provisions [69430 - 69433.9] (Article 1 added by Stats. 2000, Ch. 403, Sec. 4.)

69430. This chapter shall be known, and may be cited, as the Ortiz-Pacheco-Poohigian-Vasconcellos Cal Grant Program.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69431. There is hereby established the Ortiz-Pacheco-Poohigian-Vasconcellos Cal Grant Program, which may also be referred to as the Cal Grant Program.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69431.7. (a) As used in this section, "fund" means the College Access Tax Credit Fund created by Sections 17053.86 and 17053.87 of the Revenue and Taxation Code.

(b) Any moneys allocated to the commission from the fund for purposes of this section shall be in addition to, and are intended to supplement, other moneys appropriated for the Cal Grant Program. Upon the creation of the fund, and during its existence, the amount of the Cal Grant B access award as established in the annual Budget Act shall not be adjusted below the amount set forth in the Budget Act of 2012.

(c) (1) The moneys allocated to the commission pursuant to Sections 17053.86 and 17053.87 of the Revenue and Taxation Code shall be available for the purpose of making awards to students in accordance with this section.

(2) To the extent feasible, the commission shall make annual disbursements from the moneys allocated to the commission to supplement awards made for access costs under Article 3 (commencing with Section 69435), Article 4 (commencing with Section 69436), and Article 5 (commencing with Section 69437). The amount of the supplemental award, when added to the amount of the award made for access costs established by the annual Budget Act, shall not exceed five thousand dollars (\$5,000). An award under this section is payable only to the extent that moneys are available from the fund. The commission shall inform each recipient of an award under this section that the award is for one academic year only, is not an entitlement, and that future supplemental awards are subject to the availability of moneys in the fund.

(d) If, after making supplemental awards pursuant to subdivision (c), moneys remain in the fund, those moneys shall remain in the fund for allocation in future fiscal years.

(Amended by Stats. 2015, Ch. 22, Sec. 4. Effective June 24, 2015.)

69432. (a) Cal Grant Program awards shall be known as "Cal Grant A Entitlement Awards," "Cal Grant B Entitlement Awards," "California Community College Transfer Entitlement Awards," "Competitive Cal Grant A and B Awards," "Cal Grant C Awards," and "Cal Grant T Awards."

(b) Maximum award amounts for students at independent institutions and for Cal Grant C and T awards shall be identified in the annual Budget Act. Maximum award amounts for Cal Grant A and B awards for students attending public institutions shall be referenced in the annual Budget Act.

(c) (1) Notwithstanding subdivision (b), and subdivision (c) of Section 66021.2, commencing with the 2013–14 award year, the maximum tuition award amounts for Cal Grant A and B awards for students attending private for-

profit and nonprofit postsecondary educational institutions shall be as follows:

(A) Four thousand dollars (\$4,000) for new recipients attending private for-profit postsecondary educational institutions.

(B) For the 2015–16, 2016–17, and 2017–18 award years, nine thousand eighty-four dollars (\$9,084) for new recipients attending private nonprofit postsecondary educational institutions. For the 2018–19 award year and each award year thereafter, eight thousand fifty-six dollars (\$8,056) for new recipients attending private nonprofit postsecondary educational institutions.

(2) The renewal award amount for a student whose initial award is subject to a maximum award amount specified in this subdivision shall be calculated pursuant to paragraph (2) of subdivision (a) of Section 69433.

(3) Notwithstanding subparagraph (A) of paragraph (1), new recipients attending private for-profit postsecondary educational institutions that are accredited by the Western Association of Schools and Colleges as of July 1, 2012, shall have the same maximum tuition award amounts as are set forth in subparagraph (B) of paragraph (1).

(d) It is the intent of the Legislature that:

(1) The postsecondary educational institutions within the scope of this section make a good faith effort to do all of the following:

(A) Increase the number of low-income resident students enrolled.

(B) Make the process for transferring from the California Community Colleges easier for resident students.

(C) Expand high-quality online education for resident students.

(2) Any decisions about the maximum award amounts for students attending the institutions described in this section shall be made with consideration of the effort of the institutions in the areas described in paragraph (1).

(e) Each postsecondary educational institution within the scope of this section shall submit a report related to the areas described in paragraph (1) of subdivision (d) to the Department of Finance and the Legislature, in conformity with Section 9795 of the Government Code, on or before March 15 of each year.

(Amended by Stats. 2017, Ch. 23, Sec. 5. Effective June 27, 2017.)

69432.5. The Budget required by the California Constitution to be submitted by the Governor at each Regular Session of the Legislature shall take into consideration the amount of federal grant funds for student financial aid.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69432.7. As used in this chapter, the following terms have the following meanings:

(a) An "academic year" is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

(b) "Access costs" means living expenses and expenses for transportation, supplies, and books.

(c) "Award year" means one academic year, or the equivalent, of attendance at a qualifying institution.

(d) "College grade point average" and "community college grade point average" mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree.

(e) "Commission" means the Student Aid Commission.

(f) "Enrollment status" means part- or full-time status.

(1) "Part time," for purposes of Cal Grant eligibility, means 6 to 11 semester units, inclusive, or the equivalent.

(2) "Full time," for purposes of Cal Grant eligibility, means 12 or more semester units or the equivalent.

(g) "Expected family contribution," with respect to an applicant, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(h) "High school grade point average" means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, Reserve Officers' Training Corps (ROTC), and remedial courses, and computed pursuant to regulations of the commission. However, for high school graduates who apply after their senior year, "high school grade point average" includes senior year coursework.

(i) "Instructional program of not less than one academic year" means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that

results in eligibility for transfer from a community college to a baccalaureate degree program.

(j) "Instructional program of not less than two academic years" means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(k) (1) "Maximum household income and asset levels" means the applicable household income and household asset levels for participants, including new applicants and renewing recipients, in the Cal Grant Program, as defined and adopted in regulations by the commission for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent and Independent students with dependents*		
Family Size		
Six or more	\$74,100	\$40,700
Five	\$68,700	\$37,700
Four	\$64,100	\$33,700
Three	\$59,000	\$30,300
Two	\$57,600	\$26,900
Independent		
Single, no dependents	\$23,500	\$23,500
Married	\$26,900	\$26,900

*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent** _____	\$49,600	\$49,600
Independent _____	\$23,600	\$23,600

**Applies to independent students with dependents other than a spouse.

(2) The commission shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution. The maximum household income and asset levels applicable to a renewing recipient shall be the greater of the adjusted maximum household income and asset levels or the maximum household income and asset levels at the time of the renewing recipient's initial Cal Grant award. For a recipient who was initially awarded a Cal Grant for an academic year before the 2011–12 academic year, the maximum household income and asset levels shall be the greater of the adjusted maximum household income and asset levels or the 2010–11 academic year maximum household income and asset levels. An applicant or renewal recipient who qualifies to be considered

under the simplified needs test established by federal law for student assistance shall be presumed to meet the asset level test under this section. Before disbursing any Cal Grant funds, a qualifying institution shall be obligated, under the terms of its institutional participation agreement with the commission, to resolve any conflicts that may exist in the data the institution possesses relating to that individual.

(I) (1) "Qualifying institution" means an institution that complies with paragraphs (2) and (3) and is any of the following:

(A) A California private or independent postsecondary educational institution that participates in the Pell Grant Program and in at least two of the following federal student aid programs:

(i) Federal Work-Study Program.

(ii) Federal Stafford Loan Program.

(iii) Federal Supplemental Educational Opportunity Grant Program.

(B) A nonprofit institution headquartered and operating in California that certifies to the commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the commission that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation by the commission in consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the commission to participate in the Cal Grant Program for the 2000-01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(C) A California public postsecondary educational institution.

(2) (A) The institution shall provide information on where to access California license examination passage rates for the most recent available year from graduates of its undergraduate programs leading to employment for which passage of a California licensing examination is required, if that data is electronically available through the Internet Web site of a California licensing or regulatory agency. For purposes of this paragraph, "provide" may exclusively include placement of an Internet Web site address labeled as an access point for the data on the passage rates of recent program graduates on the Internet Web site where enrollment information is also located, on an Internet Web site that provides centralized admissions information for postsecondary educational systems with multiple campuses, or on applications for enrollment or other program information distributed to prospective students.

(B) The institution shall be responsible for certifying to the commission compliance with the requirements of subparagraph (A).

(3) (A) The commission shall certify by November 1 of each year the institution's latest official three-year cohort default rate and graduation rate as most recently reported by the United States Department of Education. For purposes of this section, the graduation rate is the percentage of full-time, first-time degree or certificate-seeking undergraduate students who graduate in 150 percent or less of the expected time to complete degree requirements as most recently reported publicly in any format, including preliminary data records, by the United States Department of Education.

(B) For purposes of the 2011-12 academic year, an otherwise qualifying institution with a three-year cohort default rate reported by the United States Department of Education that is equal to or greater than 24.6 percent shall be ineligible for initial and renewal Cal Grant awards at the institution.

(C) For purposes of the 2012-13 academic year, and every academic year thereafter, an otherwise qualifying institution with a three-year cohort default rate that is equal to or greater than 15.5 percent, as certified by the commission on October 1, 2011, and every year thereafter, shall be ineligible for initial and renewal Cal Grant awards at the institution.

(D) (i) An otherwise qualifying institution that becomes ineligible under this paragraph for initial and renewal Cal Grant awards shall regain its eligibility for the academic year for which it satisfies the requirements established in subparagraph (B), (C), or (F), as applicable.

(ii) If the United States Department of Education corrects or revises an institution's three-year cohort default rate or graduation rate that originally failed to satisfy the requirements established in subparagraph (B), (C), or (F), as applicable, and the correction or revision results in the institution's three-year cohort default rate or graduation rate satisfying those requirements, that institution shall immediately regain its eligibility for the academic year to which the corrected or revised three-year cohort default rate or graduation rate would have been applied.

(E) An otherwise qualifying institution for which no three-year cohort default rate or graduation rate has been reported by the United States Department of Education shall be provisionally eligible to participate in the Cal Grant Program until a three-year cohort default rate or graduation rate has been reported for the institution by the United States Department of Education.

(F) For purposes of the 2012–13 academic year, and every academic year thereafter, an otherwise qualifying institution with a graduation rate of 30 percent or less, as certified by the commission pursuant to subparagraph (A), shall be ineligible for initial and renewal Cal Grant awards at the institution, except as provided for in subparagraph (H).

(G) Notwithstanding any other law, the requirements of this paragraph shall not apply to institutions with 40 percent or less of undergraduate students borrowing federal student loans, using information reported to the United States Department of Education for the academic year two years before the academic year in which the commission is certifying the three-year cohort default rate or graduation rate pursuant to subparagraph (A).

(H) Notwithstanding subparagraph (F), an otherwise qualifying institution that maintains a three-year cohort default rate that is less than 15.5 percent and a graduation rate above 20 percent for students taking 150 percent or less of the expected time to complete degree requirements, as certified by the commission pursuant to subparagraph (A), shall be eligible for initial and renewal Cal Grant awards at the institution through the 2016–17 academic year.

(I) The commission shall do all of the following:

(i) Notify initial Cal Grant recipients seeking to attend, or attending, an institution that is ineligible for initial and renewal Cal Grant awards under subparagraph (C) or (F) that the institution is ineligible for initial Cal Grant awards for the academic year for which the student received an initial Cal Grant award.

(ii) Notify renewal Cal Grant recipients attending an institution that is ineligible for initial and renewal Cal Grant awards at the institution under subparagraph (C) or (F) that the student's Cal Grant award will be reduced by 20 percent, or eliminated, as appropriate, if the student attends the ineligible institution in an academic year in which the institution is ineligible.

(iii) Provide initial and renewal Cal Grant recipients seeking to attend, or attending, an institution that is ineligible for initial and renewal Cal Grant awards at the institution under subparagraph (C) or (F) with a complete list of all California postsecondary educational institutions at which the student would be eligible to receive an unreduced Cal Grant award.

(iv) (I) Establish an appeal process for an otherwise qualifying institution that fails to satisfy the three-year cohort default rate and graduation rate requirements in subparagraphs (C) and (F), respectively.

(II) The commission may grant an appeal for an academic year only if the commission has determined the institution has a cohort size of 20 individuals or less and the cohort is not representative of the overall institutional performance.

(m) "Satisfactory academic progress" means those criteria required by applicable federal standards published in Title 34 of the Code of Federal Regulations. The commission may adopt regulations defining "satisfactory academic progress" in a manner that is consistent with those federal standards.

(Amended (as amended by Stats. 2014, Ch. 667, Sec. 2) by Stats. 2015, Ch. 613, Sec. 1. Effective January 1, 2016.)

69432.8. The commission may determine that an advance payment is essential to ensure that funds provided pursuant to this chapter to assist students to enroll in postsecondary education are available at the time students enroll. Upon making that determination, the commission may, on the basis of institutional academic calendars, advance, per term to authorized postsecondary educational institutions, the funds for eligible students who have indicated they will attend those institutions, less an amount based on historical claim enrollment attrition information. Each institution shall disburse the funds in accordance with the provisions set forth in the institutional agreement between the commission and the institution.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69432.9. (a) A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission. Each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.

(b) Financial need shall be determined to establish an applicant's initial eligibility for a Cal Grant award and a renewing recipient's continued eligibility using the federal financial need methodology pursuant to subdivision (a) of Section 69506 and applicable regulations adopted by the commission, and as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(1) "Expected family contribution," with respect to an applicant or renewing recipient, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(2) "Financial need" means the difference between the student's cost of attendance as determined by the commission and the expected family contribution. The calculation of financial need shall be consistent with Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Secs. 1070 et seq.).

(3) (A) The minimum financial need required for receipt of an initial and renewal Cal Grant A or C award shall be no less than the maximum annual award value for the applicable institution, plus an additional one thousand five hundred dollars (\$1,500) of financial need.

(B) The minimum financial need required for receipt of an initial and renewal Cal Grant B award shall be no less than seven hundred dollars (\$700).

(c) (1) The commission shall require that a grade point average be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

(2) The commission shall require that a grade point average be submitted to it electronically on a standardized form for all grade 12 pupils at public schools, including charter schools, no later than October 1 of each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

(3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

(4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.

(5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

(6) It is the intent of the Legislature that the commission make available to each high school and school district a report identifying all grade 12 pupils within the high school or school district, respectively, who have and have not completed the Free Application for Federal Student Aid or the California Dream Act Application.

(d) (1) The school district or charter school shall, no later than January 1 of a pupil's grade 11 academic year, notify, in writing, each grade 11 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission and the submission deadline of October 1. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

(2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

(Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.)

69432.92. (a) The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.

(b) If the commission requires verification of high school graduation or its equivalent pursuant to subdivision (a), the commission shall provide guidance to high schools or high school districts to ensure that high schools and high school districts verify the graduation of their pupils as soon as possible upon a pupil's graduation and no later than August 31 of the academic year following the pupils' graduation. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year.

(Amended by Stats. 2016, Ch. 351, Sec. 1. Effective January 1, 2017.)

69433. (a) (1) A Cal Grant Program award shall be based upon the financial need of the applicant, and shall not exceed the calculated financial need for any individual applicant. The minimum level of financial need of each applicant shall be determined by the commission pursuant to Section 69432.9. The commission may provide renewal awards.

(2) A student attending a nonpublic institution shall receive a renewal award for tuition or fees, or both, in an

amount not to exceed the maximum allowable award amount that was in effect in the year in which the student first received a new award.

(b) A Cal Grant award authorized pursuant to this chapter shall be defined as a full-time equivalent grant. An award to a part-time student shall be a fraction of a full-time grant, as determined by the commission.

(c) (1) The commission shall prescribe the use of standardized student financial aid applications for California. These applications shall be simple in nature, and collect common data elements required by the federal government and those elements needed to meet the objectives of state-funded and institutional financial aid programs.

(2) The applications prescribed in paragraph (1) shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education (except for the Financial Assistance Program of the Board of Governors of the California Community Colleges authorized by Chapter 1118 of the Statutes of 1987, for which a simplified application designed for that sole purpose may be used), and all federal programs administered by a public postsecondary education institution.

(3) Supplemental application information may be utilized if the information is essential to accomplishing the objectives of individual programs. All supplemental application information used for the purposes of commission-administered programs shall be subject to approval by the commission, and applications shall be identical for programs with similar objectives, as determined by the commission.

(4) Public postsecondary institutions are encouraged to use, but may decide whether to use, the standard applications for funds provided by private donors.

(5) The Legislature finds and declares that it is in the best interest of students that all postsecondary education institutions in California participating in federal and state-funded financial aid programs accept the standard applications prescribed by the commission.

(d) Nothing in this chapter shall prevent an individual public postsecondary institution from processing, with its own staff and fiscal resources, the standard financial aid applications specified in subdivision (c) for student aid programs for which it has legal responsibility.

(e) The commission may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants, fellowships, and loans through the use of electronic networks and unified data bases.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69433.2. (a) As a condition for its voluntary participation in the Cal Grant Program, each Cal Grant participating institution shall, beginning in 2012, annually report to the commission, and as further specified in the institutional participation agreement, both of the following for its undergraduate programs:

(1) Enrollment, persistence, and graduation data for all students, including aggregate information on Cal Grant recipients.

(2) The job placement rate and salary and wage information for each program that is either designed or advertised to lead to a particular type of job or advertised or promoted with a claim regarding job placement.

(b) Commencing the year after the commission begins to receive reports pursuant to subdivision (a), the commission shall provide both of the following on its Internet Web site:

(1) The information submitted by a Cal Grant participating institution pursuant to subdivision (a), which shall be made available in a searchable database.

(2) Other information and links that are useful to students and parents who are in the process of selecting a college or university. This information may include, but not be limited to, local occupational profiles available through the Employment Development Department's Labor Market Information Data Library.

(Amended by Stats. 2012, Ch. 273, Sec. 1. Effective January 1, 2013.)

69433.5. (a) Only a resident of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), is eligible for an initial Cal Grant award. The recipient shall remain eligible for award renewal only if he or she is a California resident, in attendance, and making satisfactory academic progress at a qualifying institution, as determined by the commission.

(b) A part-time student shall not be discriminated against in the selection of Cal Grant Program award recipients, and an award to a part-time student shall be approximately proportional to the time the student spends in the instructional program, as determined by the commission. A first-time Cal Grant Program award recipient who is a part-time student shall be eligible for a full-time renewal award if he or she becomes a full-time student.

(c) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, sexual orientation, gender identity, gender expression, or age.

(d) An applicant shall not receive more than one type of Cal Grant Program award concurrently. An applicant shall not:

(1) Receive one or a combination of Cal Grant Program awards in excess of the amount equivalent to the award level for a total of four years of full-time attendance in an undergraduate program, except as provided in Section 69433.6.

(2) Have obtained a baccalaureate degree before receiving a Cal Grant Program award.

(e) A Cal Grant Program award, except as provided in Section 69440, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(f) The commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(g) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not necessarily be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(h) The commission may require, by the adoption of rules and regulations, the production of reports, accounting, documents, or other necessary statements from the award recipient and the college or university of attendance pertaining to the use or application of the award.

(i) A Cal Grant Program award may be utilized only at a qualifying institution.

(j) A recipient who initially qualified for both a Cal Grant A award and a Cal Grant B award, and received a Cal Grant B award, may be awarded a renewal Cal Grant A award if that recipient subsequently became ineligible for a renewal Cal Grant B award and meets the applicable Cal Grant A financial need and income and asset criteria.

(Amended by Stats. 2012, Ch. 38, Sec. 62. Effective June 27, 2012.)

69433.6. (a) Cal Grant A awards and Cal Grant B awards may be renewed for a total of the equivalent of four years of full-time attendance in an undergraduate program provided that minimum financial need as defined in paragraph (3) of subdivision (b) of Section 69432.9 continues to exist. Commencing with the 2001–02 academic year, the total number of years of eligibility for grants pursuant to this section shall be based on the student’s educational level in his or her course of study as designated by the institution of attendance when the recipient initially receives payment for a grant.

(b) (1) Commencing with the 2014–15 academic year, a recipient who was determined to be ineligible for a renewal award in the 2012–13 or 2013–14 academic year because he or she exceeded the maximum household income or asset level established by subdivision (k) of Section 69432.7, or failed to meet the minimum need threshold established by paragraph (3) of subdivision (b) of Section 69432.9, shall be eligible to receive a renewal award if the recipient meets all program eligibility requirements for the program from which he or she was previously disqualified and the recipient has remaining renewal award eligibility. For purposes of determining a student’s remaining renewal award eligibility, an academic year during which a student was ineligible shall reduce his or her renewal award eligibility by one full-time equivalent year.

(2) Commencing with the 2015–16 academic year, a recipient who is determined to be ineligible for a renewal award because, during the immediately preceding academic year, he or she exceeded the maximum household income or asset level established by subdivision (k) of Section 69432.7, or failed to meet the minimum need threshold established by paragraph (3) of subdivision (b) of Section 69432.9, shall be eligible to receive a renewal award if the recipient meets all program eligibility requirements for the program from which he or she was previously disqualified and the recipient has remaining renewal award eligibility. For purposes of determining a student’s remaining renewal award eligibility, an academic year during which a student was ineligible shall reduce his or her renewal award eligibility by one full-time equivalent year.

(c) For a student enrolled in an institutionally prescribed five-year undergraduate program, Cal Grant A awards and Cal Grant B awards may be renewed for a total of five years of full-time attendance, provided that minimum financial need, as defined in paragraph (3) of subdivision (b) of Section 69432.9, continues to exist.

(d) (1) A Cal Grant Program award recipient who has completed a baccalaureate degree, and who has been admitted to and is enrolled in a program of professional teacher preparation at an institution approved by the California Commission on Teacher Credentialing is eligible for, but not entitled to, renewal of a Cal Grant Program

award for an additional year of full-time attendance, if minimum financial need, as defined in paragraph (3) of subdivision (b) of Section 69432.9, continues to exist.

(2) Payment for an additional year is limited to only those courses required for an initial teaching authorization. An award made under this subdivision may not be used for other courses.

(3) A student's Cal Grant Program renewal eligibility shall not have lapsed more than 15 months before the payment of an award for purposes of this subdivision.

(Amended by Stats. 2014, Ch. 34, Sec. 3. Effective June 20, 2014.)

69433.7. The commission shall adopt regulations necessary to implement this chapter. Notwithstanding any other provision of law, the commission may adopt emergency regulations pursuant to Section 11346.1 of the Government Code in order to ensure that the program enacted by this chapter may function in its first academic year.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69433.8. An award under this chapter does not guarantee admission to an institution of higher education or admission to a specific campus or program.

(Added by Stats. 2000, Ch. 403, Sec. 4. Effective September 12, 2000.)

69433.9. To be eligible to receive a Cal Grant award under this chapter, a student shall be all of the following:

(a) A citizen of the United States, or an eligible noncitizen, as defined for purposes of financial aid programs under Title IV of the federal Higher Education Act of 1965 (20 U.S.C. Secs. 1070 et seq., as from time to time amended).

(b) In compliance with all applicable Selective Service registration requirements.

(c) Not incarcerated.

(d) Not in default on any student loan within the meaning of Section 69507.5.

(e) (1) For purposes of Article 2 (commencing with Section 69434), Article 3 (commencing with Section 69435), and Article 4 (commencing with Section 69436), except as provided in subdivision (d) of Section 69436, at the time of high school graduation or its equivalent, be a resident of California.

(2) A student who does not meet the requirements for a high school diploma or its equivalent in the academic year immediately preceding the award year, but who meets the requirements for a high school diploma or its equivalent by December 31 of the academic year immediately following the date of application, satisfies any requirement for obtaining high school graduation or its equivalent for the purposes of this chapter as of the first day of the academic term immediately following the term in which the requirements for the high school diploma or its equivalent are met.

(3) No student shall receive an award for a term that begins prior to satisfying any requirement for obtaining high school graduation or its equivalent.

(Amended by Stats. 2006, Ch. 652, Sec. 1. Effective September 29, 2006.)

7. DOCUMENTATION

(B) The executive order, identified by its effective date, alleged to impose or impact a mandate:

1. There are no executive orders that pertain to this mandate.

(C) The relevant portions of state constitutional provisions, federal statutes, and executive orders, that may impact the alleged mandate:

1. There are no state constitutional provisions, federal statutes, or executive orders that impact this mandate.

(D) Administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement:

1. There are no state constitutional provisions, federal statutes, or executive orders that impact this mandate.

(E) Statutes, chapters or original legislatively determined mandate and any amendments:

1. There are no statutes, chapters or original legislatively determined mandates or amendments related to this mandate.

8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Kris Corey

Print or Type Name of Authorized Local Agency
or School District Official

Superintendent

Print or Type Title


Signature of Authorized Local Agency or
School District Official

7-31-17
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

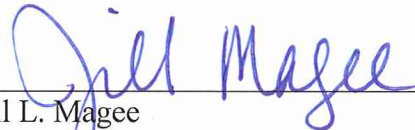
On August 10, 2017, I served the:

- **Notice of Complete Test Claim Filing, Tentative Hearing Date, and Schedule for Comments issued August 10, 2017**
- **Test Claim filed by Fairfield-Suisun Unified School District on June 26, 2017**

Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5),
69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections
69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education
Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 August 10, 2017 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/10/17

Claim Number: 16-TC-02

Matter: Cal Grant: Grade Point Average and Graduation Certification

Claimant: Fairfield-Suisun Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguiar@cde.ca.gov

Amber Alexander, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

David Cichella, *California School Management Group*
3130-C Inland Empire Blvd., Ontario, CA 91764
Phone: (209) 834-0556
dcichella@cscentral.com

Kris Corey, Superintendent, *Fairfield Suisun Unified School District*
2490 Hilborn Road, Fairfield, CA 94534
Phone: (707) 399-5009
KrisC@fsusd.org

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Rebecca Hamilton, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Anne Kato, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
akato@sco.ca.gov

Jennifer Kuhn, Deputy, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Keith Nezaam, *Department of Finance*
915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-8913
Keith.Nezaam@dof.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbsixten@aol.com

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*
P.O. Box 894059, Temecula, CA 92589
Phone: (951) 303-3034
sandrareynolds_30@msn.com

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

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

Phone: (916) 454-7310
steve@shieldscg.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*
Claimant Representative
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjusd.org



October 11, 2017

RECEIVED
October 11, 2017
*Commission on
State Mandates*

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

RE: Cal Grant: Grade Point Average and Graduation Certification Test Claim (16-TC-02)

Dear Ms. Halsey:

As requested in the Notice of Complete Test Claim Filing, Tentative Hearing Date, and Schedule for Comments for the Cal Grant: Grade Point Average and Graduation Certification Test Claim (16-TC-02), the Department of Finance (Finance) has reviewed the test claim submitted by the Fairfield-Suisun School District. This letter describes Finance’s analysis of the claim and related laws. Based on the analysis, Finance recommends that the claim be denied.

The requirement for school districts to report grade point averages is not new. Prior to the enactment of Chapter 679, Statutes of 2014, subdivision (c) of Education Code section 69432.9 specified the following:

“(c) The commission shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. **The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.** The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average. It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.” [emphasis added]

Specifically, if asked by any student, the existing law would have required a school district or a county office of education to do all of the following (using the language in the written narrative of the claim):

- Prepare for, provide, and attend training in order to instruct the employees in the existing requirements as referenced in (A)(1) of the written narrative.

- Review records, correct, update, and submit grade point averages to the Student Aid Commission pursuant to the existing requirements as referenced in (A)(2) of the written narrative.
- Include a certification to the Student Aid Commission, execute under penalty of perjury by a school official, that the grade point average is accurately reported as referenced in (A)(5) of the written narrative.

Therefore, Chapter 679, Statutes of 2014, does not represent a new program or higher level of service. To constitute a higher level of service there must be an increase in the level or quality of government services provided. The test claim statutes merely implement some changes that may increase the cost of providing services that were already required to be performed, but that does not result in a reimbursable state mandate.

The claim does not indicate what time and costs are incurred by school districts, county offices of education to ensure the grade point average certification is submitted to the Student Aid Commission in time to meet the application deadline. Without that information, it is unclear how the Commission on State Mandates would make a determination about the activities alleged in (A)(6) of the written narrative.

The claimant provides no evidence that a submittal of grade point averages by October 1 increases the cost of the alleged mandate. The claimant asserts in (A)(8) of the written narrative that there are time and costs incurred by school districts, county offices of education, and charter schools to submit the grade point averages by October 1. These asserted activities are apparently separate from any time and costs associated with the submittal referenced in (A)(3) of the written narrative. The claimant provides no evidence to suggest that additional time and costs are incurred to submit the information by October 1. Finance does not believe these represent new activities.

The statute imposes no requirements related to the verification of high school graduation or its equivalent. The claimant asserts in (A)(10) and (A)(11) of the written narrative that there are time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent and to electronically submit the graduate data for all former grade 12 pupils, including charter schools, in the prior academic year, except for pupils who have opted out, when required by the Student Aid Commission. The language in subdivision (a) of Education Code section 69432.92, which is cited by the claimant, only provides specific authorization to the Student Aid Commission. It does not impose a mandate on local agencies.

Commission decisions make clear that any activities imposed on charter schools are not a state mandate. The Commission has determined that charter schools are not eligible claimants subject to Article XIII B, section 6, of the California Constitution. Therefore, the references to time and costs incurred by charter schools in section (A) are irrelevant.

The claimant's statement in (F)(iv) of the written narrative, that "none" of "the local agency's general purpose funds" are "available for this program" is inaccurate. Funds apportioned to school districts through the Local Control Funding Formula (LCFF) pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code are available for these purposes and should offset any costs claimed by school districts. Similarly, funds apportioned to county offices of education through the County Local Control Funding Formula pursuant to Chapter 12.5 (commencing with Section 2574) of Part 2 of

Division 1 of Title 1 of the Education Code are available for these purposes and should offset any costs claimed by county offices of education. Further, other state funds, including funds apportioned in the 2016-17 fiscal year through the College Readiness Block Grant, established in Chapter 29, Statutes of 2016, have been available for this program. Those funds also should offset any claims. The total of all of these funds exceeds the actual or estimated costs alleged by the claimant and the statewide cost estimate alleged in the claim.

As indicated above, for these reasons, Finance recommends that the Commission deny this test claim.

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

Sincerely,



rw Jeff Bell
Program Budget Manager

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

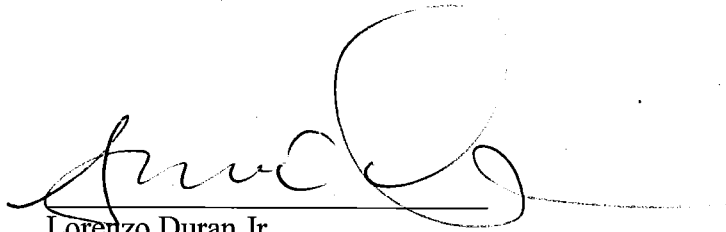
On October 12, 2017, I served the:

- **Department of Finance (Finance) Comments on the Test Claim filed October 11, 2017**

Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5), 69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections 69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 October 12, 2017 at Sacramento, California.



Lorenzo Duran Jr.
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/3/17

Claim Number: 16-TC-02

Matter: Cal Grant: Grade Point Average and Graduation Certification

Claimant: Fairfield-Suisun Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguilard@cde.ca.gov

Amber Alexander, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

David Cichella, *California School Management Group*
3130-C Inland Empire Blvd., Ontario, CA 91764
Phone: (209) 834-0556
dcichella@cscentral.com

Kris Corey, Superintendent, *Fairfield Suisun Unified School District*
2490 Hilborn Road, Fairfield, CA 94534
Phone: (707) 399-5009
KrisC@fsusd.org

Lupita Cortez Alcala, Executive Director, *California Student Aid Commission*
P.O. Box 419026, Rancho Cordova, CA 95741-9026
Phone: (916) 464-8271
Lupita.Alcala@csac.ca.gov

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Eric Feller, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
eric.feller@csm.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Rebecca Hamilton, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Jennifer Kuhn, Deputy, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Yazmin Meza, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Yazmin.meza@dof.ca.gov

Meredith Miller, Director of SB90 Services, *MAXIMUS*

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670

Phone: (972) 490-9990

meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*

1121 L Street, Suite 1060, Sacramento, CA 95814

Phone: (916) 446-7517

robertm@sscal.com

Keith Nezaam, *Department of Finance*

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-8913

Keith.Nezaam@dof.ca.gov

Andy Nichols, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

Christian Osmena, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122

apalkowitz@as7law.com

Keith Petersen, *SixTen & Associates*

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kpbsixten@aol.com

Mark Rewolinski, *MAXIMUS*

808 Moorefield Park Drive, Suite 205, Richmond, VA 23236

Phone: (949) 440-0845

markrewolinski@maximus.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*

P.O. Box 894059, Temecula, CA 92589

Phone: (951) 303-3034

sandrareynolds_30@msn.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@csm.ca.gov

Carla Shelton, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Steve Shields, *Shields Consulting Group, Inc.*
1536 36th Street, Sacramento, CA 95816
Phone: (916) 454-7310
steve@shieldscg.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*

Claimant Representative
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjusd.org



Fairfield-Suisun Unified School District

2490 Hilborn Road • Fairfield, California 94534 • Telephone (707) 399-5123

FAX: (707) 399-5138 • www.fsusd.org

"Fairfield-Suisun Unified School District is a premier learning community that empowers each student to thrive in an ever changing world."

November 7, 2017

RECEIVED

November 09, 2017

**Commission on
State Mandates**

Governing Board

Judi Honeychurch
President

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Jonathan Richardson
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John Silva
Bethany Smith
Chris Wilson

Superintendent

Kris Corey

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 94814

**RE : Department of Finance Comments dated October 11, 2017 – Cal Grant:
Grade Point Average and Graduation Certification Test Claim (16-TC-02).**

Dear Ms. Exec. Director Halsey and Ms. Magee,

The Department of Finance stated the following:

- 1. The requirement for school districts to report grade point averages is not new.** Prior to the enactment of Chapter 679, Statutes of 2014, subdivision (c) of Education Code section 69432.9 specified the following:

"(c) The commission shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. **The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.** The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average. It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter." [emphasis added]

Specifically, if asked by any student, the existing law would have required a school district or a county office of education to do all of the following (using the language in the written narrative of the claim):

"In a safe, welcoming, and supportive learning environment, we provide innovative educational opportunities to develop resilient students who are inspired to succeed"

Prepare for, provide, and attend training in order to instruct the employees in the existing requirements as referenced in (A)(1) of the written narrative.

Review records, correct, update, and submit grade point averages to the Student Aid Commission pursuant to the existing requirements as referenced in (A)(2) of the written narrative.

Include a certification to the Student Aid Commission, execute under penalty of perjury by a school official, that the grade point average is accurately reported as referenced in (A)(5) of the written narrative.

Therefore, Chapter 679, Statutes of 2014, does not represent a new program or higher level of service. To constitute a higher level of service there must be an increase in the level or quality of government services provided. The test claim statutes merely implement some changes that may increase the cost of providing services that were already required to be performed, but that does not result in a reimbursable state mandate.

CLAIMANT'S RESPONSE:

The Department of Finance's assertion that the enactment of Chapter 679, Statutes of 2014, subdivision (c) of Education Code section 69432.9 "merely implemented some changes that may increase costs of providing services that were already required to be performed", is not supported by the plain language of SB 2160.

Specifically Education Code section 69432.9 reads:

(c)(2) The commission shall require that a grade point average be submitted to it **electronically** on a standardized form for **all grade 12 pupils** at public schools, including charter schools, no later than October 1 of each academic year except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

Prior to the passage of AB 2160 in 2014 school districts, county offices of education, and charter schools were not required to submit grade point averages to the California Student Aid Commission (CSAC) for **all** pupils enrolled in grade 12.

School districts, county offices of education, and charter schools were only required to submit grade point averages to the CSAC for those pupils who submitted applications requesting they be considered as a Cal Grant applicant. This fact is identified by the Department of Finance in their comments above:

"(c) The commission shall require that a grade point average be submitted for **all Cal Grant A and B applicants**".

This statement from the Department of Finance, on its face is not the same language "as all pupils enrolled in 12th grade" as the new requirement states, and clearly shows an increase in the level of service required by the school district, county office or charter school.

2. **The claim does not indicate what time and costs are incurred by school districts, county offices of education to ensure the grade point average certification is submitted to the Student Aid Commission in time to meet the application deadline.** Without that information, it is unclear how the Commission on State Mandates would make a determination about the activities alleged in (A)(6) of the written narrative.

CLAIMANT'S RESPONSE:

The time and costs which are incurred by school districts, county offices of education and charter schools to ensure the grade point average certification is submitted to the Student Aid Commission (CSAC) in time to meet the application deadline are inherently included in item 5 of the Narrative, which states, "Time and costs.....including a certification to CSAC."

The Claimant did not include additional costs for ensuring the certification is submitted on time as this activity is inseparable from item 5 (see below). Claiming additional time and costs appear to be claiming duplicate costs thus omitted from the test claim submission. However, if the Commission would prefer, the District is more than happy to work to separate the two activities and would be happy to provide additional support for the process and costs included in the preparation and submission of the certification.

From Narrative Section 5 (A)

5. Time and costs incurred by school districts, county offices of education, and charter schools for including a certification to the CSAC, executed under penalty of perjury by a school official, that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the CSAC or its designee. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(3).
6. Time and costs incurred by school districts, county offices of education, and charter schools to ensure the grade point average certification is submitted to CSAC in time to meet the application deadline imposed by this chapter. AB 2160 - Statutes 2014, Education Code Sections 69432.9 (c)(5).

3. **The claimant provides no evidence that a submittal of grade point averages by October 1 increases the cost of the alleged mandate.** The claimant asserts in (A)(8) of the written narrative that there are time and costs incurred by school districts, county offices of education, and charter schools to submit the grade point averages by October 1. These asserted activities are apparently separate from any time and costs associated with the submittal referenced in (A)(3) of the written narrative.

The claimant provides no evidence to suggest that additional time and costs are incurred to submit the information by October 1. Finance does not believe these represent new activities.

CLAIMANT’S RESPONSE :

Claiming additional time and costs to meet the October 1st deadline is included within the costs claimed for the calculation and keying of grades into the Cal Grant System (See Exhibit 1 below). If the District incurs additional costs it would be for staff time earlier in the school year than prior to the passage of the law. However, if the Commission would prefer, the District is more than happy to work to separate the two activities and would be happy to provide additional support for the costs specific to the earlier deadline.

EXHIBIT 1:

DISTRICT ACTUAL COSTS		FAIRFIELD SUGUN UNIFIED SCHOOL DISTRICT									
Fiscal	Costs first	Position	Average Salary & Benefits - Registrar 2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	total direct costs 16-17	Indirect costs 16-17 5.97%	cost per student	
2016-17	September 1,	AB 2160 Registrar	\$33.56	Training on reporting requirements GPA & graduation	4	5	20.00	\$671.29	\$40.08	\$0.45	
2016-17	September 1,	AB 2160 Registrar	\$33.56	Calculate and key grades into Cal Grant form -14min each		1594	371.93	\$12,483.77	\$745.28	\$8.30	
2016-17	September 1,	AB 2160 Registrar	\$33.56	Mailing opt out forms to all seniors	1	5	5.00	\$167.82	\$10.02	\$0.11	
2016-17	September 1,	AB 2160 Registrar	\$33.56	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41.96	\$2.50	\$0.03	
2016-17	September 1,	AB 2160 Registrar	\$33.56	Execute certification	0.08	5	0.40	\$13.43	\$0.80	\$0.01	
2016-17	September 1,	AB 1091 Registrar	\$33.56	Electronically submit graduation verification	9	5	45.00	\$1,510.40	\$90.17	\$1.00	
2016-17		Districtwide						\$14,888.66		\$9.90	

4. The statute imposes no requirements related to the verification of high school graduation or its equivalent. The claimant asserts in (A)(11) of the written narrative that there are time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent and to electronically submit the graduate data for all former grade 112 pupils, including charter schools, in the prior academic year, except for pupils who have opted out, when required by the Student Aid Commission. The language in subdivision (a) of Education Code section 69432.92, which is cited by the claimant, only provides specific authorization to the Student Aid Commission. It does not impose a mandate on local agencies.

CLAIMANT’S RESPONSE:

The California Student Aid Commission began requiring verification of high school graduation from school districts, county offices of education and charter schools immediately following the passage of Education Code 69432.92. This is specifically noted in Education Code 69432.92 as:

(a) The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.

(b) If the commission requires verification of high school graduation or its equivalent pursuant to subdivision (a), the commission shall provide guidance to high schools or high school districts to ensure that high schools and high school districts verify the graduation of their pupils as soon as possible upon a pupil's graduation and no later than August 31 of the academic year following the pupils' graduation. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year.

In addition, during the 2016-17 fiscal year, the California Student Aid Commission issued two memos which prove the California Student Aid Commission also interpreted Education Code 69432.9 as imposing the requirement of verification of graduation upon school districts.

Please see EXHIBIT 2 on the following two pages:



SPECIAL ALERT

STATE OF CALIFORNIA



Update from the California Student Aid Commission

March 27, 2017

GSA 2017-13

TO: High School District Superintendents
High School Principals
High School Counselors

FROM: Catalina G. Mistler *Catalina G. Mistler*
Deputy Director, Program Administration & Services Division

SUBJECT: **Important Reminders**

This Special Alert from the California Student Aid Commission (Commission) reminds district and high school administrators of the requirements of California Education Code 69432.9 pertaining to important deadlines.

2018-19 Cal Grant GPA Upload Submission

Education Code 69432.9 (c)(2) states that a GPA is to be submitted electronically to the Commission for all grade 12 pupils at public and charter high schools no later than October 1 of each academic year.

- GPAs for the class of 2018 can be electronically submitted starting May 2017.

Student Opt-Out Option

Education Code 69432.9 (d)(1) states that the school district or charter school is to notify, in writing, each grade 11 pupil (for a pupil under 18 years of age, his or her parent or guardian) no later than January 1 of their grade 11 academic year, the option to not be included in the GPA submission. The students and parents must be given at least 30 days to reply to the opt-out option.

- The opt-out notification should be sent to the class of 2018 before the end of their junior year.

High School Graduation Verification

Education Code 69432.92 (b) states that high schools and high school districts are to verify the graduation of their pupils as soon as possible upon their graduation and no later than August 31.

- The class of 2017 must have the graduation date verified in WebGrants by August 31, 2017. The capability to verify the high school graduation date will begin the first week of the students' reported month of graduation.

Need to contact us?

- Institutional Support phone number: (888) 294-0153
- E-mail: schoolsupport@csac.ca.gov

Working together to effectively promote education beyond high school!



OPERATIONS MEMO

Update from the California Student Aid Commission

STATE OF
CALIFORNIA



May 24, 2017

GOM 2017-16

TO: Financial Aid Administrators
High School Counselors
High School District Administrators

FROM: Catalina G. Mistler *Catalina G. Mistler*
Deputy Director, Program Administration & Services Division

SUBJECT: 2017-18 High School Graduation Verification

This Operations Memo from the California Student Aid Commission (Commission) provides an update to [GSA 2017-13](#) regarding the 2017 high school graduation confirmation process for new 2017-18 Entitlement Cal Grant offered awardees.

Education Code 69432.92 (b) states:

High Schools and High School Districts are to verify the graduation of their pupils as soon as possible upon their graduation and no later than August 31 of the academic year following the pupil's graduation.

New Entitlement Cal Grant offered awardees:

- Must have their high school graduation confirmed prior to receiving a Cal Grant payment.
- Can self-certify their high school graduation at [WebGrants for Students](#).
- Will be notified regularly to confirm their high school graduation status.
- Will be withdrawn from the Cal Grant program if their high school graduation is not confirmed.

High Schools Confirming High School Graduation in WebGrants (WG)

- May certify 2017 graduates by using the "High School Graduation Verification" screen from the Grade Point Average (GPA) menu in WG. There are 3 different status options: "Graduated," "Not Graduated," or "Pending."
- Students who are marked "pending graduation" will have until December 31, 2017, to meet high school graduation requirements in order to remain eligible for a 2017-18 Cal Grant award.
 - In order to release the hold on a student's Cal Grant award, schools must submit a new graduation status in WG once the graduation requirements are satisfied.

P.O. Box 419028, Rancho Cordova, CA 95741-9028 Website: www.csac.ca.gov

5. Commission decisions make clear that any activities imposed on charter schools are not a state mandate. The Commission has determined that charter schools are not

- 5. Commission decisions make clear that any activities imposed on charter schools are not a state mandate.** The Commission has determined that charter schools are not eligible claimants subject to Article XIII B, section 6, of the California Constitution. Therefore, the references to time and costs incurred by charter schools in section (A) are irrelevant.

CLAIMANT'S RESPONSE:

Charter Schools are included in this test claim filing for two reasons: one, they are included in the plain language of the statutes referenced in the test claim and two, because if the COSM decision is ever reversed and Charter School costs are reinstated for mandate programs then including them in the test claim language now is a preemptive measure to insure Charter Schools would be eligible for reimbursement for this program.

- 6. The claimant's statement in (F)(iv) of the written narrative, that "none" of "the local agency's general purpose funds" are "available for this program" is inaccurate.** Funds apportioned to school districts through the Local Control Funding Formula (LCFF) pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code are available for these purposes and should offset any costs claimed by school districts. Similarly, funds apportioned to county offices of education through the County Local Control Funding Formula pursuant to Chapter 12.5 (commencing with Section 2574) of Part 2 of Division 1 of Title 1 of the Education Code are available for these purposes and should offset any costs claimed by county offices of education. Further, other state funds, including funds apportioned in the 2016-17 fiscal year through the College Readiness Block Grant, established in Chapter 29, Statutes of 2016, have been available for this program. Those funds also should offset any claims. The total of all of these funds exceeds the actual or estimated costs alleged by the claimant and the statewide cost estimate alleged in the claim.

CLAIMANT'S RESPONSE:

All School District Mandated Cost's claiming instructions issued by the State Controller's Office have specific line items (usually items 9 & 10) on the summary page which require the claimant identify any offsetting savings or other funding sources available for the specific mandate program being claimed. Additionally, in the current boiler plate School District Claiming Instructions the State Controller (SCO) specifically states:

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this.

It is the responsibility of each District to determine if (as the DOF puts it) "The total of all of these funds exceeds the actual or estimated costs alleged by the claimant", and not an amount outside sources or other government agencies can determine. To determine if these new laws create a new program or higher level of service is the COSM's responsibility. It is up to each claimant and the SCO to determine if the costs are 100% funded through other avenues.

Please review and let us know if you have any questions or need any additional information as we will be happy to provide it.

Thank you,

A handwritten signature in blue ink that reads "Michelle Henson". The signature is written in a cursive style with a large initial "M".

Michelle Henson
Assistant Superintendent of Business Services
Fairfield Suisun Unified School District

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

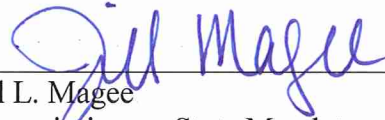
On November 9, 2017, I served the:

- **Claimant's Rebuttal Comments filed November 9, 2017**

Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5),
69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections
69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education
Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 November 9, 2017 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/3/17

Claim Number: 16-TC-02

Matter: Cal Grant: Grade Point Average and Graduation Certification

Claimant: Fairfield-Suisun Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguilard@cde.ca.gov

Amber Alexander, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

David Cichella, *California School Management Group*
3130-C Inland Empire Blvd., Ontario, CA 91764
Phone: (209) 834-0556
dcichella@cscentral.com

Kris Corey, Superintendent, *Fairfield Suisun Unified School District*
2490 Hilborn Road, Fairfield, CA 94534
Phone: (707) 399-5009
KrisC@fsusd.org

Lupita Cortez Alcala, Executive Director, *California Student Aid Commission*
P.O. Box 419026, Rancho Cordova, CA 95741-9026
Phone: (916) 464-8271
Lupita.Alcala@csac.ca.gov

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Eric Feller, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
eric.feller@csm.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Rebecca Hamilton, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Jill Kanemasu, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Jennifer Kuhn, Deputy, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*

545 Chaney Street, Lake Elsinore, CA 92530

Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

Michelle Mendoza, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403

Phone: (949) 440-0845
michellemendoza@maximus.com

Yazmin Meza, Department of Finance

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Yazmin.meza@dof.ca.gov

Meredith Miller, Director of SB90 Services, MAXIMUS

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670

Phone: (972) 490-9990

meredithcmiller@maximus.com

Robert Miyashiro, Education Mandated Cost Network

1121 L Street, Suite 1060, Sacramento, CA 95814

Phone: (916) 446-7517

robertm@sscal.com

Keith Nezaam, Department of Finance

915 L Street, 8th Floor, Sacramento, CA 95814

Phone: (916) 445-8913

Keith.Nezaam@dof.ca.gov

Andy Nichols, Nichols Consulting

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

Christian Osmena, Department of Finance

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

christian.osmena@dof.ca.gov

Arthur Palkowitz, Artiano Shinoff

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122

apalkowitz@as7law.com

Keith Petersen, SixTen & Associates

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kpbsixten@aol.com

Mark Rewolinski, MAXIMUS

808 Moorefield Park Drive, Suite 205, Richmond, VA 23236

Phone: (949) 440-0845

markrewolinski@maximus.com

Sandra Reynolds, Reynolds Consulting Group, Inc.

P.O. Box 894059, Temecula, CA 92589

Phone: (951) 303-3034

sandrareynolds_30@msn.com

Camille Shelton, Chief Legal Counsel, Commission on State Mandates

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@csm.ca.gov

Carla Shelton, Commission on State Mandates

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Steve Shields, *Shields Consulting Group, Inc.*
1536 36th Street, Sacramento, CA 95816
Phone: (916) 454-7310
steve@shieldscg.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*

Claimant Representative
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjusd.org



November 22, 2017

Ms. Jolene Tollenarr
MGT of America, LLC
2251 Harvard Street,
Suite 134
Sacramento, CA 95815

Mr. Ed Hanson
Department of Finance
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5),
69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections
69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education
Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

Dear Ms. Tollenarr and Mr. Hanson:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision by **December 13, 2017**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

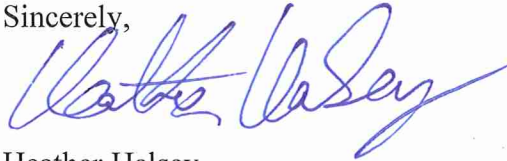
¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Mr. Dyer and Mr. Howard
November 22, 2017
Page 2

Hearing

This matter is set for hearing on **Friday, January 26, 2018** at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The Proposed Decision will be issued on or about January 12, 2018. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,



Heather Halsey
Executive Director

ITEM ____
TEST CLAIM

DRAFT PROPOSED DECISION

Education Code Sections 69432.9, 69432.92

Statutes 2014, Chapter 679 (AB 2160), Statutes 2015, Chapter 637 (AB 1091),
Statutes 2016, Chapter 82 (AB 2908)

Cal Grant: Grade Point Average and Graduation Certification

16-TC-02

Fairfield-Suisun Unified School District, Claimant

EXECUTIVE SUMMARY

Overview

This Test Claim addresses the activities required to be performed by K-12 school districts for pupils in grades 11 and 12 who may be eligible for a Cal Grant Entitlement award. The test claim statutes deem every grade 12 pupil a Cal Grant applicant; require school districts to provide written notification to pupils of the opportunity to opt out of being deemed a Cal Grant applicant; require school districts to certify and electronically submit to the California Student Aid Commission (CSAC) the grade point averages (GPAs) of all grade 12 pupils, except those who opt out of being a Cal Grant applicant; authorize CSAC to require the electronic submission of a verification of the high school graduation or its equivalent for all grade 12 pupils that graduated in the prior academic year, except those who opt out of being a Cal Grant applicant; and authorize school districts to obtain permission from the pupil or parent or guardian of the pupil, to submit the pupil's social security number (SSN) to CSAC if CSAC determines that an SSN is required to complete the application for financial aid.

Staff recommends that the Commission on State Mandates (Commission) partially approve this Test Claim.

Procedural History

The Fairfield-Suisun Unified School District (claimant) filed the Test Claim on June 26, 2017.¹
The Department of Finance (Finance) filed comments on the Test Claim on October 11, 2017.²

¹ Exhibit A, Test Claim, page 11.

² Exhibit B, Department of Finance's Comments on the Test Claim.

The claimant filed rebuttal comments on November 9, 2017.³ Commission staff issued the Draft Proposed Decision on November 21, 2017.⁴

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission must strictly construe XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁵

Claims

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation:

Subject	Description	Staff Recommendation
Was the Test Claim timely filed pursuant to Government Code section 17551(c)?	The Test Claim pleads Statutes 2014, chapter 679, which became effective on January 1, 2015, and Statutes 2015, chapter 637, which became effective on January 1, 2016. Both of these statutes became effective more than 12 months before the Test Claim was filed. Government Code section 17551(c) states: “test claims	<i>Timely Filed</i> – The claimant stated that it first incurred costs under Statutes 2014, chapter 679 (AB 2160), on September 1, 2015, ⁶ which is within the 2015-2016 fiscal year. The Test Claim was filed on June 26, 2017, which is within the 2016-2017 fiscal year and is also “by June 30 of the fiscal year following the fiscal year in which increased costs

³ Exhibit C, Claimant’s Rebuttal Comments.

⁴ Exhibit D, Draft Proposed Decision.

⁵ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁶ Exhibit A, Test Claim, page 19. The claimant’s declaration references “AB 2160” which was the bill number for Statutes 2014, chapter 679.

	<p>shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”</p> <p>Section 1183.1(c) of the Commission’s regulations states: “[f]or purposes of claiming based on the date of first incurring costs, ‘within 12 months’ means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.”</p>	<p>were first incurred by the test claimant.”⁷</p> <p>The claimant stated that it first incurred costs under Statutes 2015, chapter 637 (AB 1091), on September 1, 2016.⁸ The Test Claim was filed on June 26, 2017, within 12 months of when the claimant first incurred costs under Statutes 2015, chapter 637.</p> <p>Therefore, the Test Claim was timely filed within the deadline imposed by Government Code section 17551(c) and section 1183.1(c) of the Commission’s regulations.</p>
<p>Does the Education Code section 69432.9(d) (Stats. 2014, ch. 679, Stats. 2016, ch. 82) impose a reimbursable state-mandated program to notify pupils of the opportunity to opt-out of being deemed a Cal Grant applicant, and provide the opportunity to opt out?</p>	<p>The test claim statute requires school districts to notify pupils in writing of the opportunity to opt out of being deemed a Cal Grant applicant, and requires school districts to provide an opportunity for the pupil to opt out.</p> <p>CSAC developed a sample Cal Grant Opt-Out Form in English and Spanish, which is available on its website, for school districts to comply with the opt-out requirement.⁹ By signing the CSAC sample form, the pupil is opting out and electing not</p>	<p><i>Approve</i> – The plain language of the test claim statute mandates school districts to provide a written notice to opt out of being deemed a Cal Grant applicant as follows: Effective January 1, 2015, provide written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which, (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC;</p>

⁷ California Code of Regulations, title 2, section 1183.1(c).

⁸ Exhibit A, Test Claim, page 19. On page 3, the claimant alleges that costs were first incurred on November 1, 2016, but page 19 of the Test Claim was submitted as a declaration under penalty of perjury in accordance with section 1187.5(b) of the Commission’s regulations.

⁹ Exhibit X, California Student Aid Commission, Cal Grant GPA Opt Out Form. http://www.csac.ca.gov/pubs/forms/grnt_frm/gpa_opt_out.pdf accessed October 16, 2017.

	<p>to have his or her high school report the Cal Grant GPA information and SSN (if applicable) to CSAC for use in the Cal Grant application process.</p>	<p>and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.¹⁰</p> <p>Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send GPAs to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.¹¹</p> <p>Providing the notice is newly mandated by the state and imposes a new program or higher level of service. In addition, the statute results in increased costs mandated by the state, and the funding appropriated to school districts under the Local Control Funding Formula and the College Readiness Block Grant do not trigger the application of Government Code section 17556(e) to deny this Test Claim.</p>
<p>Does Education Code section 69432.9(c) (Stats. 2014, ch. 679) impose a reimbursable state-mandated program to</p>	<p>Preexisting law (Stats. 2000, ch. 403) requires high school officials to certify GPA information submitted to CSAC, and expresses legislative intent that the</p>	<p><i>Deny</i> – Certifying GPAs for all grade 12 pupils, as required by Education Code section 69432.9(c), does not constitute a new program or higher level of service. School districts have</p>

¹⁰ Education Code section 69432.9(d) (Stats. 2014, ch. 679).

¹¹ Education Code section 69432.9(d) (Stats. 2016, ch. 82).

<p>certify GPAs to CSAC by a statutory deadline?</p>	<p>certification be accomplished in order to meet financial aid deadlines.</p>	<p>long been required to certify GPAs under penalty of perjury for Cal Grant applicants.¹² Although school districts may now have to certify more GPAs than under prior law, and may or may not incur increased costs to do so, increased costs alone do not establish a reimbursable state-mandated program.¹³</p>
<p>Does Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679) impose a reimbursable state-mandated program to electronically submit GPAs to CSAC for all grade 12 pupils, on a standardized form, by October 1st each year, except for pupils who opt out?</p>	<p>The test claim statute states: “The commission shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d).”¹⁴</p>	<p><i>Approve</i> – The 2014 test claim statute requires electronic submission of GPAs for all grade 12 pupils, not just Cal Grant applicants. Both CSAC and the California Department of Education have interpreted the test claim statute to require the school district to electronically submit the GPAs for all grade 12 pupils each academic year.¹⁵ Their interpretations are consistent</p>

¹² Former Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7); see also, California Code of Regulations, title 5, section 30008, Register 2001, No. 20 (May 16, 2001).

¹³ *County of Los Angeles v. State of California* (1987) 43 Cal.3d at 55-56; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735; *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876-877.

¹⁴ This statute was amended by the 2015 and 2016 test claim statutes to require GPA submission on a standardized form, by October 1 each year.

¹⁵ Exhibit X, California Department of Education Official Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, January 25, 2016. See also California Department of Education, Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, September 19, 2017. CSAC, Memo to High School Principals, High School Counselors, and County and District Superintendents, October 10, 2016.

		<p>with the legislative history of the test claim statute.¹⁶</p> <p>Although some of the largest school districts in the state (San Francisco and Los Angeles Unified) were electronically submitting GPAs for all grade 12 pupils before the 2014 test claim statute, and there is an indication in the legislative history that they experienced cost savings as a result,¹⁷ doing so is still considered a new state-mandated activity under Government Code section 17565 because there was no legal requirement for them to do so under prior law. Any <i>increased</i> costs to any eligible school district that are mandated by the State as a result of this newly mandated activity are reimbursable.¹⁸</p> <p>Therefore, electronically submitting pupil GPAs to CSAC is newly mandated by the State and imposes a new program or higher level of service. In addition, the test claim statute results in increased costs mandated by the state for the claimant and possibly other school districts as well. The funding appropriated to school</p>
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¹⁶ Exhibit X, Assembly Floor, Analysis of AB 2160 (2013-2014 Reg. Sess.) as amended August 18, 2014, page 3; Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) as amended June 18, 2014, pages 3-4.

¹⁷ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, page 3.

¹⁸ Government Code section 17565 states that “If a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs after the operative date of the mandate.”

		districts under the Local Control Funding Formula and the College Readiness Block Grant does not trigger the application of Government Code section 17556(e) to deny this Test Claim.
Does Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679) impose a reimbursable state-mandated program to submit SSNs to CSAC?	The test claim statute states: “Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a SSN is required to complete the application for financial aid, the ... school district ...may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil’s SSN to . . .” CSAC.	<i>Deny</i> – The requirement to submit a SSN is conditional on CSAC requiring it: “if the commission determines that a social security number is required to complete the application for financial aid” The claimant did not file any document with the Test Claim that shows that CSAC has required submitting pupil SSNs. In addition, for schools that submitted paper GPA forms, CSAC required pupil SSNs to be submitted prior to the test claim statute.
Does Education Code section 69432.92 (Stats. 2015, ch. 637) impose a reimbursable state-mandated program to electronically submit verification of high school graduation to CSAC?	The test claim statute states: “The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out” It is the intent of the Legislature that high schools or high school districts verify the graduation of their pupils in time to meet the deadlines imposed by statute.	<i>Deny</i> – The plain language of the test claim statute does not impose a state-mandated program on school districts to submit electronic verification of the high school graduation for grade 12 applicants. The statute states: “The commission may require verification of high school graduation” ¹⁹ In addition, the Education Code has long required that a pupil confirm his or her high school graduation before Cal Grant payments can be released, and either the pupil or the school

¹⁹ Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

		<p>district can verify graduation.²⁰ Ultimately, the applicant is responsible for verifying his or her high school graduation.²¹ That law has not changed with the test claim statute, and CSAC allows pupils to self-certify high school graduation.</p>
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Staff Analysis

A. The Test Claim Was Timely Filed Pursuant to Government Code Section 17551(c).

Government Code section 17551(c) states in pertinent part: “test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations states: “For purposes of claiming based on the date of first incurring costs, “within 12 months” means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.”²²

Statutes 2014, chapter 679 (AB 2160), became effective on January 1, 2015, and Statutes 2015, chapter 637, became effective on January 1, 2016. Both of these statutes became effective more than 12 months before the Test Claim was filed. However, the claimant stated that it first incurred costs under Statutes 2014, chapter 679 (AB 2160), on September 1, 2015,²³ which is within the 2015-2016 fiscal year. The Test Claim was filed in the following fiscal year on June 26, 2017, which is “by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.”²⁴

Similarly, the claimant stated that it first incurred costs under Statutes 2015, chapter 637 (AB 1091), on either September 1, 2016 or November 1, 2016.²⁵ The Test Claim was filed on

²⁰ Education Code section 69433.9 (as last amended by Stats. 2006, ch. 652.); Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

²¹ Education Code section 69432.9(a) (as last amended by Stats. 2011, ch. 7), and still in place today, states the following: “A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and application regulations adopted by the commission.” Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

²² California Code of Regulations, title 2, section 1183.1(c).

²³ Exhibit A, Test Claim, page 19.

²⁴ California Code of Regulations, title 2, section 1183.1(c).

²⁵ Exhibit A, Test Claim, page 19. On page 3, the claimant alleges that costs were first incurred on November 1, 2016, but page 19 of the Test Claim, a declaration signed under penalty of perjury in accordance with section 1187.5(b) of the Commission’s regulations, indicates that the date is actually September 1, 2016.

June 26, 2017, within 12 months of when the claimant first incurred costs under Statutes 2015, chapter 637 (AB 1091).

The claim was filed within 12 calendar months from the effective date of Statutes 2016, chapter 82.

Therefore, the Test Claim was timely filed within the deadline imposed by Government Code section 17551(c) and section 1183.1(c) of the Commission regulations.

B. Do the Test Claim Statutes Impose a State-Mandated New Program or Higher Level of Service on School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution?

1. Education Code section 69432.9(d) mandates a state-mandated new program or higher level of service to provide written notification to pupils of the opportunity to opt out of being deemed a Cal Grant applicant (Ed. Code, §69432.9(d), Stats 2014, ch. 679, Stats. 2016, ch. 82).

Statutes 2014, chapter 679 added subdivision (d) to Education Code section 69432.9, to require school districts, for the first time, to provide written notification, by October 15, to each grade 12 pupil (or pupil's parent or guardian for pupils under age 18) that the pupil will be automatically deemed a Cal Grant applicant unless the pupil opts out. Under the statute, the first written opt-out notice to grade 12 pupils was required to be sent by October 15, 2015, to pupils in the 2016 graduating class.²⁶

The statute also requires the school district to "provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant." CSAC developed a sample Cal Grant Opt-Out Form in English and Spanish, which is available on its website, for school districts to comply with the requirement.²⁷ By signing the CSAC sample form or school district's form, the pupil is opting out and electing not to have his or her GPA and SSN (if applicable) reported to CSAC as part of a Cal Grant application.

Preexisting law did not require a notice or opportunity to opt-out of the Cal Grant application process because, prior to the test claim statutes, it was the responsibility of a pupil seeking a Cal Grant to file an application.²⁸

Based on the mandatory language of the statute,²⁹ staff finds that it is a new state-mandated activity, beginning January 1, 2015, to provide written notice by October 15 to all grade 12

²⁶ Exhibit X, CSAC, Letter to High School Administrators "The Ting Bill Requirements Letter." The letter states "The law became effective in the 2015-2016 academic year; thus, GPAs for 2015-2016 seniors must be submitted before March 2, 2016. GPAs must be subsequently submitted each year thereafter by the March 2 deadline." See http://www.csac.ca.gov/ting_bill.asp, accessed October 26, 2017.

²⁷ Exhibit X, California Student Aid Commission, Cal Grant GPA Opt Out Form. http://www.csac.ca.gov/pubs/forms/grnt_frm/gpa_opt_out.pdf, accessed October 16, 2017.

²⁸ California Code of Regulations, title 5, sections 30008(c) and 30023(a)(2). See also section 30002, which defines an "eligible applicant."

²⁹ Education Code section 75: "'Shall' is mandatory and 'may' is permissive."

pupils, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send GPAs to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

Effective January 1, 2017, section 69432.9(d) was amended to require sending the opt-out notice to pupils by January 1 of the pupil’s grade 11 academic year, instead of by October 15 of the pupil’s grade 12 academic year. On March 27, 2017, CSAC issued a “Special Alert” explaining the change and stating that “the opt-out notification should be sent to the class of 2018 before the end of their junior year.”³⁰

Under these statutes, school districts were required to provide grade 12 pupils in the classes of 2016 and 2017 the opt-out notice by October 15, 2015 and 2016, under Statutes 2014, chapter 679. School districts were also required to provide the opt-out notice to the class of 2018 when those pupils were in grade 11 pursuant to Education Code section 69432.9(d), as amended by the 2016 statute, by January 1, 2017. CSAC’s “Special Alert” recommended that the notices be sent to the class of 2018 before the end of their junior year”; i.e., before summer break in 2017, to comply with the statute.³¹ Future classes are required to receive the notice by January 1 of their junior year.

These new activities provide a service to the public by increasing access to college financial aid to California pupils, and thus, mandate a new program or higher level of service.³²

Therefore, staff finds that subdivision (d) of Education Code section 69432.9, as added by the 2014 and amended 2016 test claim statutes, imposes a new state-mandated new program or higher level of service on school districts to provide a written Cal Grant opt-out notice and provide an opportunity to opt out as follows:

- Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant; and
- Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point

³⁰ Exhibit X, CSAC Special Alert (GSA 2017-13), March 27, 2017.
<http://www.csac.ca.gov/secured/specialalerts/2017/GSA%202017-13.pdf>, accessed October 27, 2017.

³¹ Exhibit X, CSAC Special Alert (GSA 2017-13), March 27, 2017.
<http://www.csac.ca.gov/secured/specialalerts/2017/GSA%202017-13.pdf>, accessed October 27, 2017.

³² Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 3-4.

averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant, is a new state-mandated activity.

2. Education Code section 69432.9(c)(2) imposes a partial state-mandated new program or higher level of service to electronically submit GPAs for grade 12 pupils to CSAC. (Ed. Code, §69432.9(c)(2), Stats 2014, ch. 679, Stats. 2016, ch. 82)

Statutes 2014, Chapter 679 amended Education Code section 69432.9(a) to automatically deem each pupil enrolled in grade 12 a Cal Grant applicant, unless the pupil opts out. It also amended section 69432.9(c) to require a GPA be submitted electronically for *all* grade 12 pupils, not just those who apply for a Cal Grant. Statutes 2015, chapter 637 amended subdivision (c)(2) to clarify that GPAs be electronically submitted on a *standardized form*. Statutes 2016, chapter 82 amended subdivision (c)(2), to specify that GPAs for grade 12 pupils are to be submitted to CSAC “no later than October 1 of each academic year.” Under prior law, GPAs for Cal Grant applicants had to be submitted before the March 2 deadline.

Staff finds that the activity to *certify* GPAs for all grade 12 pupils, as required by Education Code section 69432.9(c), does not constitute a new program or higher level of service. School districts have long been required to certify GPAs under penalty of perjury for Cal Grant applicants.³³ Although school districts may now have to certify more GPAs than under prior law, and may or may not incur increased costs to do so,³⁴ increased costs alone do not establish a reimbursable state-mandated program.³⁵

In addition, staff finds that providing SSNs, if requested by CSAC, is not mandated by the plain language of Education Code section 69432.9(c)(2). The statute states that SSNs shall not be included in the information, and that “if” CSAC requests the SSN, the school district “may” obtain permission from the pupil or the parent to submit the information. Moreover, a school district submitting SSNs upon CSAC’s request is not new.

Staff finds that the requirement to electronically submit the GPAs of all grade 12 pupils each academic year to CSAC, except for pupils who opt out pursuant to Education Code section 69432.9(c)(2), mandates a new program or higher level of service. Under prior law, the GPA

³³ Former Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7); see also, California Code of Regulations, title 5, section 30008.

³⁴ See Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, page 3 (Stating that Los Angeles Unified and San Francisco Unified both experienced cost savings).

³⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d at 55-56; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735; *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876-877. See also Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014.

could be submitted by either the pupil or the school, by paper or electronically.³⁶ As stated in the legislative history of the 2014 test claim statute (Stats. 2014, ch. 679):

Currently, there is no standard practice for submitting GPA verification to the CSAC. Some schools submit hard copy verification forms, others submit GPAs electronically, and still others rely on their students to submit the verification forms themselves (once signed by a school official).³⁷

CSAC regulations, however, expressly placed the responsibility for GPA submission on the Cal Grant applicant.³⁸

Therefore, staff finds that Education Code section 69432.9(c)(2) as added and amended by Statutes 2014, chapter 679 and Statutes 2016, chapter 82 imposes a state-mandated program to electronically submit GPAs for grade 12 pupils to CSAC, and this activity does not include the certification of the GPA or providing SSNs to CSAC.

3. Education Code section 69432.92 does not impose a state-mandated program on school districts to electronically submit verification of high school graduation to CSAC (Stats 2015, ch. 637).

Statutes 2015, chapter 637 added section 69432.92 to the Education Code to authorize CSAC to require the electronic verification of the high school graduation or its equivalent for all grade 12 pupils that graduated in the prior academic year, except pupils who opted out.

Staff finds that electronically verifying, upon request from CSAC, the high school graduation of all grade 12 pupils who have not opted out of the Cal Grant program pursuant to Education Code section 69432.92, does not mandate a new program or higher level of service on school districts. The plain language of the statute authorizes, but does not require, CSAC to request school districts to submit electronic verification of the high school graduation for grade 12 applicants.³⁹ The claimant has not filed an executive order or any other document to indicate that CSAC requires schools to verify graduation information. In addition, the Education Code has long required that a pupil confirm his or her high school graduation before Cal Grant payments can be released, and either the pupil or the school district can verify graduation.⁴⁰ Ultimately, the applicant is responsible for verifying his or her high school graduation.⁴¹ This process has not changed with the test claim statute.

³⁶ Exhibit X, CSAC, “Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year,” dated October 11, 2012. (http://www.csac.ca.gov/pubs/forms/grnt_frm/non_ssn_gpa_qa.pdf); See also, Cal Grant Manual, chapter 4.1, “The Cal Grant Application Process,” December 2005.

³⁷ Exhibit X, Senate Appropriations Committee, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 1-2.

³⁸ California Code of Regulations, title 5, sections 30008(c) and 30023(a).

³⁹ Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

⁴⁰ Education Code section 69433.9 (as last amended by Stats. 2006, ch. 652.).

⁴¹ Education Code section 69432.9(a) (as last amended by Stats. 2011, ch. 7), and still in place today, states: “A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and application regulations adopted by the commission.” See also,

CSAC continues to allow the pupil to self-certify high school graduation.⁴²

C. Education Code Section 69432.9(c)(2) and (d) (Stats 2014, ch. 679, Stats. 2016, ch. 82) Imposes Costs Mandated by the State for K-12 School Districts to Notify Pupils and Parents of the Opportunity to Opt Out of the Cal Grant Application Process and to Electronically Submit GPAs to CSAC Each Academic Year For All Pupils in Grade 12.

Government Code section 17514 defines “costs mandated by the state” as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service.

Finance argues there are no increased costs mandated by the state. Finance asserts that funds from the Local Control Funding Formula (LCFF) and the College Readiness Block Grant are available to pay for the cost of the new state-mandated activities. According to Finance, “The total of all of these funds exceeds the actual or estimated costs alleged by the claimant and the statewide cost estimate alleged in the claim.”⁴³

Under the pertinent part of Government Code section 17556(e), the Commission shall not find costs mandated by the state if:

The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

Staff finds that school districts incur increased costs mandated by the state within the meaning of Government Code section 17514, and that funding appropriated to school districts under the LCFF and the College Readiness Block Grant do not trigger the application of Government Code section 17556(e) to deny this test claim.

The LCFF⁴⁴ was enacted in fiscal year 2013-2014 to replace the previous K-12 general purpose revenue funding through Proposition 98, which had been in existence for roughly 40 years. Previously, the state distributed school funding through a combination of general purpose grants (revenue limit entitlements) and more than 40 state categorical programs. Districts could use

Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

⁴² Exhibit X, California Student Aid Commission, “High School Graduation Certification Form For the Entitlement Cal Grant Program,” (G-8, dated 08/16) http://csac.ca.gov/pubs/forms/grnt_frm/2016_2017_g-8_hs_graduation_verification.pdf, accessed October 16, 2017.

⁴³ Exhibit B, Finance’s Comments on the Test Claim, pages 2 and 3.

⁴⁴ The Local Control Funding Formula is in Article 2 (commencing with section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code. Also, the County Local Control Funding Formula is in chapter 12.5 (commencing with section 2574) of Part 2 of Division 1 of Title 1 of the Education Code.

general purpose grants for any educational purpose, but they had to spend categorical funding on state-prescribed activities. In fiscal year 2013-2014, the state eliminated most categorical programs, replacing all the previous program-specific funding formulas with one new formula. The new formula increased the size of general purpose grants and directed more funding to districts with disadvantaged pupils.⁴⁵ Like the prior revenue limit apportionments, the LCFF is funded through a combination of local property taxes and state aid.⁴⁶

The issue whether a school district's general revenue calculated under the LCFF and used to pay for a state-mandated program is required to be identified as offsetting revenue is not a settled legal issue. The issue is pending in *California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance* (First District Court of Appeal, Case No. A148606). The Commission has approved many school district test claims, and has never identified a district's general purpose revenue as offsetting revenue however. Moreover, the Legislature has not enacted a statute that "includes additional revenue that was *specifically intended* to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate," pursuant to Government Code section 17556(e) with respect to the Cal Grant activities mandated by the state. All LCFF funds are technically "unrestricted," which means school districts have discretion over how the funds are used. The Legislature has not directed the use of LCFF funds to pay for the costs of this program.⁴⁷ Therefore, the funding appropriated under the LCFF does not trigger the application of Government Code section 17556(e) to deny this Test Claim.

Similarly, the College Readiness Block Grant does not result in a finding of no costs mandated by the state pursuant Government Code section 17556(e). Enacted in 2016, the College Readiness Block Grant authorizes the appropriation of \$200 million for the purpose of providing California's high school pupils, particularly unduplicated pupils (defined as low income pupils, pupils in foster care, and English learners), additional support to increase the number who enroll at institutions of higher education and complete an undergraduate degree within four years.⁴⁸ The "block grant funds apportioned to eligible school districts shall be used for activities that directly support pupil access and successful matriculation to institutions of higher education."⁴⁹ However, there is no requirement that school districts use the block grant funding to pay for the state-mandated program here. Accordingly, the block grant funds are not specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate

⁴⁵ Exhibit X, Legislative Analyst's Office, "The 2017-18 Budget: Proposition 98 Education Analysis," February 9, 2017, page 29, <http://www.lao.ca.gov/reports/2017/3549/prop98-analysis-020917.pdf>, accessed October 16, 2017.

⁴⁶ Exhibit X, Department of Education, "LCFF Frequently Asked Questions," <https://www.cde.ca.gov/fg/aa/lc/lcfffaq.asp#FC>, accessed October 16, 2017; Education Code sections 42238.02, 42238.03.

⁴⁷ Exhibit X, Department of Education, "LCFF Frequently Asked Questions," <https://www.cde.ca.gov/fg/aa/lc/lcfffaq.asp#FC>, accessed October 16, 2017.

⁴⁸ Education Code section 41580(b), as added by Statutes 2016, chapter 29.

⁴⁹ Education Code section 41580(d).

in accordance with Government Code section 17556(e). However, the College Readiness Block Grant funds are potential offsetting revenues *if* the district uses the funds for this program.

Based on the statutes and evidence in the record, staff finds that the test claim statutes impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Conclusion

Staff finds that the test claim statutes impose a partial reimbursable state-mandated program on K-12 school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities only:

1. Provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d), (Stats 2014, ch. 679, Stats. 2016, ch. 82) as follows:
 - Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
 - Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
2. Electronically submit the GPAs of all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679). This activity does not include the certification of the GPAs or providing SSNs to CSAC.

All other statutes and provisions pled in the Test Claim are denied.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to partially approve the Test Claim. Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes following the hearing.

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 69432.9, 69432.92

Statutes 2014, Chapter 679 (AB 2160),
 Statutes 2015, Chapter 637 (AB 1091),
 Statutes 2016, Chapter 82 (AB 2908)

Filed on June 26, 2017

By Fairfield-Suisun Unified School District,
 Claimant

Case No.: 16-TC-02

*Cal Grant: Grade Point Average and
 Graduation Certification*

DECISION PURSUANT TO
 GOVERNMENT CODE SECTION 17500 ET
 SEQ.; CALIFORNIA CODE OF
 REGULATIONS, TITLE 2, DIVISION 2,
 CHAPTER 2.5, ARTICLE 7.

(Adopted January 26, 2018)

DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on January 26, 2018. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote count will be in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Ken Alex, Director of the Office of Planning and Research	
Richard Chivaro, Representative of the State Controller, Vice Chairperson	
Mark Hariri, Representative of the State Treasurer	
Sarah Olsen, Public Member	
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	
Carmen Ramirez, City Council Member	

Summary of the Findings

This Test Claim pleads Education Code sections 69432.9 and 69432.92, as added or amended by Statutes 2014, chapter 679, Statutes 2015, chapter 637, and, Statutes 2016, chapter 82, with respect to the Cal Grant A and Cal Grant B Entitlement programs, through which the state provides financial assistance to college students who meet the eligibility criteria. The test claim statutes address the activities performed by K-12 school districts for pupils in grades 11 and 12 who may be eligible for a Cal Grant Entitlement award. Generally, sections 69432.9 and 69432.92:

- Deem every grade 12 pupil a Cal Grant applicant;
- Require school districts to provide written notification to pupils of the opportunity to opt out of being deemed a Cal Grant applicant;
- Require school districts to certify and electronically submit to the California Student Aid Commission (CSAC) the grade point averages (GPAs) of all grade 12 pupils, except those who opt out of being a Cal Grant applicant;
- Authorize CSAC to require the electronic submission of a verification of the high school graduation or its equivalent for all grade 12 pupils that graduated in the prior academic year, except those who opt of being a Cal Grant applicant;
- Authorize school districts to obtain permission from the pupil or parent or guardian of the pupil, to submit the pupil's social security number (SSN) to CSAC if CSAC determines that an SSN is required to complete the application for financial aid.

As a preliminary matter, the Commission finds that the Test Claim was timely filed pursuant to Government Code section 17551(c).

On the merits, the Commission finds that the activity to *certify* GPAs for all grade 12 pupils, as required by Education Code section 69432.9(c), does not constitute a new program or higher level of service. School districts have long been required to certify GPAs under penalty of perjury for Cal Grant applicants.⁵⁰ Although school districts may now have to certify more GPAs than under prior law, and incur increased costs to do so, increased costs alone do not establish a reimbursable state-mandated program.⁵¹

The Commission further finds that the activity to electronically verify, upon request from CSAC, the high school graduation of all grade 12 pupils who have not opted out of the Cal Grant program pursuant to Education Code section 69432.92, does not impose a state-mandated program on school districts. The plain language of the statute authorizes, but does not require, CSAC to request school districts to submit electronic verification of the high school graduation

⁵⁰ Former Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7); see also, California Code of Regulations, title 5, section 30008.

⁵¹ *County of Los Angeles v. State of California* (1987) 43 Cal.3d at 55-56; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735; *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876-877.

for grade 12 applicants.⁵² In addition, the Education Code has long required that a pupil confirm his or her high school graduation before Cal Grant payments can be released, and either the pupil or the school district can verify graduation.⁵³ Ultimately, the applicant is responsible for verifying his or her high school graduation.⁵⁴ This process has not changed with the test claim statutes.

In addition, the Commission finds that providing SSNs, if requested by CSAC, is not mandated by the plain language of Education Code section 69432.9(c)(2). The statute clearly states that SSNs shall not be included in the information, and that “if” CSAC requests the SSN, the school district “may” obtain permission from the pupil or the parent to submit the information. Moreover, a school district submitting SSNs upon CSAC’s request is not new.

However, the Commission finds that the requirement to provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d), (Stats 2014, ch. 679; Stats. 2016, ch. 82) mandates a new program or higher level of service as follows:

- Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
- Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

This activity is newly mandated by the state and provides a service to the public by boosting access to college financial aid for California students and thus, imposes a new program or higher level of service.

The Commission also finds that the requirement to electronically submit the GPAs of all grade 12 pupils each academic year to CSAC, except for pupils who opt out pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679), mandates a new program or higher level of service. Under prior law, the GPA could be submitted by either the pupil or the

⁵² Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

⁵³ Education Code section 69433.9 (as last amended by Stats. 2006, ch. 652.).

⁵⁴ Education Code section 69432.9(a) (as last amended by Stats. 2011, ch. 7), and still in place today, states the following: “A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and application regulations adopted by the commission.” See also, Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

school,⁵⁵ by paper or electronically.⁵⁶ CSAC regulations, however, expressly placed the responsibility for GPA submission on the Cal Grant applicant.⁵⁷ The 2014 test claim statute amended Education Code section 69432.9(c)(2) to require electronic submission of GPAs for all grade 12 pupils except those who opt out by specified deadlines. Although the test claim statute did not specify who is required to submit the GPA to CSAC, both CSAC and the California Department of Education have interpreted section 69432.9(c)(2) as requiring the school district to electronically submit the GPAs for all grade 12 pupils each academic year.⁵⁸ Thus, the Commission finds that the activity is newly mandated on school districts and provides a higher service to the public.

Moreover, the Commission finds that these activities result in increased costs mandated by the state, and that funding appropriated to school districts under the Local Control Funding Formula and the College Readiness Block Grant do not trigger the application of Government Code section 17556(e) to deny this Test Claim.

Accordingly, the Commission partially approves this Test Claim.

COMMISSION FINDINGS

I. Chronology

- 06/26/2017 The Fairfield Suisun Unified School District (claimant) filed the Test Claim with the Commission.⁵⁹
- 10/11/2017 The Department of Finance (Finance) filed comments on the Test Claim.⁶⁰
- 11/09/2017 The claimant filed rebuttal comments.⁶¹
- 11/21/2017 Commission staff issued the Draft Proposed Decision.⁶²

⁵⁵ Exhibit X, Senate Appropriations Committee, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 1-2.

⁵⁶ Exhibit X, CSAC, “Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year,” dated October 11, 2012. (http://www.csac.ca.gov/pubs/forms/grnt_frm/non_ssn_gpa_qa.pdf); See also, Cal Grant Manual, chapter 4.1, “The Cal Grant Application Process,” December 2005.

⁵⁷ California Code of Regulations, title 5, sections 30008(c) and 30023(a).

⁵⁸ Exhibit X, California Department of Education Official Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, January 25, 2016. See also California Department of Education, Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, September 19, 2017; Exhibit X, CSAC, Memo to High School Principals, High School Counselors, and County and District Superintendents, October 10, 2016.

⁵⁹ Exhibit A, Test Claim, page 11.

⁶⁰ Exhibit B, Department of Finance’s Comments on the Test Claim.

⁶¹ Exhibit C, Claimant’s Rebuttal Comments.

⁶² Exhibit D, Draft Proposed Decision.

II. Background

A. History and Overview of the Cal Grant Program

In 1955, the Legislature enacted the Hegland-Shell-Donahoe and Donald D. Doyle Act, which provided for a series of competitive undergraduate scholarships that were to be used for tuition and fees. The awards were granted on the basis of a competitive examination, demonstrated financial need, and additional requirements pertaining to residency and citizenship. The State Scholarship later became the Cal Grant A program. The scholarships were administered by a newly-created State Scholarship Commission, with members appointed by the Governor. This commission was later expanded and renamed the California Student Aid Commission.⁶³

In 1968, the College Opportunity Grant was created as a competitive grant program and later changed to the Cal Grant B program.⁶⁴ In 1973, the Occupational Education and Training Grant was created and later changed to the Cal Grant C program, which is for community college students.⁶⁵

Statutes 2000, chapter 403⁶⁶ enacted the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which replaced the former Cal Grant program, and applies to Cal Grant recipients beginning in the 2001-2002 academic year. The intent of the program is to guarantee a Cal Grant to every California high school pupil graduating in 2001 and after, who meets the minimum GPA and eligibility requirements, has financial need, and applies for the Cal Grant by March 2 of the academic year of high school graduation, or by March 2 of the year following graduation.⁶⁷ The guarantee also extends to California community college students transferring to a four-year college, who graduated from a California high school after June 2000, were California residents when they graduated, and who meet the Cal Grant requirements when they transfer to a four-year college. These grants consist of the following:

- Cal Grant A Entitlement awards cover tuition and fees at “qualifying” four-year colleges. Every high school senior graduating in 2001 or after who has at least a 3.0 high school GPA, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year of graduation or the following year is guaranteed a Cal Grant award.⁶⁸ A Cal Grant A recipient attending a California community college will not receive any payment, however, because community colleges

⁶³ Exhibit X, CSAC, “Cal Grant Handbook,” February 11, 2016, page 3. See http://www.csac.ca.gov/CGM/calgrant_handbook.pdf, accessed on October 26, 2017.

⁶⁴ Exhibit X, CSAC, “Cal Grant Handbook,” February 11, 2016, page 3. See http://www.csac.ca.gov/CGM/calgrant_handbook.pdf, accessed on October 26, 2017.

⁶⁵ Exhibit X, CSAC, “Cal Grant Handbook,” February 11, 2016, page 3. See http://www.csac.ca.gov/CGM/calgrant_handbook.pdf, accessed on October 26, 2017.

⁶⁶ Urgency legislation, operative September 12, 2000. This added chapter 1.7 to Part 42 of the Education Code, beginning with Education Code section 69430, replacing the former program at former section 69530 et seq.

⁶⁷ Statutes 2000, chapter 403 (SB 1644), section 2.

⁶⁸ Education Code section 69434 (as last amended by Stats. 2009, ch. 644).

do not charge tuition. Cal Grant eligible students attending a community college qualify for a Board of Governors fee waiver instead. The Cal Grant A award is held in reserve by CSAC for two years (or three years upon request) for use when the student transfers to a tuition charging four-year qualifying institution.⁶⁹

- Cal Grant B Entitlement awards are for students from disadvantaged or low-income families and generally cover “access costs” such as living expenses, books, supplies, and transportation expenses in the first academic year. In subsequent years, the award includes an additional amount to pay for tuition and fees. Every graduating high school senior who has at least a 2.0 high school GPA, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year of graduation or the following year is guaranteed a Cal Grant B entitlement award. A limited number of first-year students who have exceptional financial need and a high grade point average may receive both the living allowance and the tuition and fee award.⁷⁰
- Cal Grant Transfer Entitlement awards are for community college students transferring to a four-year college and did not receive a Cal Grant within one year of graduating from high school. To qualify, students must have graduated from a California high school after June 30, 2000, and be a California resident when they graduated. Students must also have a 2.4 community college GPA (of at least 24 semester units or the equivalent), meet the Cal Grant eligibility requirements, be under 24 years old, and apply by the March 2 deadline before the fall term when they plan to transfer.⁷¹

Other students who are eligible for a Cal Grant, but are not high school seniors or recent graduates, may compete for Cal Grant A or B Competitive awards. These awards are the same as the Cal Grant Entitlement awards except that they are not guaranteed. A limited number of Competitive awards are available each academic year. Half of the Competitive awards are set aside for pupils who apply by the March 2 deadline and meet the requirements, and half are for California community college students who meet the requirements and apply by September 2. The eligibility requirements for the competitive awards are focused on the nontraditional students and take into account GPA, time out of high school, family income, parent’s educational levels, high school performance standards, whether the student comes from a single-parent household or was a foster youth. A student selected for a Cal Grant A Competitive award who enrolls in a California community college has the award for tuition held in reserve until the student transfers to a four-year institution.⁷²

⁶⁹ Education Code section 69434.5 (as last amended by Stats. 2001, ch. 159).

⁷⁰ Education Code sections 69435 (as last amended by Stats. 2009, ch. 644), 69435.3 (as last amended by Stats. 2001, ch. 8); California Code of Regulations, title 5, section 30024.

⁷¹ Education Code sections 69436 (as last amended by Stats. 2012, ch. 38), 69436.5 (as added by Stats. 2000, ch. 403).

⁷² Education Code sections 69437 - 69437.7 (as added by Stats. 2000, ch. 403); California Code of Regulations, title 5, section 30025.

Except for certain five-year educational programs, Cal Grant A and B awards may be renewed for a total of the equivalent of four years of full-time attendance in an undergraduate program provided that financial need continues to exist. The total number of years of eligibility is based on the student's educational level, which is designated by the institution of attendance when the student initially receives payment for a grant.⁷³

The Cal Grant C for students in vocational training and Cal Grant T awards for students in teacher credential training (after having earned a baccalaureate or higher degree) were also included in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.⁷⁴

A Cal Grant Program award may be utilized only at a qualifying institution.⁷⁵ "Qualifying institutions" include public postsecondary educational institutions that complete a Cal Grant "Institutional Participation Agreement" for each participating campus in the district.⁷⁶ To ensure that funds are available to the recipient of a Cal Grant award at the time the student enrolls, CSAC is authorized to make an advance payment per term to "authorized postsecondary educational institutions" for eligible students who have indicated they are or will be attending those institutions. Each "authorized" institution is required to disburse the funds in accordance with the provisions set forth in the Institutional Participation Agreement between CSAC and the institution.⁷⁷ Before disbursing any Cal Grant funds, the qualifying institution "shall be obligated, under the terms of the Institutional Participation Agreement," to resolve any conflicts that may exist in the data the institution possesses relating to the recipient student.⁷⁸ In addition, CSAC is authorized to provide for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use of the award.⁷⁹

(1) The Cal Grant Application Process Under Prior Law

The Cal Grant applicant is required to submit a complete official financial aid application to CSAC to apply for a Cal Grant.⁸⁰ Under both prior and current law, the application process required pupils to complete and submit a Free Application for Federal Student Aid (FAFSA) form.⁸¹ The FAFSA is mailed or electronically submitted to the U.S. Department of Education's

⁷³ Education Code section 69433.6 (as last amended by Stats. 2011, ch. 7).

⁷⁴ Education Code sections 69439 (as last amended by Stats. 2011, ch. 7), 69440 (as last amended by Stats. 2003, chs. 91 and 253).

⁷⁵ Education Code section 69433.5(i) (as last amended by Stats. 2012, ch. 38).

⁷⁶ Education Code section 69432.7(l)(3) (as last amended by Stats. 2012, chs. 38 and 575).

⁷⁷ Education Code section 69432.8 (as added by Stats. 2000, ch. 403).

⁷⁸ Education Code section 69432.7(k) (as last amended by Stats. 2012, chs. 38 and 575).

⁷⁹ Education Code section 69433.5(h) (as last amended by Stats. 2012, ch. 38).

⁸⁰ Education Code section 69432.9(a) (as last amended by Stats. 2011, ch. 7); Education Code section 69433(c) (as added by Stats. 2000, ch. 403).

⁸¹ Education Code section 69432.9 (as last amended by Stats. 2011, ch. 7); Education Code section 69433(c) (as added by Stats. 2000, ch. 403); Education Code section 69433.9 (as last amended by Stats. 2006, ch. 43).

central processor, which sends FAFSA information for California pupils to CSAC. For Cal Grant eligibility, the pupil must show on the FAFSA that he or she:

- Is a California resident
- Is a U.S. citizen or eligible noncitizen
- Meets Selective Service requirements
- Will attend an eligible California School
- Does not owe state or federal grant repayment
- Is not in default on a student loan
- Has not earned a BA/BS degree
- Maintains satisfactory academic progress
- Is not incarcerated
- Is enrolled at least half-time
- Has a Social Security number.⁸²

Pupils who are not citizens but who meet other eligibility criteria may file the California Dream Act application in lieu of the FAFSA.⁸³

Except for those applicants competing for Competitive Cal Grant A or B awards and permitted to provide test scores in lieu of a GPA, a certified GPA is required to be submitted by the statutory deadline for all Cal Grant A and B applicants, which for high school pupils, is March 2, as specified in statute.⁸⁴ Each report of a GPA is required to include a certification, executed under penalty of perjury, by a school official, that the GPA is accurately reported.⁸⁵ Under both prior and current law, a high school pupil's GPA is calculated by a school official as follows:

“High school grade point average” means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses, and computed pursuant to regulations of the commission.

⁸² Education Code section 69433.9 (as last amended by Stats. 2006, ch. 43); Exhibit X, California Student Aid Commission, Cal Grant 101, Presentation at 2013 CASFAA Conference, pages 4-7.

⁸³ The California Dream Act application is for pupils who are noncitizens, but who attended a California high school for at least three years or graduated early from a California high school with the equivalent of at least three years of credits and attended three years of elementary and secondary school, graduated from a California high school or the equivalent, and are or will be attending an accredited California college or university. Education Code section 68130.5(a) (as last amended by Stats. 2016, ch. 69).

⁸⁴ Education Code sections 69432.9 (as last amended by Stats. 2011, ch. 7), 69433 (as added by Stats. 2000, ch. 403); Education Code section 69434(b)(1) (as last amended by Stats. 2009, ch. 644.); Education Code section 69435.3(a)(1) (as last amended by Stats. 2001, ch. 8); California Code of Regulations, title 5, sections 30007, 30008, 30023(a)(b).

⁸⁵ Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7).

However, for high school graduates who apply after their senior year, “high school grade point average” includes senior year coursework.⁸⁶

The GPA must be submitted by either the pupil or the school.⁸⁷ CSAC regulations, however, expressly place the responsibility for GPA submission on the Cal Grant applicant: “All Cal Grant A and B applicants shall submit a grade point average”⁸⁸ and, “It is the responsibility of the applicant to have his or her high school grade point average reported.”⁸⁹

CSAC may accept a GPA from an applicant or reporting school after the statutory deadline if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average. The circumstances must be shown by a certification from the reporting school and the student applicant. Applicants or officials who submit a timely but incomplete or incorrect GPA shall have a grace period of ten days after CSAC’s mailing of notice to file a corrected or completed grade point average.⁹⁰

In addition, CSAC may use an applicant’s SSN as a key identifier in CSAC’s Grant Delivery System to match the FAFSA information with the pupil’s GPA.⁹¹

Finally, Education Code section 69433.9(e), as last amended in 2006, requires that a student meet the requirements for a high school diploma to be eligible for a Cal Grant Entitlement award as follows:

To be eligible to receive a Cal Grant award under this chapter, a student shall be all of the following:

[¶] . . . [¶]

(e)(1) For purposes of Article 2 (commencing with Section 69434 [Cal Grant A Entitlement Program]), Article 3 (commencing with Section 69435 [Cal Grant B Entitlement Program]), and Article 4 (commencing with Section 69436 [Community College Transfer Cal Grant Entitlement Program]), except as provided in subdivision (d) of Section 69436, at the time of high school graduation or its equivalent, be a resident of California.

(2) A student who does not meet the requirements for a high school diploma or its equivalent in the academic year immediately preceding the award year, but who

⁸⁶ Education Code section 69432.7(h) (as last amended by Stats. 2012, chs. 38 and 575); California Code of Regulations, title 5, section 30008(a).

⁸⁷ Exhibit X, CSAC, “Cal Grant Manual,” chapter 4.1, The Cal Grant Application Process, December 2005; See also, CSAC, “Cal Grant Handbook,” February 11, 2016, pages 21-22, http://www.csac.ca.gov/CGM/calgrant_handbook.pdf, accessed on October 26, 2017.

⁸⁸ California Code of Regulations, title 5, section 30023(a).

⁸⁹ California Code of Regulations, title 5, sections 30008(c) and 30023(a)(2). See also section 30002, which defines an “eligible applicant.”

⁹⁰ California Code of Regulations, title 5, section 30023.

⁹¹ Exhibit X, CSAC, “California Student Aid Commission, Cal Grant GPA Questions and Answers for High Schools,” October 2009, page 1.

meets the requirements for a high school diploma or its equivalent by December 31 of the academic year immediately following the date of the application, satisfies any requirement for obtaining high school graduation or its equivalent for the purposes of this chapter as of the first day of the academic term immediately following the term in which the requirements for the high school diploma or its equivalent are met.

(3) No student shall receive an award for a term that begins prior to satisfying any requirement for obtaining high school graduation or its equivalent.⁹²

In response to state audit findings in 2006, CSAC voted to require confirmation of the graduation status for new Cal Grant A and B Entitlement awardees as follows.

For 2007-08, Cal Grant Entitlement participants were to submit proof of high school graduation to the college they were attending or complete a self-certification of their high school graduation on the California High School Graduation Certification Form (G-8) confirmed prior to receiving payment in the fall. The system placed the responsibility to restrict payment on the colleges.

For the 2008-09 school year, the Commissioners directed staff to put into place an electronic certification system with the Commission as the central repository of high school graduation confirmations. The WebGrants system will store the required confirmation data and restrict Cal Grant payment to those student's whose status has not yet been confirmed. Confirmation to this system must be post-high school graduation. No certifications of graduation status will be allowed until after the student has actually graduated. For this reason, the great majority of new Cal Grant Entitlement high school graduation confirmations cannot be made until May or June each year.⁹³

Under preexisting law, school districts could certify an applicant's high school graduation on the High School Graduation Verification screen, accessible in WebGrants. Pupils could also confirm their graduation status on WebGrants for Students, and had the option of submitting a paper confirmation using the new 2008-09 California High School Graduation Confirmation Certification Form (G-8).⁹⁴

(2) Prior Test Claim Filed by Community College Districts (*Cal Grants*, 02-TC-28), on the Cal Grant Program added by Statutes 2000, Chapter 403, and the Implementing Regulations.

On March 27, 2009, the Commission adopted a Statement of Decision on the Test Claim *Cal Grants*, 02-TC-28, filed by Long Beach Community College District, finding that Education Code section 69432.9 (as added by Stats. 2000, ch. 403), and sections 30007, 30023(a) and (d), and 30026 of CSAC regulations constitute a reimbursable state-mandated program on

⁹² Education Code section 69433.9(e), as last amended by Statutes 2006, chapter 652.

⁹³ Exhibit X, CSAC, "High School Graduation Confirmation for High Schools, WebGrants User Guide" May 23, 2008, page 5.

⁹⁴ Exhibit X, California Student Aid Commission, "High School Graduation Confirmation for High Schools, WebGrants User Guide" May 23, 2008, page 5.

community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9(b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023(a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9(b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023(d).)

The Commission determined that these activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.⁹⁵

No prior test claim has been filed by K-12 school districts on the Cal Grant program.

B. The Test Claim Statutes

This Test Claim pleads Education Code section 69432.9, as amended by Statutes 2014, chapter 679, Statutes 2015, chapter 637, and, Statutes 2016, chapter 82, and section 69432.92, as added and amended by Statutes 2015, chapter 637, and, Statutes 2016, chapter 82. The test claim statutes affect the activities performed by K-12 school districts in the Cal Grant A and Cal Grant B Entitlement programs for pupils in grades 11 and 12 who may attend college and be eligible for a Cal Grant.⁹⁶

⁹⁵ Commission on State Mandates, Statement of Decision, *Cal Grants*, 02-TC-08, pages 30-31.

⁹⁶ Government Code section 17519 states that “‘School district’ means any school district, community college district, or county superintendent of schools.” The county superintendent of schools is the executive officer of the county office of education, (Ed. Code, § 1010.) The county office of education administers county community schools, which are public schools that educate pupils in kindergarten through grade 12 who are expelled from school or who are referred because of attendance or behavior problems. County community schools also serve pupils who are homeless, on probation or parole, or who are not attending any school. Parents or guardians may request that their child attend a county community school. (Ed. Code, § 1980, et seq.). County community schools are also affected by the test claim statutes and counties are eligible local agency claimants, as defined. In addition, the test claim statutes expressly refer to charter schools. However, only school districts, as defined in Government Code section 17519, are eligible claimants. Thus, only mandated costs for charter schools which are costs of a school district may be claimed by an eligible school district. Individual schools (including charter

1. Education Code Section 69432.9 (Statutes 2014, chapter 679; Statutes 2015, chapter 634; and Statutes 2016, chapter 82)

Effective January 1, 2015, Statutes 2014, chapter 679, amended Education Code section 69432.9(a) to provide that each “pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out as provided in subdivision (d), shall be deemed to be a Cal Grant applicant.”

The 2014 statute also added subdivision (c)(2) to provide that CSAC “shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d)” and that SSNs shall not be included in the information submitted to CSAC. However, if CSAC determines that a SSN is required to complete the application for financial aid, school districts may obtain permission from the parent or guardian of the pupil, or from the pupil if he or she is 18 years of age, to submit the pupil’s SSN to CSAC.

The 2014 statute also added subdivision (d) to section 69432.9 to require the school district to provide written notification by October 15 to each grade 12 pupil who is 18 years of age, or to the parent or guardian of each grade 12 pupil under the age of 18, that the pupil will automatically be deemed a Cal Grant applicant unless the pupil opts out. Section 69432.9(d) as added by the test claim statute states:

- (1) The school district or charter school shall, no later than October 15 of a pupil’s grade 12 academic year, notify, in writing, each grade 12 pupil, and, for a pupil under 18 years of age, his or her parent or guardian, that pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
- (2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

CSAC provided an opt-out form that school districts may use to comply with the notification requirement.⁹⁷

Statutes 2014, chapter 679, was sponsored by the Education Trust-West (ETW) with the goal of increasing Cal Grant applications and awards. According to the Senate Committee on Education analysis:

In 2013 the Education Trust-West issued its report *The Cost of Opportunity* which found that only 54% of California's 12th graders completed a FAFSA in 2012,

schools) that are not school districts and subject to the tax and spend limitations of the California Constitution, are not eligible claimants and may not file mandate reimbursement claims.

⁹⁷ Exhibit X, California Student Aid Commission, Operations Memo to High School Counselors, October 9, 2015.

and only 50% completed the both the FAFSA and submitted a GPA verification, both steps necessary to apply for a Cal Grant by the March 2nd deadline. In 2014, a follow up Equity Alert entitled Doorways to College Aid: Boosting Access to Financial Aid in California found that in 2013 the rates of completion of the FAFSA and Cal Grant applications increased statewide by 7% and 8% respectively for a total of 25,000 additional FAFSA completions and more than 30,000 additional Cal Grant applications. However, 42% (170,000) of 12th graders from the class of 2013 still did not complete a Cal Grant application.

The report notes the higher completion rates were the results of efforts at the local level which include an early focus on FAFSA completion and the electronic submission of GPAs for all students. An analysis of districts using electronic GPA found a 10 percent boost in Cal Grant Completion for those districts. The average Cal Grant completion rate for these districts was 71 percent, compared to 56 percent for other districts. The report also noted that some districts are hesitant to adopt this practice due to privacy concerns.

Among other things, the report recommended that all high schools and districts should electronically submit GPA and graduation verification for all high school seniors. This bill implements this recommendation.⁹⁸

The need for the bill was stated as follows:

According to the author, while some districts already provide GPAs to CSAC for all or some students, many do not. The author notes that Los Angeles and San Francisco unified school districts are already providing GPAs for all high school seniors to CSAC and, according to the author, report that costs for computer programming are minor and absorbable and districts experienced an overall cost savings associated with high school counselors no longer being required to complete paper forms for students. The author also notes that CSAC reported processing over 70,000 paper GPA forms in 2013, taking significant staff time. The author believes that overall cost savings associated with this bill could result in more time for high school counselors and CSAC to outreach to students encouraging Free Application for Federal Student Aid (FAFSA) completion. Without legislation, the author argues "it would take several years for all school districts to implement the best practice in this bill."⁹⁹

Statutes 2015, chapter 634, amended Education Code section 69432.9 to: (1) clarify that pupil GPAs are to be electronically submitted to CSAC on a *standardized form*, and (2) state the intent of the Legislature for CSAC to "make available to each high school and school district a report identifying all grade 12 pupils within the high school or school district, respectively, who have

⁹⁸ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, page 4.

⁹⁹ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, page 3.

and have not completed the Free Application for Federal Student Aid or the California Dream Act Application.”

Effective January 1, 2017, Statutes 2016, chapter 82, amended Education Code section 69432.9(c)(2) to specify that GPAs for grade 12 pupils who do not opt out are to be submitted to CSAC *no later than October 1 of each academic year.*

Statutes 2016, chapter 82, also amended the opt-out notification process in section 69432(d), to require school districts to notify pupils that they can opt out of the Cal Grant application process *by January 1 of their grade 11 academic year.* The 2016 statute requires that the opt-out notification indicate when the school will first send GPAs to CSAC and the deadline for GPAs to be submitted to CSAC of October 1. The purpose of Statutes 2016, chapter 82, is to conform the GPA submission deadline to federal financial aid deadlines. According to the legislative history:

Conforming to new Free Application for Federal Student Aid (FAFSA) timeline. On September 14, 2015, President Obama announced significant changes to the FAFSA. Starting this year, the FAFSA will be available to students on October 1, 2016, rather than on January 1, 2017. The earlier submission date will be a permanent change, enabling students to complete and submit a FAFSA on October 1 every year. This bill authorizes CSAC to adjust the GPA submission date thereby conforming to the new FAFSA release date.¹⁰⁰

2. Education Code section 69432.92 (Statutes 2015, chapter 634)¹⁰¹

Statutes 2015, chapter 637, added Education Code section 69432.92 to: (1) authorize CSAC to require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools in the prior academic year, except pupils who have opted out of the Cal Grant application process; and (2) state legislative intent that “high schools or high school districts verify the graduation of their pupils in time to meet the deadlines imposed by subdivision (e) of section 69433.9.”

The legislative history states that the purpose of this bill was to streamline the financial aid process and increase Cal Grant and FAFSA completion rates:

¹⁰⁰ Exhibit X, Senate Floor Analysis of AB 2908 (2015-2016 Reg. Sess.) as amended April 11, 2016, page 3.

¹⁰¹ Statutes 2016, chapter 351 amended section 69432.92(b) to replace the statement of legislative with the following:

If the commission requires verification of high school graduation or its equivalent pursuant to subdivision (a), the commission shall provide guidance to high schools or high school districts to ensure that high schools and high school districts verify the graduation of their pupils as soon as possible upon a pupil’s graduation and no later than August 31 of the academic year following the pupil’s graduation. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year.

Statutes 2016, chapter 351 was not pled in this Test Claim so the Commission makes no finding on it.

According to author, many students often times become overwhelmed with the Cal Grant application process and fail to submit verification of high school graduation to CSAC. The author further asserts that missing this step could make the difference between a student attending college or not. This bill aims to streamline the financial aid process and increase Cal Grant and FAFSA completion rates by requiring the electronic submission of high school graduation information.

Existing process for verification. According to the CSAC the method for providing verification varies depending on the school district. For the most part, it is the responsibility of the school district to submit the information to CSAC; however, if the district fails to provide the information, the responsibility falls on the student. Generally, most submissions are electronic, but thousands of paper forms are submitted that have to be keyed in manually. This bill seeks to give the CSAC the authority to create a standardized process for collecting information directly from school districts when determining Cal Grant eligibility.¹⁰²

III. Positions of the Parties

A. Fairfield-Suisun Unified School District

The claimant maintains that the test claim statutes impose a reimbursable state-mandated program on school districts under article XIII B, section 6 of the California Constitution and Government Code section 17514. As stated in the Test Claim, the claimant requests reimbursement for the following activities to comply with the test claim statutes:

1. Time and costs incurred by school districts, county offices of education, and charter schools to prepare for, provide and attend training in order to instruct the employees on the requirements imposed by Statutes 2014, Chapter 679, A.B. 2160, Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5), 69432.9(d)(1), 69432.9 (d)(2). Statutes 2015, Chapter 637, A.B. 1091 Education Code Sections 69432.92(a) and 69432.92(b). Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9(c)(2) & (d)(1).
2. Time and costs incurred by school districts, county offices of education, and charter schools to review records, correct, update and submit grade point averages to the CSAC for all grade 12 pupils prior to October 15 of each year. AB 2160 - Statutes 2014, Education Code Section 69432.9(c)(2).
3. Time and costs incurred by school districts, county offices of education, and charter schools to submit each student's grade point averages electronically, on a standardized form, for all grade 12 pupils at public schools, including charter schools. AB 2160 - Statutes 2014, Education Code Sections 69432.9(c)(2).
4. Time and costs incurred by school districts, county offices of education, and charter schools to comply with CSAC requests for social security numbers

¹⁰² Exhibit X, Senate Rules Committee, Analysis of A.B. 1091 (2015-2016 Reg. Sess.) as amended June 1, 2015, page 3.

including time and costs to obtain permission from the parent or guardian, or pupil, if he or she is 18, and to submit the pupil's social security number to the CSAC. AB 2160 - Statutes 2014, Education Code Sections 69432.9(c)(2).

5. Time and costs incurred by school districts, county offices of education, and charter schools for including a certification to the CSAC, executed under penalty of perjury by a school official, that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the CSAC or its designee. AB 2160 - Statutes 2014, Education Code Sections 69432.9(c)(3).
6. Time and costs incurred by school districts, county offices of education, and charter schools to ensure the grade point average certification is submitted to CSAC in time to meet the application deadline imposed by this chapter. AB 2160 - Statutes 2014, Education Code Sections 69432.9(c)(5).
7. Time and costs incurred by school districts, county offices of education, and charter schools, no later than October 15 of a pupil's grade 12 academic year, to notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district, county office of education or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant. Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out. Statutes 2014, Chapter 679, A.B. 2160, Education Code Section 69432.9(6)(d) (1) [sic] and Education Code Section 69432.9(d)(1) & (d)(2).
8. Time and costs incurred by school districts, county offices of education, and charter schools to submit the required grade point averages for grade 12 pupils to be submitted by October 1 of each academic year. Statutes 2016, Chapter 82, AB 2908, Education Code Sections 69432.9(c)(2) & (d)(1).
9. Time and costs incurred by school districts, county offices of education, and charter schools to notify pupils by January 1 of their grade 11 academic year so the pupil can opt out of the program. Additionally, school districts, county offices of education, and charter schools are now required to send an "Opt Out" notice to each pupil in grade 12. Statutes 2016, Chapter 82, AB2908, Education Code Sections 69432.9(d)(1) & (2). (Amended by Stats. 2016, Ch. 82, Sec. 3. Effective January 1, 2017.)
10. Time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent. Education Code Section 69432.92(a).

11. Time and costs to electronically submit the graduation data for all former grade 12 pupils, in the prior academic year, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69433.9, when required by the CSAC. Education Code Section 69432.92(a).
12. Time and costs incurred by school districts, county offices of education, and charter schools to verify the graduation of their pupils, when requested by CSAC in time to meet the deadlines imposed by subdivision (e) of Section 69433.9. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year. Education Code Sections 69432.92(b).¹⁰³

The claimant alleges costs to implement the test claim statutes, stating: “actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the mandate: Actual: \$13,099 FY 2015-16 and \$14,888 for FY 2016-17.” The claimant further alleges: “The actual or estimated annual costs that will be incurred by the claimant to implement the mandate during the fiscal year immediately following the fiscal year for which the claim was filed: Estimated: \$15,186 FY 2017-18.”

Specifically, the claimant alleges the following costs to comply with the test claim statutes for 2015-2016.¹⁰⁴

DISTRICT				FAIRFIELD SUISUN UNIFIED SCHOOL							
Fiscal Year	Actual Costs first Incurred	Position	Average Salary & Benefits - Registrar	Activity	Time per registrar/HRS	Number of individuals	Total time spent /HRS	total direct costs 15-16	Indirect costs 15-16 6.05%	cost per student	
2015-16	Sept. 1, 2015	AB 2160 Registrar	\$32.86	Training on Cal Grant Reporting Requirements	4	5	20	\$657	\$40	\$0.44	
2015-16	Sept. 1, 2015	AB 2160 Registrar	\$32.86	Calculate and key grades into Cal Grant form - 14min each student		1594	5/1.93	\$12,223	\$740	\$7.67	
2015-16	Sept. 1, 2015	AB 2160 Registrar	\$32.86	Mailing opt out forms to all seniors	1	5	5	\$164	\$10	\$0.10	
2015-16	Sept. 1, 2015	AB 2160 Registrar	\$32.86	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41	\$2	\$0.03	
2015-16	Sept. 1, 2015	AB 2160 Registrar	\$32.86	Execute certification	0.08	5	0.4	\$13	\$1	\$0.01	
2015-16		Districtwide Total						\$13,099.25		\$8.24	

¹⁰³ Exhibit A, Test Claim, pages 13-15.

¹⁰⁴ Exhibit A, Test Claim, page 16.

The claimant alleges the following costs to comply with the test claim statutes for 2016-2017:¹⁰⁵

DISTRICT ACTUAL COSTS 2016-17				FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT							
Fiscal Year	Costs first Incurred		Position	Average Salary & Benefits Registrar 2016-17	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Total direct costs 16-17	Indirect costs 16-17 5.97%	cost per student
2016-17	Sept. 1, 2015	AB 2160	Registrar	\$33.56	Training on reporting requirements GPA & graduation verification	4	5	20.00	\$671.29	\$40.08	\$0.45
2016-17	Sept. 1, 2015	AB 2160	Registrar	\$33.56	Calculate and key grades into Cal Grant form - 14 min each student		1594	371.93	\$12,483.77	\$745.28	\$8.30
2016-17	Sept. 1, 2015	AB 2160	Registrar	\$33.56	Mailing opt out forms to all seniors	1	5	5.00	\$167.82	\$10.02	\$0.11
2016-17	Sept. 1, 2015	AB 2160	Registrar	\$33.56	Comply with CSAC requests for social security numbers	0.25	5	1.25	\$41.96	\$2.50	\$0.03
2016-17	Sept. 1, 2015	AB 2160	Registrar	\$33.56	Execute certification	0.08	5	0.40	\$13.43	\$0.80	\$0.01
2016-17	Sept. 1, 2016	AB 1091	Registrar	\$33.56	Electronically submit graduation verification	9	5	45.00	\$1,510.40	\$90.17	\$1.00
2016-17		District wide Total							\$14,888.66		\$9.90

The claimant also alleges the following estimated costs for 2017-2018:¹⁰⁶

District Estimated Costs 2017-18				FAIRFIELD SUISUN UNIFIED SCHOOL DISTRICT							
Fiscal Year	Costs first Incurred		Position	Average Salary & Benefits Registrar 2017-18	Activity	Time per registrar/HRS	Number of individuals	Total time spent/HRS	Total direct costs 17-18	In-direct costs 17-18 6.57%	cost per student
2017-18	Sept. 1, 2015	AB21 60	Registrar	\$34.24	Training on reporting requirements GPA & graduation verification	4	5	20	\$684.72	\$44.99	\$0.46
2017-18	Sept. 1, 2015	AB21 60	Registrar	\$34.24	Calculate and key grades into Cal Grant	0	1594	371.93	\$12,733.44	\$836.59	\$8.51

¹⁰⁵ Exhibit A, Test Claim, pages 8, 16.

¹⁰⁶ Exhibit A, Test Claim, pages 8, 16.

					form - 14 min each student						
2017 -18	Sept. 1, 2017	AB29 08	Registrar	\$34.24	Mailing opt out forms to all juniors	1	5	5	\$171.18	\$11.25	\$0.11
2017 -18	Sept. 1, 2015	AB21 60	Registrar	\$34.24	Comply with CSAC requests for social security numbers	.25	5	1.25	\$42.79	\$2.81	\$0.03
2017 -18	Sept. 1, 2015	AB21 60	Registrar	\$34.24	Execute certification	0.08	5	0.4	\$13.69	\$0.90	\$0.01
2017 -18	Sept. 1, 2016	AB10 91	Registrar	\$34.24	Electronically submit graduation verification	.9	5	45	\$1,540.6 1	\$101.22	\$1.03
		District wide Total							\$15.186 .44		\$10.15

The claimant alleges the statewide cost estimate is \$4,792,337 for 2016-2017 and \$4,915,860 for 2017-2018 and is based on an estimated unit cost for each of the alleged state-mandated activities multiplied by 484,169 pupils.¹⁰⁷

B. The Department of Finance

Finance filed comments on the test claim, arguing that the requirement to submit GPA information is not new, but was previously required under Education Code section 69432.9(c). According to Finance, “the test claim statutes merely implement some changes that may increase the cost of providing services that were already required to be performed”¹⁰⁸

Finance observes that the Test Claim does not indicate what time and costs are incurred by school districts to ensure the GPA is submitted to CSAC in time to meet the application deadline. Finance also states that the claimant provides no evidence that submitting GPAs by October 1st increases the cost of the alleged mandate.¹⁰⁹

Finance argues that the statute imposes no requirements related to the verification of high school graduation or its equivalent. The language of Education Code section 69432.92(a) only provides specific authorization to CSAC, but does not impose a mandate on school district. Finance also states that charter schools are not eligible claimants.¹¹⁰

¹⁰⁷ Exhibit A, Test Claim, pages 15-17.

¹⁰⁸ Exhibit B, Finance’s Comments on the Test Claim, pages 1-2.

¹⁰⁹ Exhibit B, Finance’s Comments on the Test Claim, page 2.

¹¹⁰ Exhibit B, Finance’s Comments on the Test Claim, page 2.

Finally, Finance points to funds made available to school districts that could fully pay for the program, such as the Local Control Funding Formula¹¹¹ and the College Readiness Block Grant.¹¹² According to Finance, these available funds should offset any claims, and would “exceed the actual or estimated costs alleged by the claimant and the statewide cost estimate alleged in the claim.”¹¹³

C. The California Student Aid Commission

CSAC has not filed comments on the Test Claim.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹¹⁴ Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”¹¹⁵

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.¹¹⁶
2. The mandated activity constitutes a “program” that either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.¹¹⁷

¹¹¹ Exhibit B, Finance’s Comments on the Test Claim, page 2.

¹¹² Exhibit B, Finance’s Comments on the Test Claim, page 3.

¹¹³ Exhibit B, Finance’s Comments on the Test Claim, page 3.

¹¹⁴ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹¹⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

¹¹⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th. 859, 874.

¹¹⁷ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th. 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56).

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.¹¹⁸
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.¹¹⁹

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹²⁰ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹²¹ In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹²²

A. The Test Claim was Timely Filed Pursuant to Government Code section 17551(c).

Government Code section 17551(c) states: “Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations states:

Except as provided in Government Code sections 17573 and 17574, any test claim or amendment filed with the Commission must be filed not later than 12 months following the effective date of the statute or executive order, or within 12 months of first incurring costs as a result of a statute or executive order, whichever is later. For purposes of claiming based on the date of first incurring costs, “within 12 months” means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.

The Test Claim was filed on June 26, 2017. The Test Claim pleads Statutes 2016, chapter 82, which became effective on January 1, 2017, within 12 months of when the Test Claim was filed. Thus, the Test Claim is timely with respect to the 2016 statute.

The Test Claim also pleads Statutes 2014, chapter 679, which became effective on January 1, 2015; and Statutes 2015, chapter 637, which became effective on January 1, 2016.

¹¹⁸ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

¹¹⁹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (Cal. Ct. App. 1st Dist. 2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹²⁰ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

¹²¹ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

¹²² *County of Sonoma v. Commission on State Mandates* 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

Both of these statutes became effective more than 12 months before the Test Claim was filed. However, the claimant states that it first incurred costs under Statutes 2014, chapter 679, (AB 2160) on September 1, 2015.¹²³ This date is within the 2015-2016 fiscal year. The Test Claim was filed on June 26, 2017, which is “by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.”¹²⁴

The claimant stated that it first incurred costs under Statutes 2015, chapter 637, (A.B.1091) on either September 1, 2016 or November 1, 2016.¹²⁵ Because the Test Claim was filed on June 26, 2017, it complies with the deadline imposed by Government Code section 17551(c) and section 1183.1(c) of the regulations because it was filed “within 12 months of incurring increased costs as a result of a statute or executive order.”

In sum, the Commission finds that the Test Claim was filed within the deadlines imposed by Government Code section 17551(c) and section 1183.1(c) of the Commission’s regulations. Therefore, the Commission has jurisdiction over the Test Claim.

B. Do the Test Claim Statutes Impose a State-Mandated New Program or Higher Level of Service on School Districts Within the Meaning of Article XIII B, Section 6 of the California Constitution?

1. Education Code section 69432.9(d) imposes a state-mandated new program or higher level of service to provide written notification to pupils of the opportunity to opt out of being deemed a Cal Grant applicant (Ed. Code, §69432.9(d), Stats 2014, ch. 679, Stats. 2016, ch. 82).

Effective January 1, 2015, Statutes 2014, chapter 679 added subdivision (d) to Education Code section 69432.9, to require school districts, for the first time, to provide written notification, by October 15, to each grade 12 pupil (or pupil’s parent or guardian for pupils under age 18) that the pupil will be automatically deemed a Cal Grant applicant unless the pupil opts out. The statute states:

(d) (1) The school district or charter school shall, no later than October 15 of a pupil's grade 12 academic year, notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

¹²³ Exhibit A, Test Claim, page 19.

¹²⁴ California Code of Regulations, title 2, section 1183.1(c).

¹²⁵ Exhibit A, Test Claim, page 19. On page 3, the claimant alleges that costs were first incurred on November 1, 2016, but page 19 of the Test Claim, a declaration under penalty of perjury in accordance with section 1187.5(b) of the Commission’s regulations, states the date was September 1, 2016.

(2) Until a pupil turns 18 years of age, only a parent or guardian may opt the pupil out. Once a pupil turns 18 years of age, only the pupil may opt himself or herself out and, if prior to the conclusion of the notice period, the pupil may opt in over the prior decision of a parent or guardian to opt out.

Under Education Code section 69432.9(d), the first written opt-out notice to grade 12 pupils was required to be sent by October 15, 2015, for pupils in the 2016 graduating class.¹²⁶ The notice was required to state that “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days,” and to indicate when the school will first send GPAs to CSAC.

In addition, the school district is required to “provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant. CSAC developed a sample Cal Grant Opt-Out Form in English and Spanish, which is available on its website, for school districts to comply with the opt-out requirement.¹²⁷ Thus, school districts are not required by the state to develop their own opt-out notice. The sample form explains that

With the implementation of Assembly Bill 2160, California public high schools are required to submit a high school Grade Point Average (GPA) for all graduating seniors, unless the student or parent has opted out of the submission process. California Education Code section 69432.9 requires the school district, high school or charter school, no later than October 15 of a pupil’s grade 12 academic year, to notify, in writing, each grade 12 pupil and his or her parent or guardian that the pupil will be deemed a Cal Grant applicant unless the pupil is opted out prior to the high school’s submission of GPAs to the California Student Aid Commission (Commission). Students who do not opt out will have their high school GPA submitted to the California Student Aid Commission to be considered for a Cal Grant award. If you do not want your school to report your GPA, please complete this form and return it to your high school counselor.

By signing the CSAC sample form, the student is opting out and electing not to have his or her school report the high school Cal Grant GPA information and SSN (if applicable) to CSAC for use in the Cal Grant application process.

The claimant alleges the following activities are required to comply with section 69432.9(d), and are eligible for reimbursement under article XIII B, section 6 of the California Constitution:

- Time and costs incurred by school districts, county offices of education, and charter schools, no later than October 15 of a pupil's grade 12 academic year, to notify, in writing, each grade 12 pupil and, for a pupil under 18 years of age, his

¹²⁶ Exhibit X, CSAC, Letter to High School Administrators “The Ting Bill Requirements Letter.” The letter states “The law became effective in the 2015-2016 academic year; thus, GPAs for 2015-2016 seniors must be submitted before March 2, 2016. GPAs must be subsequently submitted each year thereafter by the March 2 deadline.” See http://www.csac.ca.gov/ting_bill.asp, accessed on October 26, 2017.

¹²⁷ Exhibit X, California Student Aid Commission, Cal Grant GPA Opt Out Form. http://www.csac.ca.gov/pubs/forms/grnt_frm/gpa_opt_out.pdf, accessed October 16, 2017.

or her parent or guardian that, pursuant to subdivision (a), the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days. The required notice shall indicate when the school will first send grade point averages to the commission. The school district, county office of education or charter school shall provide an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

- Time and costs incurred by school districts, county offices of education, and charter schools to notify pupils by January 1 of their grade 11 academic year so the pupil can opt out of the program. Additionally, school districts, county offices of education, and charter schools are now required to send an “Opt Out” notice to each pupil in grade 12.¹²⁸

Based on the mandatory language of the test claim statute,¹²⁹ the Commission finds that providing written notice by October 15 to all grade 12 students, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant, is a state-mandated activity. Preexisting law did not require a notice or opportunity to opt-out of the Cal Grant application process because, prior to the test claim statutes, it was the responsibility of a pupil seeking a Cal Grant to file an application.¹³⁰ Thus, the activity is newly mandated beginning January 1, 2015.

Effective January 1, 2017, Statutes 2016, chapter 82, amended section 69432.9(d) to require sending the opt-out notification to pupils by January 1 of the pupil’s grade 11 academic year, instead of by October 15 of the pupil’s grade 12 academic year. On March 27, 2017, CSAC issued a “Special Alert” to high school district superintendents, principals, and counselors, explaining the changes made by the 2016 statute, and stating that “the opt-out notification should be sent to the class of 2018 before the end of their junior year.”¹³¹

Thus, under these test claim statutes, school districts were required to provide Grade 12 students in the classes of 2016 and 2017 the opt-out notice by October 15, 2015 and 2016, under Statutes 2014, chapter 679. School districts were also required to provide the opt-out notice to the class of 2018 when those pupils were in grade 11 pursuant to Education Code section 69432.9(d), as amended by the 2016 statute, by January 1, 2017. CSAC’s “Special Alert” recommended that the notices be sent to the class of 2018 before the end of their junior year”; i.e., before summer

¹²⁸ Exhibit A, IRC, pages 14-15.

¹²⁹ Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

¹³⁰ California Code of Regulations, title 5, sections 30008(c) and 30023(a)(2). See also section 30002, which defines an “eligible applicant.”

¹³¹ Exhibit X, CSAC Special Alert (GSA 2017-13), March 27, 2017.

<http://www.csac.ca.gov/secured/specialalerts/2017/GSA%202017-13.pdf>, as of October 27, 2017.

break in 2017, to comply with the statute.¹³² Future classes are required to receive the opt-out notice by January 1 of their junior year.

Therefore, the Commission finds that Education Code section 69432.9(d), as amended by the 2014 and 2016 test claim statutes, imposes a new state-mandated activity to provide a written Cal Grant opt-out notice as follows:

- Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant; and
- Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018; which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant, is a new state-mandated activity.

In addition, these new mandated activities provide a service to the public by boosting access to college financial aid to California students and thus, impose a new program or higher level of service.¹³³

Accordingly, the Commission finds that Education Code section 69432.9(d), as amended by the 2014 and 2016 test claim statutes, mandates a new program or higher level of service for the activities bulleted above.

2. Education Code section 69432.9(c)(2) imposes a partial state-mandated new program or higher level of service to electronically submit GPAs for grade 12 pupils to CSAC. (Ed. Code, §69432.9(c)(2), Stats 2014, ch. 679, Stats. 2016, ch. 82)

Under prior law, a Cal Grant applicant was responsible for submitting a complete official financial aid application to CSAC by the statutory deadlines pursuant to Education Code section 69432.9(a), which included the requirement that a GPA, certified under penalty of perjury by a school official, be submitted upon the applicant’s request pursuant to Education Code section 69432.9(c). The Legislature stated its intent in former section 69432.9(c) that high schools certify their pupil’s GPAs in time to meet the Cal Grant application deadlines imposed by this chapter, which for high school pupils was March 2.¹³⁴ Education Code section 69432.9(c), as last amended by Statutes 2011, chapter 7, stated the following:

¹³² Exhibit X, CSAC Special Alert (GSA 2017-13), March 27, 2017.
<http://www.csac.ca.gov/secured/specialalerts/2017/GSA%202017-13.pdf>, as of October 27, 2017.

¹³³ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 3-4.

¹³⁴ Education Code sections 69434(b)(1) and 69435.3(a)(1).

The commission shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee. The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average. It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.¹³⁵

Statutes 2014, chapter 679 amended Education Code section 69432.9(a) to automatically deem each pupil enrolled in grade 12 a Cal Grant applicant, unless the pupil opts out following written notice from the school district. It also added subdivision (c)(2) to require a GPA be submitted electronically for *all* grade 12 pupils, and not just for pupils who apply for a Cal Grant:

The commission shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d). Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

The 2014 test claim statute then renumbered, without changes to the language, the existing provisions in former section 69432.9(c), to section 69432.9(c)(1), (3), (4), (5) as follows:

- (1) The commission shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average.

[¶]...[¶]

- (3) The commission shall require that each report of a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade

¹³⁵ See also California Code of Regulations, title 5, section 30008(c) that states: "Every high school grade point average reported to the Commission shall include a certification under penalty of perjury from the school official filing the report that the grade point average is accurately reported to the best of his or her knowledge. The certification shall include a statement that it is subject to review by the Commission or its designee. It is the responsibility of the applicant to have his or her high school grade point average reported." This regulation was enacted in 2001.

point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.

- (4) The commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the commission, by regulation, in lieu of submitting a qualifying grade point average.
- (5) It is the intent of the Legislature that high schools and institutions of higher education certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter.

Clarifying changes to subdivision (c)(2) were later made by the 2015 and 2016 test claim statutes. Statutes 2015, chapter 637 amended subdivision (c)(2) to clarify that GPAs be electronically submitted on a standardized form. Statutes 2016, chapter 82 amended subdivision (c)(2), to specify a date that GPAs for grade 12 pupils are to be submitted to CSAC; “no later than October 1 of each academic year.” Under prior law, GPAs for Cal Grant applicants had to be submitted before the March 2 deadline.

The claimant alleges that the following activities are required to comply with these statutes, and are eligible for reimbursement under article XIII B, section 6 of the California Constitution:

- Time and costs incurred by school districts, county offices of education, and charter schools to review records, correct, update and submit grade point averages to the CSAC for all grade 12 pupils prior to October 15 of each year.¹³⁶
- Time and costs incurred by school districts, county offices of education, and charter schools to submit each student’s grade point averages electronically, on a standardized form, for all grade 12 pupils at public schools, including charter schools.¹³⁷
- Time and costs incurred by school districts, county offices of education, and charter schools for including a certification to CSAC, executed under penalty of perjury by a school official, that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by CSAC or its designee.¹³⁸
- Time and costs incurred by school districts, county offices of education, and charter schools to ensure the grade point average certification is submitted to CSAC in time to meet the application deadline imposed by this chapter.¹³⁹

¹³⁶ Exhibit A, Test Claim, page 13.

¹³⁷ Exhibit A, Test Claim, page 13.

¹³⁸ Exhibit A, Test Claim, page 14.

¹³⁹ Exhibit A, Test Claim, page 14.

- Time and costs incurred by school districts, county offices of education, and charter schools to comply with CSAC requests for social security numbers including time and costs to obtain permission from the parent or guardian, or pupil, if he or she is 18, and to submit the pupil's social security number to CSAC.¹⁴⁰

Finance contends that “reporting” GPAs is not newly required. “Specifically, if asked by any student, the existing law would have required a school district or county office of education” to certify GPAs to CSAC.¹⁴¹

- a) Education Code section 69432.9(c) does not impose a new program or higher level of service to certify GPAs for grade 12 pupils.

Education Code section 69432.9(c)(2), as amended by the 2014 test claim statute, states that “the commission shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d).” Section 69432.9(c)(3), a provision that was simply renumbered from former section 69432.9(c) without substantive change, requires that “each report of grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.”¹⁴² Thus subdivision (c), as amended, requires school districts to now certify GPAs for all grade 12 pupils, and not just for those grade 12 pupils who apply for a Cal Grant.

The Commission finds that the activity to certify GPAs for all grade 12 pupils, as required by Education Code section 69432.9(c), does not constitute a new program or higher level of service. School districts have long been required to certify GPAs under penalty of perjury for Cal Grant applicants.¹⁴³ Although school districts may now have to certify more GPAs than under prior law, and may or may not incur increased costs to do so,¹⁴⁴ increased costs alone do not establish a reimbursable state-mandated program.¹⁴⁵ As explained by the California Supreme Court, “a reimbursable ‘higher level of service’ concerning an existing ‘program’ [exists] when a state law

¹⁴⁰ Exhibit A, Test Claim, pages 13-14.

¹⁴¹ Exhibit B, Finance’s Comments on Test Claim, pages 1 and 2.

¹⁴² Former Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7).

¹⁴³ Former Education Code section 69432.9(c) (as last amended by Stats. 2011, ch. 7); see also, California Code of Regulations, title 5, section 30008.

¹⁴⁴ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, page 3 (Stating that both San Francisco Unified and Los Angeles Unified experienced costs savings since counselors no longer had to complete individual paper forms.)

¹⁴⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d at 55-56; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81; *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 735; *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876-877.

or executive order mandates not merely some change that increases the cost of providing services, but an increase in the actual level or quality of governmental services provided.”¹⁴⁶

Accordingly, the activity of certifying GPAs for grade 12 pupils does not impose a new program or higher level of service.

b) Education Code section 69432.9(c)(2) mandates a new program or higher level of service to electronically submit GPAs for grade 12 pupils to CSAC.

Former Education Code section 69432.9(c) required that a GPA be submitted and certified for all Cal Grant A and B Entitlement applicants by the March 2 statutory deadline.¹⁴⁷ Prior to the 2014 test claim statute, a pupil’s GPA could be submitted by either the pupil or the school, by paper or electronically.¹⁴⁸ As stated in the Senate Appropriations Committee analysis of AB 2160 (Stats. 2014, ch. 679):

Currently, there is no standard practice for submitting GPA verification to the CSAC. Some schools submit hard copy verification forms, others submit GPAs electronically, and still others rely on their students to submit the verification forms themselves (once signed by a school official).¹⁴⁹

CSAC regulations, however, expressly placed the responsibility for GPA submission on the Cal Grant applicant: “All Cal Grant A and B applicants shall submit a grade point average”¹⁵⁰ and, “It is the responsibility of the applicant to have his or her high school grade point average reported.”¹⁵¹

The 2014 test claim statute amended Education Code section 69432.9(c)(2) to require electronic submission of GPAs for all grade 12 pupils as follows: “The commission shall require that a grade point average be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out as provided in subdivision (d).” As stated in preexisting law, the grade point average had to be submitted by the statutory deadline.¹⁵² As amended by the 2016 test claim statute, the GPAs are now required to be submitted “no later than October 1 of each academic year.”

¹⁴⁶ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 877.

¹⁴⁷ Education Code section 69432.9(c), as last amended by Statutes 2011, chapter 7

¹⁴⁸ Exhibit X, CSAC, “Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year,” dated October 11, 2012. (http://www.csac.ca.gov/pubs/forms/grnt_frm/non_ssn_gpa_qa.pdf); See also, Cal Grant Manual, chapter 4.1, “The Cal Grant Application Process,” December 2005.

¹⁴⁹ Exhibit X, Senate Appropriations Committee, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 1-2.

¹⁵⁰ California Code of Regulations, title 5, section 30023(a).

¹⁵¹ California Code of Regulations, title 5, sections 30008(c) and 30023(a)(2). See also section 30002, which defines an “eligible applicant.”

¹⁵² Education Code sections 69432.9 (as amended by Stats. 2011, ch. 7), 69433 (as added by Stats. 2000, ch. 403); Education Code section 69434(b)(1) (as last amended by Stats. 2009, ch. 644.); Education Code section 69435.3(a)(1) (as last amended by Stats. 2001, ch. 8); Former

Finance argues that the requirement for school districts to submit GPAs to CSAC is not new. Rather, it merely increases the costs of services that were already required.¹⁵³ The claimant responds that prior to AB 2160, school districts were not required to submit GPAs for all pupils in grade 12. They were only required for pupils who submitted a Cal Grant application.¹⁵⁴

The plain language of section 69432.9(c)(2) does not specify who is required to submit the GPA to CSAC, and existing regulations continue to place the ultimate responsibility on the applicant to make sure his or her high school GPA has been reported.¹⁵⁵ However, both CSAC and the California Department of Education have interpreted section 69432.9(c)(2) as requiring the school district to electronically submit the GPAs for all grade 12 pupils each academic year. On January 25, 2016, the Department of Education issued an official letter to “County and District Superintendents, Charter School Administrators, and High School Principals” that states in relevant part:

I am writing to remind you of a new law that affects your high school campus. Assembly Bill 2160 (Chapter 679, Statutes of 2014), commonly referred to as the “Ting Bill,” was signed into law in September 2014, amending Section 69432.9 of the California Education Code. This law mandates that all public schools electronically submit grade point averages (GPAs) for grade twelve students to the California Student Aid Commission (CSAC). ...

Electronic submission is required each academic year for all grade twelve pupils except for individual students who opt out. GPAs for seniors in the 2015-16 school year must be submitted **before March 2, 2016**.

[¶]...[¶]

Schools and districts that have not previously uploaded GPAs to the CSAC electronically should plan to do so immediately upon receiving WebGrants access; staff involved with GPA uploads must have list-serv subscription to receive notification when the system opens. To subscribe, to the CSAC List-serv Subscription submission and other topics available on the CSAC Webinar Trainings Web page ... (Emphasis in original).¹⁵⁶

Education Code section 69432.9(c) (renumbered to (c)(5) by the 2014 test claim statute) [which states that “It is the intent of the Legislature that high schools . . . certify the grade point averages of their students in time to meet the application deadlines imposed by this chapter”]; California Code of Regulations, title 5, sections 30007, 30008, 30023(a)(b).

¹⁵³ Exhibit B, Finance’s Comments on the Test Claim, page 1.

¹⁵⁴ Exhibit C, Claimant’s Rebuttal Comments, pages 2-3.

¹⁵⁵ California Code of Regulations, title 5, sections 30008(c) and 30023(a)(2).

¹⁵⁶ Exhibit X, California Department of Education Official Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, January 25, 2016. See also California Department of Education, Letter to County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors, September 19, 2017.

CSAC's October 10, 2016 memo to High School Counselors, High School Principals, and County and District Superintendents, states in pertinent part:

This Operations Memo from the California Student Aid Commission (Commission) reminds public high schools and charter high schools of Education Code section 69432.9, which requires schools to electronically submit GPA data for their grade 12 pupils for the 2017-18 grant programs.¹⁵⁷

As the agencies required to provide oversight to K-12 school districts and to implement the Cal Grant program for grade 12 pupils, these interpretations are entitled to great respect by the courts.¹⁵⁸ In addition, these interpretations are consistent with the legislative history of the test claim statute. As discussed above in the background, the intent of the Legislature in enacting Statutes 2014, chapter 679, was to implement a report by Education Trust-West that recommended school districts electronically submit GPAs for all pupils because "it has proven effective in getting more students into the pipeline for college aid. A number of districts that have shifted to this practice have seen dramatic gains in the number of Cal Grant awards offered to their students."¹⁵⁹

In addition, although some of the largest school districts in the state (San Francisco and Los Angeles Unified) were electronically submitting GPAs for all grade 12 pupils before the 2014 test claim statute that added Education Code section 69432.9(c)(2), and there is an indication in the legislative history that they experienced cost savings as a result, submitting GPAs is still considered a new state-mandated activity under Government Code section 17565 because there was no legal requirement for them to do so under prior law. Government Code section 17565 states that "If a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs after the operative date of the mandate." Therefore, any *increased* costs that any eligible school district incurs, and that are mandated by the State as a result of this newly mandated activity, are reimbursable.

Based on the above, the Commission finds that Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679) imposes a new state-mandated activity to:

- Electronically submit to CSAC the GPAs for all grade 12 pupils each academic year, except for pupils who opt out in accordance with section 69432.9(d).

This mandated activity provides a service to the public by boosting access to college financial aid to California students and thus, imposes a new program or higher level of service.¹⁶⁰

¹⁵⁷ Exhibit X, CSAC, Memo to High School Principals, High School Counselors, and County and District Superintendents, October 10, 2016. Emphasis added.

¹⁵⁸ *Yamaha Corp. of America v. State Board of Equalization* (1988) 19 Cal.4th 1, 4, 7.

¹⁵⁹ Assembly Floor, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended August 18, 2014, page 3.

¹⁶⁰ Exhibit X, Senate Committee on Education, Analysis of AB 2160 (2013-2014 Reg. Sess.) As amended June 18, 2014, pages 3-4.

Accordingly, the Commission finds that 69432.9(c)(2) (Stats. 2014, ch. 679) mandates a new program or higher level of service for the activity bulleted above.

c) Education Code section 69432.9(c)(2) does not mandate a new program or higher level of service to submit pupil social security numbers to CSAC.

Education Code section 69432.9(c)(2), as amended by the 2014 test claim statute, states that a pupil's SSN shall not be included in the information submitted to CSAC. If CSAC determines that a SSN is necessary to complete the Cal Grant application, the school district "may obtain permission" to submit the SSN to CSAC. The relevant language in section 69432.9(c)(2) states:

Social security numbers shall not be included in the information submitted to the commission. However, if the commission determines that a social security number is required to complete the application for financial aid, the school, school district, or charter school may obtain permission from the parent or guardian of the pupil, or the pupil, if he or she is 18 years of age, to submit the pupil's social security number to the commission.

The claimant argues that submitting SSNs is a new required activity:

Per the CSAC website <http://www.csac.ca.gov/doc.asp?id=983>, Non-SSN GPA's are only allowed for high schools without WebGrants website access, which means almost all, if not all the high schools in California must provide the CSAC with the students SSN when submitting a student's GPA. Thus requiring the school district, county office of education or charter school to obtain permission and submit the SSN electronically as well as the GPA for each student in 12th grade.¹⁶¹

The Commission finds that providing SSNs, if requested by CSAC, is not mandated by the plain language of Education Code section 69432.9(c)(2). The statute clearly states that SSNs shall not be included in the information, and that "if" CSAC requests the SSN, the school district "may" obtain permission from the pupil or the parent to submit the information. The claimant has not pled any letter or executive order from CSAC mandating the submission of pupil SSNs.¹⁶²

Moreover, submitting SSNs upon CSAC's request is not new. On October 11, 2012, before the enactment of the test claim statutes, CSAC issued a "Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year."¹⁶³ That document indicates that SSNs are used to match the student applicant's FAFSA or Dream Act application with the GPA received in order to process the financial aid application. The document further states that "The CSAC non-SSN GPA submission process allows high schools, high school districts or private school central offices to

¹⁶¹ Exhibit A, Test Claim, pages 12-13.

¹⁶² Government Code section 17553(b)(1) requires that a Test Claim include: "A written narrative that identifies the specific sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate ..." And section 17553(b)(3)(A) states: "The written narrative shall be supported with copies of . . . The test claim statute that includes the bill number or executive order, alleged to impose or impact a mandate."

¹⁶³ Exhibit X, CSAC, "Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year," dated October 11, 2012. (http://www.csac.ca.gov/pubs/forms/grnt_frm/non_ssn_gpa_qa.pdf)

submit Entitlement Cal Grant GPAs for students *without* including a Social Security Number (SSN)” as long as the high school has WebGrants access (CSAC’s on-line school user interface to the Cal Grant program). With the WebGrants system, CSAC can use other demographic information submitted with the GPA to match the pupil’s FAFSA or Dream Act application.¹⁶⁴ If, however, a high school submits paper GPAs, the pupil’s SSN “must be included.”¹⁶⁵

Accordingly, Education Code section 69432.9(c)(2) does not mandate a new program or higher level of service to submit pupil SSNs to CSAC.

3. Education Code section 69432.92 Does Not Impose a State-Mandated Program on School Districts to Electronically Submit Verification of High School Graduation to CSAC (Stats 2015, ch. 637).

As indicated in the Background, the Education Code has long required that a pupil confirm his or her high school graduation before Cal Grant payments can be released, and either the pupil or the school district can verify graduation.¹⁶⁶ Ultimately, the applicant is responsible for verifying his or her high school graduation.¹⁶⁷

Statutes 2015, chapter 637, effective January 1, 2016, added section 69432.92 to the Education Code to *authorize* CSAC to require verification of high school graduation or its equivalent to be electronically submitted for all grade 12 pupils who graduated in the prior academic year, as part of the Cal Grant financial aid application, except for pupils who opt out. Section 69432.92, as added by the 2015 test claim statute, states:

- (a) The commission may require verification of high school graduation or its equivalent to be electronically submitted for all former grade 12 pupils who graduated from public schools, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69432.9.
- (b) It is the intent of the Legislature that high schools or high school districts verify the graduation of their pupils in time to meet the deadlines imposed by subdivision (e) of Section 69433.9.

¹⁶⁴ Exhibit X, CSAC, “Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year,” dated October 11, 2012, page 1.

¹⁶⁵ Exhibit X, CSAC, “Non-SSN GPA Q & A For the 2013-14 Cal Grant Application Year,” dated October 11, 2012, page 3.

¹⁶⁶ Education Code section 69433.9 (as last amended by Stats. 2006, ch. 652.); Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

¹⁶⁷ Education Code section 69432.9(a) (as last amended by Stats. 2011, ch. 7), and still in place today, states the following: “A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and application regulations adopted by the commission.” Exhibit X, California Student Aid Commission, “High School Graduation Confirmation for High Schools, WebGrants User Guide” May 23, 2008, page 5.

The legislative history of the bill explains the need for the bill and the existing process for verification as follows:

According to author, many students often times become overwhelmed with the Cal Grant application process and fail to submit verification of high school graduation to CSAC. The author further asserts that missing this step could make the difference between a student attending college or not. This bill aims to streamline the financial aid process and increase Cal Grant and FAFSA completion rates by requiring the electronic submission of high school graduation information.

Existing process for verification. According to the CSAC the method for providing verification varies depending on the school district. For the most part, it is the responsibility of the school district to submit the information to CSAC; however, if the district fails to provide the information, the responsibility falls on the student. Generally, most submissions are electronic, but thousands of paper forms are submitted that have to be keyed in manually. This bill seeks to give the CSAC the authority to create a standardized process for collecting information directly from school districts when determining Cal Grant eligibility.¹⁶⁸

The claimant alleges that the following activities are required to comply with this statute, and are eligible for reimbursement under article XIII B, section 6 of the California Constitution:

Time and costs incurred by school districts, county offices of education, and charter schools to provide verification of high school graduation or its equivalent. Education Code Section 69432.92(a).

Time and costs to electronically submit the graduation data for all former grade 12 pupils, in the prior academic year, including charter schools, in the prior academic year, except for pupils who have opted out as provided in subdivision (d) of Section 69433.9, when required by the CSAC. Education Code Section 69432.92(a).

Time and costs incurred by school districts, county offices of education, and charter schools to verify the graduation of their pupils, when requested by CSAC in time to meet the deadlines imposed by subdivision (e) of Section 69433.9. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year. Education Code Sections 69432.92(b).¹⁶⁹

In rebuttal comments on the Test Claim, the claimant states that CSAC first started requiring electronic verification of high school graduation immediately following the passage of section 69432.92.¹⁷⁰ The claimant includes with the comments two CSAC memos issued in 2017. The first is a “Special Alert” dated March 27, 2017, to High School District Superintendents, Principals, and Counselors, and the second is an “Operations Memo” dated May 24, 2017, to the

¹⁶⁸ Exhibit X, Senate Rules Committee, Analysis of AB 1091 (2015-2016 Reg. Sess.) as amended June 1, 2015, page 3.

¹⁶⁹ Exhibit A, Test Claim, pages 13-15.

¹⁷⁰ Exhibit C, Claimant’s Rebuttal Comments, page 4.

same group of school district employees. Both memos refer to Education Code section 69432.92(b), which CSAC states “that high schools and high school districts are to verify the graduation of their pupils as soon as possible upon their graduation and no later than August 31.”¹⁷¹

The Commission finds that Education Code section 69432.92, as added by the 2015 test claim statute, does not impose a state-mandated program on school districts to electronically verify the high school graduation of all grade 12 pupils who have not opted out of the Cal Grant program. The plain language of the statute (“the Commission *may* require verification of high school graduation or its equivalent to be electronically submitted. . .”) authorizes, but does not require, CSAC to request school districts to submit electronic verification of the high school graduation for grade 12 applicants.¹⁷² Although subdivision (b) contains a statement that the Legislature intends that high schools or high school districts verify the graduation of their pupils in time to meet the Cal Grant deadlines, the courts have consistently held that a statement of legislative intent alone may not give rise to a mandatory duty.¹⁷³ Thus, the plain language of section 69432.92 does not impose any state-mandated duties.

Moreover, as indicated above, the Cal Grant process has always required that an applicant’s high school graduation be verified before funds can be released. The legislative history of the test claim statute makes that clear by stating that under the existing process, “it is the responsibility of the school district to submit the information to CSAC; however, if the district fails to provide the information, the responsibility falls on the student.”¹⁷⁴ The legislative history further states:

It is important to note that CSAC does authorize students to self-certify high school graduation. This bill is not intended to change the student self-certification process.¹⁷⁵

The pupil self-certification process verifying high school graduation still remains today. CSAC created a “High School Graduation Certification Form for the Entitlement Cal Grant Program,” which allows pupils to self-certify their high school graduation.¹⁷⁶ And, the May 24, 2017,

¹⁷¹ Exhibit C, Claimant’s Rebuttal Comments, pages 6-7 (emphasis in original).

¹⁷² Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

¹⁷³ *Shamsian v. Department of Conservation* (2006) 136 Cal.App.4th 621, 633; *City of Arcadia v. State Water Resources Control Board* (2010) 191 Cal.App.4th 156, 176.

¹⁷⁴ Exhibit X, Floor Analysis of AB 1091 (2015-2016 Reg. Sess.) as amended June 1, 2015, page 3.

¹⁷⁵ Exhibit X, Assembly Third Reading, Analysis of AB 1091 (2016-2016 Reg. Sess.) as amended on June 1, 2015, page 5.

¹⁷⁶ Exhibit X, California Student Aid Commission, “High School Graduation Certification Form For the Entitlement Cal Grant Program,” (G-8, dated 08/16) http://csac.ca.gov/pubs/forms/grnt_frm/2016_2017_g-8_hs_graduation_verification.pdf, accessed October 16, 2017.

CSAC "Operations Memo" provided by the claimant states that that "Students can self-certify their high school graduation at WebGrants for Students."¹⁷⁷

Most importantly however, the CSAC "Special Alert" and "Operations Memo" provided by the claimant clearly pertains to section 69432.92 as amended by Statutes 2016, chapter 351. Statutes 2016, chapter 351 amended section 69432.92(b) to replace the statement of legislative intent quoted above with the following:

If the commission requires verification of high school graduation or its equivalent pursuant to subdivision (a), the commission shall provide guidance to high schools or high school districts to ensure that high schools and high school districts verify the graduation of their pupils as soon as possible upon a pupil's graduation and no later than August 31 of the academic year following the pupil's graduation. This subdivision also applies to pupils who graduate during the summer following the grade 12 academic year.

However, Statutes 2016, chapter 351 has not been pled in this Test Claim, the only 2016 statute pled is Statutes 2016, chapter 82, and thus the Commission does not have jurisdiction to make findings on Statutes 2016, chapter 351 or any unpled executive orders to implement that statute.

Accordingly, the Commission finds that Education Code section 69432.92, as added by Statutes 2015, chapter 637, does not mandate a new program or higher level of service on school districts to electronically verify high school graduation.

C. Education Code Section 69432.9(c)(2) and (d) (Stats 2014, ch. 679, Stats. 2016, ch. 82) Imposes Costs Mandated by the State for K-12 School Districts to Notify Pupils of the Opportunity to Opt Out of the Cal Grant Application Process and to Electronically Submit GPAs to CSAC Each Academic Year For All Pupils in Grade 12.

As indicated above, the Commission finds that the following activities mandate a new program or higher level of service:

1. Provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d), (Stats 2014, ch. 679, Stats. 2016, ch. 82) as follows:
 - Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states "the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;" (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
 - Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states "the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;" (2) identifies when the school will first

¹⁷⁷ Exhibit C, Claimant's Rebuttal Comments, page 7.

send grade point averages to CSAC: and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

2. Electronically submit to CSAC the GPAs of all grade 12 pupils by October 1 of each academic year, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679).

For these activities to constitute reimbursable state-mandated activities under article XIII B, section 6 of the California Constitution, they must result in school districts incurring increased costs mandated by the state. Government Code section 17514 defines “costs mandated by the state” as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) requires that no claim shall be made unless the claim exceeds \$1,000.

The claimant alleges total increased costs as a result of the test claim statutes as follows: “actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the mandate: Actual: \$13,099 FY 2015-16 and \$14,888 for FY 2016-17.” The claimant further alleges: “The actual or estimated annual costs that will be incurred by the claimant to implement the mandate during the fiscal year immediately following the fiscal year for which the claim was filed: Estimated: \$15,186 FY 2017-18.”¹⁷⁸

Finance argues there are no increased costs mandated by the state. Finance asserts that funds from the Local Control Funding Formula (LCFF) and the College Readiness Block Grant are available to pay for the cost of the new state-mandated activities. According to Finance, “The total of all of these funds exceeds the actual or estimated costs alleged by the claimant and the statewide cost estimate alleged in the claim.”¹⁷⁹

The claimant responded to Finance, citing the Controller’s “All School District Mandated Cost’s Claiming Instructions” that have specific line items for identifying offsetting savings or other funding sources available for the mandate being claimed, and that require offsetting savings to be deducted from claims. According to the claimant:

It is the responsibility of each District to determine (as the DOF puts it) “The total of all these funds exceeds the actual or estimated costs alleged by the claimant”, and not an amount outside sources or other government agencies can determine. To determine if these new laws create a new program or higher level of service is COSM’s responsibility. It is up to each claimant and the SCO to determine if the costs are 100% funded through other avenues.¹⁸⁰

For the reasons below, the Commission finds that school districts incur increased costs mandated by the state within the meaning of Government Code section 17514, and that funding appropriated to school districts under the LCFF and the College Readiness Block Grant do not trigger the application of Government Code section 17556(e) to deny this Test Claim.

¹⁷⁸ Exhibit A, Test Claim, page 16.

¹⁷⁹ Exhibit B, Finance’s Comments on the Test Claim, pages 2 and 3.

¹⁸⁰ Exhibit C, Claimant’s Rebuttal Comments, page 8.

Government Code section 17556(e) states that the Commission shall not find costs mandated by the state if:

The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. This subdivision applies regardless of whether a statute, executive order, or appropriation in the Budget Act or other bill that either provides for offsetting savings that result in no net costs or provides for additional revenue specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

The LCFF¹⁸¹ was enacted in fiscal year 2013-2014 to replace the previous K-12 general purpose revenue funding through Proposition 98, which had been in existence for roughly 40 years. Previously, the state distributed school funding through a combination of general purpose grants (revenue limit entitlements) and more than 40 state categorical programs. Districts could use general purpose grants for any educational purpose, but they had to spend categorical funding on state-prescribed activities. In fiscal year 2013-2014, the state eliminated most categorical programs, replacing all the previous program-specific funding formulas with one new formula. The new formula increased the size of general purpose grants and directed more funding to districts with disadvantaged pupils.¹⁸² The LCFF combines each district's 2012-2013 revenue limit entitlement and some categorical funding to create a new base, and then provides additional funding for districts with large numbers of "unduplicated pupils," defined as low income pupils, pupils in foster care, and English learners. Like the prior revenue limit apportionments, the LCFF is funded through a combination of local property taxes and state aid.¹⁸³

Whether a school district's general purpose revenue, appropriated through revenue limit apportionments or the LCFF, when used by a school district to pay for a state-mandated program is required to be identified as offsetting revenue to reduce or eliminate the reimbursement requirement for K-12 school districts, is an issue with a long history. In 2008, the Commission amended the Parameters and Guidelines for the *Graduation Requirements* program at the request of the State Controller's Office and several school districts to adopt a formula for the

¹⁸¹ The Local Control Funding Formula is in Article 2 (commencing with section 42238) of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code. Also, the County Local Control Funding Formula is in chapter 12.5 (commencing with section 2574) of Part 2 of Division 1 of Title 1 of the Education Code.

¹⁸² Exhibit X, Legislative Analyst's Office, "The 2017-18 Budget: Proposition 98 Education Analysis," February 9, 2017, page 29, <http://www.lao.ca.gov/reports/2017/3549/prop98-analysis-020917.pdf>, accessed October 16, 2017.

¹⁸³ Exhibit X, Department of Education, "LCFF Frequently Asked Questions," <https://www.cde.ca.gov/fg/aa/lc/lcfffaq.asp#FC>, accessed October 16, 2017; Education Code sections 42238.02, 42238.03.

reimbursement of costs incurred for the higher level of service required to staff the new state-mandated high school science course.¹⁸⁴ The request was opposed by Finance on several grounds, including that the formula did not include increases in unrestricted revenue limits, or general purpose funding appropriated to school districts under Proposition 98, as offsetting revenue. The Commission rejected Finance's argument. The Commission found that the proceeds of taxes for school districts are different than those of other local government entities, such as counties and cities, because the general purpose revenue of school districts has always been partially provided by the state's general fund. Thus, the amount spent by school districts from their proceeds of taxes on teacher salaries to staff the mandated science course could not be considered offsetting revenue without violating the purpose of article XIII B, section 6. Article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues, and "provide[s] local entities with the assurance that state mandates would not place additional burdens on their increasingly limited revenue resources."¹⁸⁵ The Commission also held that there was no evidence that the state appropriated funds *specifically intended* to fund the costs of providing the second science course mandated by *Graduation Requirements* program, as required by Government Code section 17556(e). Thus, the Commission did not identify the school district's general purpose revenue as offsetting revenues.¹⁸⁶ Finance filed a petition for writ of mandate in the Sacramento County Superior Court to challenge the Commission's decision on the Parameters and Guidelines amendment, but abandoned the offsetting revenue challenge. On March 20, 2013, the Sacramento County Superior Court entered an order and judgment denying the petition for writ of mandate and upheld the Commission's decision and parameters and guidelines.¹⁸⁷

In 2010, the Legislature added section 42238.24 to the Education Code, which states that "costs related to the salaries and benefits of teachers incurred by a school district or county office of education to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3 [the *Graduation Requirements* statute] shall be offset by the amount of state funding apportioned to the district" through the revenue limit apportionments.

¹⁸⁴ Commission on State Mandates, Revised Final Staff Analysis Adopted by the Commission, *Graduation Requirements* Parameters and Guidelines Amendment, Item 3, November 6, 2008 Hearing, <https://csm.ca.gov/agendas/110608/item3.pdf>

¹⁸⁵ Commission on State Mandates, Revised Final Staff Analysis Adopted by the Commission, *Graduation Requirements* Parameters and Guidelines Amendment, Item 3, November 6, 2008 Hearing, <https://csm.ca.gov/agendas/110608/item3.pdf>, pages 52-53 (citing *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6; and *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284.)

¹⁸⁶ Commission on State Mandates, Revised Final Staff Analysis Adopted by the Commission, *Graduation Requirements* Parameters and Guidelines Amendment, Item 3, November 6, 2008 Hearing, <https://csm.ca.gov/agendas/110608/item3.pdf>, pages 51-54.

¹⁸⁷ *Department of Finance v. Commission on State Mandates*, Sacramento County Superior Court, Case No. 34-2010-80000529.

On January 6, 2011, the California School Boards' Association (CSBA) filed a lawsuit against the State and the Commission, in part to prevent the Commission or the State from applying Education Code section 42238.24 as an offset to reduce or eliminate state reimbursement for the *Graduation Requirements* program.¹⁸⁸ CSBA argues that revenue limit apportionments (which were later replaced with the LCFF) constitute the proceeds of taxes of school districts, which cannot be used as offsetting revenue under article XIII B, section 6 of the California Constitution.¹⁸⁹ The State, in discovery responses and briefs filed with the court, takes the position that revenue limit apportionments and the LCFF are funded with a mix of local property tax revenue and state funds; that school districts "are not being required [by section 42238.24] to use their own property taxes to pay for the cost of the mandate;" and that "only the moneys provided by the state are potentially offsetting."¹⁹⁰ The *CSBA* matter is currently pending in the First District Court of Appeal, with oral argument scheduled for December 14, 2017.

On July 25, 2011, Finance filed a request to amend the parameters and guidelines for the *Graduation Requirements* program to identify Education Code section 42238.24 (Stats. 2010, ch. 724, §16) as a required offset. (CSM 11-PGA-03.) That matter is stayed pending the outcome of the *CSBA* litigation.

Thus, the issue whether a school district's general revenue calculated under the LCFF and used to pay for a state-mandated program is required to be identified as offsetting revenue is not a settled legal issue. The Commission has approved many school district test claims, and has never identified a district's general purpose revenue as offsetting revenue. Moreover, the Legislature has not enacted a statute that "includes additional revenue that was *specifically intended* to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate," with respect to the Cal Grant activities mandated by the state. All LCFF funds are technically "unrestricted," which means school districts have discretion over how the funds are used. The Legislature has not directed the use of LCFF funds to pay for the costs of this

¹⁸⁸ *California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance*, Alameda County Superior Court, Case No. RG11554698, First District Court of Appeal, Case No. A148606.

¹⁸⁹ CSBA cites article XIII B, section 8(c), which defines "appropriations subject to limitation" to include state subventions other than mandate subventions, and Government Code section 7906, which defines "proceeds of taxes" for school districts to include basic aid subventions and state apportionments up to the district's "foundation program level" minus "local revenues as defined in Section 42238 of the Education Code." Thus, CSBA asserts that existing law defines all unrestricted state funding, up to the district's XIII B spending limit, as proceeds of taxes. CSBA Opening Brief, *California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance*, filed October 7, 2016, First District Court of Appeal, Case No. A148606.

¹⁹⁰ State's Opposition to Petition for Writ of Mandate (Second Cause of Action), *California School Boards Assoc., et al. v. State of California, Commission on State Mandates, John Chiang, as State Controller, and Ana Matosantos, as Director of the Department of Finance*, filed April 3, 2015, Alameda County Superior Court, Case No. RG11554698, page 17.

program.¹⁹¹ Therefore, the funding appropriated under the LCFF does not trigger the application of Government Code section 17556(e) to deny this Test Claim.

Additionally, though potentially offsetting, the College Readiness Block Grant does not result in a finding of no costs mandated by the state pursuant Government Code section 17556(e). Enacted in 2016, the College Readiness Block Grant authorizes the appropriation of \$200 million for the purpose of providing California's high school pupils, particularly unduplicated pupils, additional support to increase the number who enroll at institutions of higher education and complete an undergraduate degree within four years.¹⁹² Appropriations made to school districts under this block grant shall be deemed "General Fund revenues" for school districts, appropriated pursuant to Proposition 98.¹⁹³ In addition, the "block grant funds apportioned to eligible school districts shall be used for activities that directly support pupil access and successful matriculation to institutions of higher education."¹⁹⁴ In this respect, the Legislature has determined that the following "eligible activities," focused primarily on unduplicated pupils, fits within the purpose of the grant: (1) professional development for teachers, administrators and counselors to improve pupil college readiness and attendance; (2) beginning or increasing pupil and family counseling regarding college admission requirements and financial aid programs; (3) developing or purchasing materials that support college readiness; (4) developing comprehensive advising plans to support pupil completion of A-G course requirements for college admission; (5) implementing partnerships between high schools and postsecondary educational institutions that support pupil transition to postsecondary education; (6) providing subsidies to unduplicated pupils to pay fees for taking advanced placement exams; and (7) expanding access to coursework or other opportunities to satisfy A-G course requirements to all pupils.¹⁹⁵ School districts are required to develop a plan as a condition of receiving funds, to be discussed at a regularly scheduled meeting of the governing board to ensure community involvement. The plan shall describe how the funds will increase or improve services for unduplicated pupils to ensure college readiness.¹⁹⁶ As a condition of receiving funds, school districts are required to report to the Superintendent how they will measure the impact of the funds received.¹⁹⁷

However, there is no requirement that school districts use the block grant funding to pay for the state-mandated program here. Accordingly, the block grant funds are not specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate in accordance with Government Code section 17556(e). Nevertheless, as indicated in the Background, the purpose of the new state-mandated activities of providing the Cal Grant opt-out

¹⁹¹ Exhibit X, Department of Education, "LCFF Frequently Asked Questions," <https://www.cde.ca.gov/fg/aa/lc/lcffffaq.asp#FC> accessed October 16, 2017.

¹⁹² Education Code section 41580(b), as added by Statutes 2016, chapter 29.

¹⁹³ Education Code section 41580(h).

¹⁹⁴ Education Code section 41580(d).

¹⁹⁵ Education Code section 41580(d)(1) – (d)(7).

¹⁹⁶ Education Code section 41580(e).

¹⁹⁷ Education Code section 41580(f).

notice to pupils and electronically submitting GPAs to CSAC was to boost access to college financial aid for high school graduating pupils. Although these activities are not specifically focused on unduplicated pupils, they do “support pupil access and successful matriculation to institutions of higher education.” Thus, the grant funds received by school districts under the College Readiness Block Grant program are potential offsetting revenues that must be identified by a school district on a reimbursement claim *if* the district uses the funds for this program.

Therefore, the Commission finds, as a matter of law, that the Education Code section 69432.9(c)(2) and (d) (Stats 2014, ch. 679, Stats. 2016, ch. 82) impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

V. Conclusion

Based on the foregoing, the Commission finds that the test claim statutes impose a partial reimbursable state-mandated program on K-12 school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities only:

1. Provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d), (Stats 2014, ch. 679, Stats. 2016, ch. 82) as follows:
 - Beginning January 1, 2015, providing written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
 - Beginning January 1, 2017, providing written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
2. Electronically submit the GPAs of all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679). This activity does not include the certification of the GPAs or providing SSNs to CSAC.

All other statutes and provisions pled in the Test Claim are denied.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On November 22, 2017, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued November 22, 2017**

Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5),
69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections
69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education
Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 November 22, 2017 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/20/17

Claim Number: 16-TC-02

Matter: Cal Grant: Grade Point Average and Graduation Certification

Claimant: Fairfield-Suisun Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguilard@cde.ca.gov

Amber Alexander, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Kris Corey, Superintendent, *Fairfield Suisun Unified School District*
2490 Hilborn Road, Fairfield, CA 94534
Phone: (707) 399-5009
KrisC@fsusd.org

Lupita Cortez Alcala, Executive Director, *California Student Aid Commission*
P.O. Box 419026, Rancho Cordova, CA 95741-9026
Phone: (916) 464-8271
Lupita.Alcala@csac.ca.gov

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Eric Feller, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
eric.feller@csm.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Rebecca Hamilton, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Jennifer Kuhn, Deputy, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Keith Nezaam, *Department of Finance*
915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-8913
Keith.Nezaam@dof.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kpbsixten@aol.com

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*
P.O. Box 894059, Temecula, CA 92589
Phone: (951) 303-3034
sandrareynolds_30@msn.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

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

Phone: (916) 454-7310
steve@shieldscg.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*
Claimant Representative
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Brian Uhler, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjud.org



Fairfield-Suisun Unified School District

Exhibit E

2490 Hilborn Road • Fairfield, California 94534 • Telephone (707) 399-5123
FAX: (707) 399-5138 • www.fsusd.org

"Fairfield-Suisun Unified School District is a premier learning community that empowers each student to thrive in an ever changing world."

Governing Board

- David C. Isom
President
- Judi Honeychurch
Vice President
- Bethany Smith
Clerk
- Joan Gaut
Jonathan Richardson
John Silva
Chris Wilson

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 94814

December 11, 2017

**RE: Commission’s Draft Proposed Decision dated November 22, 2017
- Cal Grant: Grade Point Average and Graduation Certification Test
Claim (16-TC-02).**

Dear Ms. Exec. Director Halsey and Ms. Magee,

Superintendent

Kris Corey

Below please find the District’s response to the Commission’s Draft Proposed Decision dated November 22, 2017.

The Fairifield Suisun Unified School District agrees with the Commission on State Mandates (CSM) Draft Staff Analysis in all areas except for the denial of Education Code section 69432.9(c) (Stats. 2014, ch. 679). The COSM staff asserts that the section does not impose a reimbursable state-mandated program to certify GPAs to CSAC by a statutory deadline. The summary of staff’s determination is stated in the proposed statement of decision issued November 22, 2017 and contains the following flawed rationale for denying the activity:

“Although school districts may now have to certify more GPAs than under prior law, and may or may not incur increased costs to do so, increased costs alone do not establish a reimbursable state-mandated program.”¹³

Fairfield Suisun Unifed School District asserts the references listed in footnote 13 page 6 are not applicable in this case. Specifically, the last four items listed in the footnote reference the initial ruling found in County of Los Angeles V. State of California (1987) 43 Cal.3d at 55-56. The pertinent section of the Justices opinion is as follows:

[1] We conclude that when the voters adopted article XIII B, section 6, their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expense or [43 Cal. 3d 50] increased cost

of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. In using the word "programs" they had in mind the commonly understood meaning of the term, programs which carry out the governmental function of providing services to the public. Reimbursement for the cost or increased cost of providing workers' compensation benefits to employees of local agencies is not, therefore, required by section 6.

The above discussion does not define "higher level of service" but discusses a definition for "programs" which is defined as providing services to the public not actually providing workers compensation benefits.

Additionally, in the same opinion it also states:

"On November 6, 1979, the voters approved an initiative measure which added article XIII B to the California Constitution. That article imposed spending limits on the state and local governments and provided in section 6 (hereafter section 6): "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] (a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." No definition of the phrase "higher level of service" was included in article XIII B, and the ballot materials did not explain its meaning. fn. 1"

New information is now available which details the specifics of the definition of a "higher level of service." On April 12, 1972 in the California Assembly Journal - page 1556 "higher level of service" is specifically listed in the definitions.

2213 Assembly Journal April 12, 1973

"Increased level of service" means a mandate required by a statute or by a court interpretation of a statute which requires any unit of local government or school district to increase services or perform more acts and which results in additional costs to any such unit or district. "Increased level of service" does not include increased costs resulting from changes required by population growth, increased workload or price increases."

It is clear to us in the requirements created by Education Code section 69432.9(c) (Stats. 2014, ch. 679) now mandates that school district's now certify the GPA for all seniors. This requirement is not only for seniors that apply for student loans, but for all seniors. This code section has greatly increased the number of required acts and activities performed by school districts and has resulted in additional costs to the districts. This increased activity and the associated costs are precisely what is detailed in 1972 as the definition of a "higher level of service."

Thank you for your time to consider and hear this test claim and consider the above comments,

Michelle Henson



Assistant Superintendent Business Services
Fairfield Suisun Unified School District

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

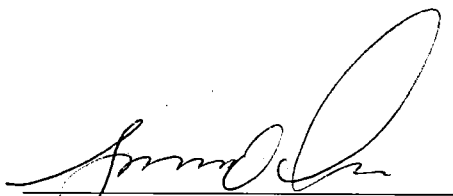
On December 13, 2017, I served the:

- **Claimant's Comments on the Draft Proposed Decision filed December 13, 2017**

Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02
Education Code Sections 69432.9(c)(2), 69432.9(c)(3), 69432.9(c)(5),
69432.9(d)(1)(d)(2)(A); Statutes 2014, Chapter 679 (AB 2160); Education Code Sections
69432.92(a) and 69432.92(b); Statutes 2015, Chapter 637 (AB 1091); and Education
Code Sections 69432.9(c)(2) and (d)(1); Statutes 2016, Chapter 82 (AB 2908)
Fairfield-Suisun Unified School District, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 December 13, 2017 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/20/17

Claim Number: 16-TC-02

Matter: Cal Grant: Grade Point Average and Graduation Certification

Claimant: Fairfield-Suisun Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguilard@cde.ca.gov

Amber Alexander, *Department of Finance*

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Kris Corey, Superintendent, *Fairfield Suisun Unified School District*
2490 Hilborn Road, Fairfield, CA 94534
Phone: (707) 399-5009
KrisC@fsusd.org

Lupita Cortez Alcala, Executive Director, *California Student Aid Commission*
P.O. Box 419026, Rancho Cordova, CA 95741-9026
Phone: (916) 464-8271
Lupita.Alcala@csac.ca.gov

Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Eric Feller, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
eric.feller@csm.ca.gov

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Rebecca Hamilton, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Jennifer Kuhn, Deputy, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

George Landon, Deputy Superintendent, Admin. Fiscal Support, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7095
George.Landon@leusd.k12.ca.us

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Keith Nezaam, *Department of Finance*
915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-8913
Keith.Nezaam@dof.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kpbsixten@aol.com

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*
P.O. Box 894059, Temecula, CA 92589
Phone: (951) 303-3034
sandrareynolds_30@msn.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

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

Phone: (916) 454-7310
steve@shieldscg.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Thomas Todd, Assistant Program Budget Manager, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Thomas.Todd@dof.ca.gov

Jolene Tollenaar, *MGT of America*
Claimant Representative
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

Brian Uhler, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126
Phone: (408) 535-6141
mvalle@sjud.org

BILL ANALYSIS

Exhibit F

AB 2160
Page 1

CONCURRENCE IN SENATE AMENDMENTS
AB 2160 (Ting)
As Amended August 18, 2014
Majority vote

ASSEMBLY:	78-0	(May 28, 2014)	SENATE:	31-2	(August 19, 2014)
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Original Committee Reference: HIGHER ED.

SUMMARY : Requires a grade point average (GPA) for all high school seniors at public schools to be submitted to the California Student Aid Commission (CSAC) electronically by a school or school district official.

The Senate amendments :

- 1) Establish that each pupil enrolled in grade 12 in a California public school, including a charter school, other than pupils who opt out, shall be deemed to be a Cal Grant applicant.
- 2) Require CSAC to require:
 - a) A GPA be submitted to it for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a GPA;
 - b) A GPA be submitted to it electronically for all grade 12 pupils at public schools, including charter schools, each academic year, except for pupils who have opted out. Social security numbers must not be included in the information submitted to CSAC unless CSAC determines it necessary to complete the application for financial aid, in which case the school may obtain permission from the pupil and/or guardian.
 - c) Each reported GPA include a certification, executed under penalty of perjury, by a school official, that the GPA reported is accurately reported.
- 3) Provide Legislative intent that high schools and institutions of higher education certify the GPA of their students in time to meet the application deadlines imposed by law.

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Page 2

- 4) Requires a school district or charter school to provide an opportunity for a student and/or guardian to opt out of all of the aforementioned and requires students and/or guardians to be notified of the opportunity to opt out.
- 5) Provides that until a student turns 18 years of age, only a parent or guardian may opt the pupil out. Once a student turns 18 years of age, only the student may opt himself or herself out.

EXISTING LAW :

- 1) Requires GPAs for Cal Grant A and B applicants to be submitted to CSAC; requires GPAs to include a certification by a school official that the GPA is accurately reported; authorizes CSAC to establish grace periods for the receipt of GPAs and corrections; and, establishes Legislative intent that high schools and institutions of higher education certify GPAs of students in time to meet Cal Grant application deadlines. (Education Code (EDC) Section 69432)
- 2) Authorized school districts to release information from pupil records to agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid. (EDC Section 49076)

FISCAL EFFECT : According to the Senate Appropriations

Committee:

- 1)Mandate: Potentially significant reimbursable mandate on school districts to electronically submit the GPAs of every 12th grade student, with specified exceptions, and to administer an opt-out system for families.
- 2)CSAC administration: Potentially significant workload to receive and process additional GPAs, and to provide technical assistance to schools and school districts. This workload would be off-set, to some degree, by a reduction in the number

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of hard copy GPAs that CSAC processes.

- 3)Cal Grant awards: Potentially significant Cal Grant costs (General Fund), to the extent that this bill results in more Cal Grant awards.

COMMENTS : The Education Trust-West (ETW) is the sponsor of this bill. ETW issued a report in 2013 entitled, The Cost of Opportunity, which found that only 54% of California's 12th graders completed a FAFSA in 2012, and only 50% completed both steps of the requirements to apply for a Cal Grant by the March 2nd deadline. In 2014, a follow up Equity Alert entitled, Doorways to College Aid: Boosting Access to Financial Aid in California, found that 2013 rates increased statewide by 7% and 8% respectively; a total of 25,000 additional FAFSA completions and more than 30,000 additional Cal Grant applications. ETW notes that, while these increases highlight the work by school districts and the state to help students apply for financial aid, still 170,000 (42%) 12th graders from the class of 2013 did not complete a Cal Grant application. ETW notes that one "high-impact practice employed by districts is to submit GPAs electronically for all students. Some districts continue to balk at adopting this practice due to privacy concerns despite the fact that it has proven effective in getting more students into the pipeline for college aid. A number of districts that have shifted to this practice have seen dramatic gains in the number of Cal Grant awards offered to their students." ETW research indicates that districts that piloted using electronic GPA verification and other data-driven practices found a 15% increase in Cal Grant completion.

This bill would require public high schools to electronically transfer high school GPAs for all high school seniors to CSAC. According to the author, while some districts already provide GPAs to CSAC for all or some students, many do not. The author notes that Los Angeles and San Francisco unified school districts are already providing GPAs for all high school seniors to CSAC and, according to the author, report that costs for computer programming are minor and absorbable and districts experienced an overall cost savings associated with high school counselors no longer being required to complete paper forms for students. The author also notes that CSAC reported processing over 70,000 paper GPA forms in 2013, taking significant staff time. The author believes that overall cost savings associated with this bill could result in more time for high school

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counsellors and CSAC to outreach to students encouraging FAFSA completion. Without legislation, the author argues "it would take several years for all school districts to implement the best practice in this bill." _

Analysis Prepared by : Laura Metune / HIGHER ED. / (916)
319-3960

FN: 0005058

BILL ANALYSIS

AB 1091

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ASSEMBLY THIRD READING

AB 1091 (Eduardo Garcia)

As Amended June 1, 2015

Majority vote

Committee	Votes	Ayes	Noes
Higher Education	12-1	Medina, Baker, Bloom, Harper, Irwin, Jones-Sawyer, Levine, Linder, Low, Santiago, Weber, Williams	Chávez
Appropriations	12-1	Gomez, Bonta, Calderon, Daly, Eggman, Eduardo Garcia, Gordon, Holden, Quirk, Rendon, Weber, Wood	Bigelow

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SUMMARY: Requires the California Student Aid Commission (CSAC) to take specified actions to improve information sharing between school districts and CSAC for purposes of determining student Cal Grant eligibility. Specifically, this bill:

- 1) Authorizes CSAC to require that verification of high school graduation or its equivalent be electronically submitted for those who graduated from public schools in the prior academic year, except for those who opted out of having their information sent to the commission during their senior year, and declares legislative intent that this be accomplished by districts within established deadlines.
- 2) Declares legislative intent that the commission make available to each school district listing seniors who have and have not completed a Free Application for Federal Student Aid (FAFSA) or Dream Act application.

EXISTING LAW:

- 1) Requires grade point averages (GPAs) for Cal Grant A and B applicants to be submitted to CSAC; requires GPAs to include a certification by a school official that the GPA is accurately reported; authorizes CSAC to establish grace periods for the receipt of GPAs and corrections; and, establishes legislative intent that high schools and institutions of higher education certify GPAs of students in time to meet Cal Grant application deadlines. (Education Code (EDC) Section 69432)
- 2) Requires a GPA for all high school seniors at public schools to be submitted to CSAC electronically by a school or school district official and requires a school district to provide an

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opportunity for a student and/or guardian to opt out and requires students and/or guardians to be notified of the opportunity to opt out. (EDC Section 96432.9)

- 3) Authorizes school districts to release information from pupil records to agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid. (EDC Section 49076)

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) For graduation verification, CSAC will need \$120,000 GF for an additional position to program and implement the additional data system function. (CSAC has an aging Grants Delivery System, and the Governor's 2015-16 budget proposal includes \$840,000 and three positions for a system upgrade.) CSAC indicates that the FAFSA and Dream Act application information can be provided to districts within existing resources.
- 2) To the extent CSAC requires districts to submit verification data, this will create a state-reimbursable mandate. At least some districts could incur additional programming costs to be able to provide the information electronically in a format specified by the commission. These one-time costs could exceed \$150,000 statewide. [GF-Prop 98]

COMMENTS: Background. To apply for a Cal Grant award, students

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(or parents of dependent students) are required, by March 2nd, to: 1) complete and submit the FAFSA; and, 2) file a verified GPA with CSAC. In 2013, the Education Trust-West (ETW) issued a report finding that only 54% of California's 12th graders completed a FAFSA in 2012, and only 50% completed both steps of the requirements to apply for a Cal Grant by the March 2nd deadline. ETW found that one high-impact practice to encourage financial aid applications employed by districts is to submit GPAs electronically for all students. ETW research indicates that districts that piloted using electronic GPA verification and other data-driven practices found a 15% increase in Cal Grant completion. In 2014, AB 2160 (Ting), Chapter 679, required all high schools to submit a GPA for all high school seniors to CSAC electronically (electronic submission occurs through the CSAC

WebGrants system).

WebGrants. WebGrants is CSAC's internet-based access for Cal Grant applications. It provides high schools with the ability to upload student GPAs and determine if a student has completed a FAFSA, schools can also search and edit records, download CSAC policy memos and bulletins, print School of Origin Reports, and use other high school GPA collection tools. In addition to the recently enacted requirement for high school pupil GPA data to be uploaded electronically, according to the California Community College Chancellor's Office, currently all community colleges are using WebGrants to upload GPAs for students enrolled in the last two years. According to CSAC, when a student for whom CSAC has received a GPA but not a FAFSA is identified, CSAC provides a report to the schools. Ideally a school is using that information to contact students to ensure FAFSA completion.

Purpose of this bill. The author intends for this proposal to build upon the foundation of AB 2160 by ensuring the following:

- 1) Authorizing CSAC to require electronic submission of graduation verification data (an eligibility condition of Cal Grant) for

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students. According to CSAC, because of high school campus closures following the end of the school year, it is important that this information is submitted to CSAC promptly to ensure that student awards are not delayed. It is important to note that CSAC does authorize students to self-certify high school graduation. This bill is not intended to change the student self-certification process.

- 2) Establishing Legislative intent that CSAC provide to high schools and school districts a list of all high school pupils who have not completed a FAFSA or Dream Act application. The goal of this provision is to support high schools and districts in encouraging FAFSA/Dream Act completion.

Analysis Prepared by:

Laura Metune / HIGHER ED. / (916) 319-3960 FN:
0000745



Home / Finance & Grants / Allocations & Apportionments / Local Control Funding Formula

LCFF Frequently Asked Questions

Frequently asked questions and answers regarding the Local Control Funding Formula.

- [LCFF Funding](#)
 - [Financial Accounting](#)
 - [Local Control and Accountability Plans](#)
 - [Unduplicated Pupils and California Longitudinal Pupil Achievement Data System](#)
 - [Free and Reduced-Price Meal \(FRPM\) Income Eligibility Under the LCFF](#)
 - [Unduplicated Pupils at Schools with Provision 2 and 3 or Community Eligibility Provision \(CEP\) Status](#)
 - [English Learners Under the LCFF](#)
 - [Foster Youth Under the LCFF](#)
 - [Auditing](#)
 - [Categorical Programs](#)
 - [Necessary Small Schools](#)
 - [Home-to-School Transportation](#)
 - [Economic Impact Aid](#)
 - [Parent and Community Engagement](#)
 - [LCFF Funding for County Office of Education \(COE\) Schools](#)
 - [Charter Schools](#)
 - [K-3 Grade Span Adjustment](#)
 - [California Collaborative for Educational Excellence](#)
-

LCFF Funding

How is the Local Control Funding Formula (LCFF) different from what was in place under revenue limits?
(Revised 04-Dec-2015)

One of the goals of the LCFF is to simplify how state funding is provided to local educational agencies (LEAs). Under the old funding system, each school district was funded based on a unique revenue limit, multiplied by its average daily attendance (ADA). In addition, districts received restricted funding for over 50 categorical programs which were designed to provide targeted services based on the demographics and needs of the students in each district.

Under the LCFF funding system, revenue limits and most state categorical programs have been eliminated. The LCFF creates funding targets based on student characteristics and provides greater flexibility to use these funds to improve student outcomes. For school districts and charter schools, the LCFF funding targets consist of grade span-specific base grants plus supplemental and concentration grants that are calculated based on student demographic factors. For county offices of education (COEs), the LCFF funding targets consist of an amount for COE oversight activities and instructional programs.

When will the LCFF be fully implemented? (Revised 04-Dec-2015)

Implementation of the LCFF began in 2013–14. Initially, the state Department of Finance (DOF) estimated that achieving full funding levels for school districts and charter schools under the LCFF would take eight years based on then-current Proposition 98 growth projections, which would result in full implementation by fiscal year 2020-21. Full implementation for COEs was estimated to take two years. While those initial timelines have not formally changed, we are ahead of the initial implementation schedule. See [Figure 1](#) in the LCFF Overview for the most current implementation status.

How are LCFF target levels calculated for school districts and charter schools? (Revised 04-Dec-2015)

Funding targets under the LCFF consist of:

- Grade span-specific base grants based on ADA, that reflect adjustments for grades K–3 class sizes and grades 9–12 (school districts with qualifying schools may receive a necessary small school (NSS) allowance in lieu of the base grants);
- Supplemental grants equal to 20 percent of the adjusted base grants multiplied by the LEA's unduplicated percentage of English learners, income eligible for free or reduced-price meals, and foster youth pupils;
- Concentration grants equal to 50 percent of the adjusted base grants multiplied by an LEA's percentage of unduplicated pupils above 55 percent; and
- Two add-ons equal to the amounts school districts received in 2012–13 for the Targeted Instructional Improvement Block Grant and Home-to-School Transportation programs.
- Base, supplemental, and concentration grants, as well as necessary small school allowances, will receive cost-of-living adjustments as provided through the annual budget.

LCFF Target calculations are described in detail in the School District LCFF Target Entitlement and Charter School Target Entitlement sections of the Exhibit Reference Guides available on the [Principal Apportionment web page](#) for each fiscal year.

How are funding levels calculated for school districts and charter schools during the LCFF phase-in period? (Revised 04-Dec-2015)

In general, the calculation of LCFF funding throughout the phase-in period is based on an LEA's prior year funding (floor) as well as its LCFF target amount.

For school districts and charter schools, the floor consists of 2012–13 deficated school district revenue limit funding including basic aid fair share reductions, or charter school general purpose block grant funding, divided by 2012-13 average daily attendance (ADA), and then multiplied by current year ADA. For school districts with qualifying schools, NSS ADA is funded in accordance with 2012-13 deficated NSS allowances in lieu of revenue limit funding. Added to that floor is the sum of any applicable categorical program funding. For school districts, the categorical funding is a lump sum amount that is based on what the district received from 50-plus categorical programs in 2012-13 (see FAQ titled [Categorical Programs](#) for a list of the programs subsumed into LCFF). For charter schools, the categoricals are based primarily on what was received from the categorical block grant in 2012-13, adjusted for current year ADA, plus a lump sum for any categoricals included in LCFF that were received outside of the 2012-13 categorical block grant.

LCFF transition funding during the phase-in period is based on the difference between each school district and charter school's floor and its new LCFF target; this difference is called the need. The floor calculation includes any prior year gap funding, converted to a per-ADA value that is then applied to current year ADA. Every school district and charter school that is not already funded based on its target will receive a percentage of its need, based on

how much is appropriated in the state budget each fiscal year for this purpose. This additional funding is called gap funding. An LEA's funding amount during the phase-in period is then based on a recalculation of its LCFF target and its floor, with gap funding added to the floor to arrive at the total transition entitlement for that year.

LCFF transition calculations are described in detail in the School District LCFF Transition Calculation and Charter School Transition Calculation sections of the Exhibit Reference Guides available on the [Principal Apportionment web page](#) for each fiscal year.

What is Economic Recovery Target funding and how can I get it? (Revised 04-Dec-2015)

An Economic Recovery Target (ERT) entitlement is based on the difference between the amount a school district or charter school would have received under the old funding system and the estimated amount it would receive for LCFF funding in 2020–21, based on certain criteria. To determine this difference, assumptions for the old funding system include:

- 2012–13 undeficitated revenue limits, or block grant funding for charter schools, with cost-of-living adjustments of 1.57 percent in 2013–14 and 1.94 percent each year from 2014 –15 through 2020–21; and
- Categorical program funding levels restored to the pre-recession level

Only school districts and charter schools that were at, or below, the 90th percentile of per-pupil funding rates of school districts under the old funding system as determined at the 2013-14 P-2 certification, are eligible for ERT payments. An LEA eligible to receive ERT payments will receive one-eighth of its payment in 2013–14, two-eighths of its payment in 2014–15, and so on, following this pattern until it has reached its full amount in 2020–21, at which time the ERT payment will become a permanent add-on to the LEA's LCFF formula funding. ERT funding was calculated in 2013-14 and funding eligibility is closed to new participants.

How are funds apportioned under LCFF? (Revised 04-Dec-2015)

LCFF is funded through a combination of local property taxes and state aid. State aid is distributed through the Principal Apportionment. For information on the Principal Apportionment, including the Principal Apportionment payment schedule, go to the [Principal Apportionment Web page](#).

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Financial Accounting

In the standardized account code structure (SACS), will all the LCFF funding be accounted for as an unrestricted resource? (Revised 17-Nov-2014)

All LCFF funding will be accounted for as an unrestricted resource.


How can expenditures be coded to address LCFF state priorities?

Funding is provided in an unrestricted resource code. LEAs may define local codes to track expenditures if they wish.

Does the LCFF result in any modification or elimination of the “Minimum Classroom Compensation” requirements of EC Section 41372?

No.

Will the recommended level for the reserve for economic uncertainties be increased?

The regulations regarding the recommended reserve for economic uncertainties remain in place under the LCFF ([California Code of Regulations Title 5, Section 15449](#) )

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Local Control and Accountability Plans

What is the Local Control and Accountability Plan (LCAP)?

The LCAP is an important component of the LCFF. Under the LCFF all LEAs are required to prepare an LCAP, which describes how they intend to meet annual goals for all pupils, with specific activities to address state and local priorities identified pursuant to *EC* Section 52060(d).

What does it mean to adhere to the SBE adopted template? (Posted 12-May-2015)

The Local Control and Accountability Plan (LCAP) and the Annual Update to the LCAP must be completed in conformance with the State Board of Education approved template. (*Education Code* sections 47606.5, 52060, 52061, 52064, 52066 and 52067; *California Code of Regulations*, Title 5 (5CCR), Section 15495(c).) The template, as set forth in regulations at 5CCR Section 15497.5, may not be materially altered. This means, for example, that the instructions, headers, guiding questions, and tables (including text in the tables, such as the student subgroup indicators) may not be deleted. The template allows for an LEA to resize pages, attach additional pages, and duplicate and expand fields as necessary in order to facilitate the completion of the LCAP and Annual Update. To improve readability and/or accessibility, minor variations, in spacing, font size, margins, row heights or column widths are not considered material changes.

Does the LCAP replace Local Educational Agency Plans (LEAPs) required under the federal Elementary and Secondary Education Act (ESEA)?

The LCAP does not replace the federal requirements related to LEA Plans in Section 1112 of the ESEA. However, the LCAP template will be developed by the SBE in a manner that meets both the LCAP requirements and the federal requirements, and the SBE will take steps to minimize duplication of effort at the local level to the greatest extent possible (*EC* Section 52064).

What are the planning requirements for LEAs identified for program improvement pursuant to ESEA?

LEAs identified for program improvement must continue to meet current LEA Plan requirements pursuant to ESEA Section 1116(c)(7).

How does the LCAP affect site plans (i.e., Single Plan for Student Achievement)?

According to *EC* Section 52062, specific actions included in the LCAP, or the annual update of the LCAP, must be consistent with the strategies included in the school plans submitted pursuant to *EC* Section 64001.

Must all state priorities be addressed in each year or over the three year period? (Revised 09-Dec-2015)

EC sections 52060 and 52066 specify that the LCAP must include a description of the **annual** goals to be achieved for all students and each student group **for each state priority**. Goals must address each of the state priorities and any additional local priorities; however, one goal may address multiple priorities. An LEA may identify

which school sites and subgroups have the same goals, and group and describe those goals together. If a single goal requires longer than one year to implement fully, the LCAP should reflect the annual incremental actions, services, and expenditures, as well as the annual anticipated progress, that the district expects to achieve for each student group. These annual benchmarks will assist LEAs and the community to monitor the progress of the plan.

The instructions in Section 2 on page 12 of the LCAP template state that each goal table must identify the state and/or local priorities “addressed” by the goal. How does a goal “address” a state priority? (Posted 09-Dec-2015)

A goal addresses a state priority if one or more of the expected annual measurable outcomes in the goal table uses one or more of the applicable required metrics for that priority (e.g., high school graduation rate for the pupil engagement priority). In addition, a goal addresses a state priority that has optional metrics by including a locally-selected metric for that priority. As explained in the previous question, the LCAP must include a description of the **annual** goals for all students and each student group to be achieved **for each state priority**. *EC* sections 52060 and 52066 set forth these state priorities, some of which include specified measures and objectives. Consequently, for each LCAP year, the goals in the LCAP must cumulatively identify and describe annual expected measurable outcomes for all students and student groups using, at minimum, these required metrics unless a given priority or metric is inapplicable.

Does a Local Control and Accountability Plan (LCAP) need to address each state priority *equally*? (Posted 09-Dec-2015)

No. While the LCAP must include annual goals to be achieved for each state priority, a local educational agency may choose to focus its LCAP on a specific subset of the state priorities and any local priorities. A local educational agency does **not** need to address each priority equally in terms of number of related goals, planned actions or expenditures. For example, a district governing board might adopt an LCAP goal that addresses three state priorities and describes a limited number of planned actions and expenditures to achieve the goal, and adopt another LCAP goal that addresses only one priority yet describes a much greater number of planned actions and expenditures to achieve that goal.

Will there be a new LCAP template that LEAs must use in 2016–17? (Posted 09-Dec-2015)

No. The current LCAP and Annual Update template is the one all LEAs will use in 2016–17.

May a school district or county office of education make changes to its Local Control and Accountability Plan and Annual Update (LCAP) subsequent to the local governing board adopting it? (Posted 09-Dec-2015)

Yes. There are two possible processes for making changes to an LCAP: revising an LCAP during the period it is in effect, and amending an LCAP during the review and approval process.

During the period the LCAP is in effect, which is after it is approved by the county superintendent of schools or the Superintendent of Public Instruction (SPI), the local governing board may adopt revisions if it follows the same process it used for adopting the LCAP initially (specifically the steps set forth in *Education Code (EC)* Section 52062 or Section 52068) and adopts the revisions in a public meeting. The revised LCAP would then need to be approved by the county superintendent of schools or the SPI as appropriate.

Alternatively, a district governing board may amend an adopted LCAP without going through the steps in *EC* Section 52062 or Section 52068 if the amendments are made in response to requests for clarification and/or recommendations for amendments from the local county superintendent of schools or the SPI during the LCAP review and approval process. Additionally, *EC* Sections 52070 and 52070.5 provides that on or before August 15th

of each year, a county superintendent of schools or the SPI may seek clarification, in writing, from the local governing board about the contents of the LCAP, to which the local governing board must respond, in writing, within 15 days. Within 15 days of receiving a response, the county superintendent of schools or the SPI may submit recommendations, in writing, for amendments to the LCAP. The local governing board must then consider the written recommendations in a public meeting within 15 days of receipt.

What State Standards must the LCAP address as part of Priority 2? (Posted 21-Oct-2014)

The LCAP must include goals and related actions that address implementation of the academic content and performance standards adopted by the State Board. The content standards adopted by the California State Board of Education are listed below:

- English Language Arts – Common Core State Standards for English Language Arts, Adopted August 2010
- Mathematics – Common Core State Standards for Mathematics, Adopted August 2010 and modified January 2013
- English Language Development, Adopted November 2012
- Career Technical Education, Updated January 2013
- Health Education Content Standards, Adopted March 2008
- History-Social Science, Adopted October 1998
- Model School Library Standards, Adopted September 2010
- Physical Education Model Content Standards, Adopted January 2005
- Next Generation Science Standards, Adopted 2013
- Visual and Performing Arts, Adopted January 2001
- World Language, Adopted January 2009

The list of the standards may also be accessed at the CDE's [Content Standards](#) Web page.

Further, Priority 2 requires the description of how programs and services will enable English Learners to access the [English-Language Arts](#) (PDF) and [Mathematics](#) (PDF) Common Core academic standards adopted pursuant to Section 60605.8 and the [English Language Development standards](#) adopted pursuant to Section 60811.3 for purposes of gaining academic content knowledge and English language proficiency.

What is expected of LEAs in completing Section 3.A of the current LCAP template, including the requirement to “describe” any LEA-wide or school-wide use of supplemental and concentration funding? (Posted 25-Apr-2016)

LEAs must explain how they will expend supplemental and concentration funds in the LCAP year and how any proposed LEA-wide or school-wide uses of supplemental and concentration funding will meet the relevant standards set forth in the LCFF expenditure regulations (5 CCR 15496(b)).

Specifically, this means that LEAs must explain how any proposed LEA-wide or school-wide uses of these funds will support services that “are principally directed towards, and are effective in, meeting the [LEA’s] goals for its unduplicated pupils in the state or any local priority areas.”

For school districts that have an enrollment of less than 55% unduplicated pupils in the district or less than 40% unduplicated pupils at a school during the LCAP year, the description must also describe how the proposed district-wide or school-wide services are “the most effective use of funds to meet the district’s goals for unduplicated pupils in the state and any local priorities.”

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Unduplicated Pupils and California Longitudinal Pupil Achievement Data System

Will the California Longitudinal Pupil Achievement Data System (CALPADS) data collection processes change under the LCFF? (Revised 04-Dec-2015)

No, data collection processes will not change. However, the CDE has added several new reports to allow LEAs to view their reported enrollment and unduplicated pupil counts that will be used in your LCFF funding calculations. See following questions for descriptions of the new reports.

How are “unduplicated pupils” defined for purposes of calculating supplemental and concentration grant amounts? (Revised 04-Dec-2015)

Supplemental and concentration grant amounts are calculated based on the percentage of “unduplicated pupils” enrolled in the LEA on Census Day (first Wednesday in October) as certified for Fall 1. The percentage equals:

- Unduplicated count of pupils who (1) are English learners, (2) meet income or categorical eligibility requirements for free or reduced-price meals under the National School Lunch Program, or (3) are foster youth. “Unduplicated count” means that each pupil is counted only once even if the pupil meets more than one of these criteria (*EC* sections 2574(b)(2) and 42238.02(b)(1)).
- Divided by total enrollment in the LEA (*EC* sections 2574(b)(1) and 42238.02(b)(5)).

What data will be used to determine the unduplicated student count? (Revised 04-Dec-2015)

Enrollment and other demographic data submitted by local educational agencies (LEAs) to CALPADS are used as the starting point for calculating the unduplicated student count. CALPADS Certification Report 1.17 – *FRPM/English Learner/Foster Youth – Count*, displays the counts of students by category and provides an unduplicated total. LEAs may use CALPADS Report 1.18 – *FRPM/English Learner/Foster Youth – Student List* to review the students included in report 1.17. LEAs are required to certify report 1.17 during the CALPADS Fall 1 submission.

In order to be counted in report 1.17 a student must have an open primary or short-term enrollment in CALPADS over Census Day (the first Wednesday in October) *and* meet one or more of the following criteria:

- Have a program record with an education program code of Homeless (191), Migrant (135), Free Meal Program (181), or Reduced-Price Meal Program (182), that is open over Census Day
- Have an English Language Acquisition Status (ELAS) of “English learner” (EL) that is effective over Census Day
- Be directly certified in July through November as being eligible for free meals based on a statewide match conducted by CALPADS
- Be identified as a foster youth based on a statewide match conducted by CALPADS
- Be identified as a foster youth through a local data matching process and submitted to and validated by CALPADS

LEAs do not need to submit information to CALPADS for students identified in statewide matches to be included in report 1.17.

CALPADS Report 1.19 is used by COEs and charter schools operating county programs to report the transfer of students that are served by the county but funded through the district (or served by the charter but funded through the county). These counts are then transferred to the appropriate LEA for purposes of LCFF funding calculations.

What is the role of county offices of education (COEs) in reviewing data on unduplicated students?

(Posted 08-July-2014)

EC Section 42238.02(b)(3)(A) requires COEs to “review and validate certified aggregate English learner, foster youth, and free or reduced-price meal eligible pupil data for school districts and charter schools under its jurisdiction to ensure the data is reported accurately.”

To assist COEs to meet this requirement, CALPADS includes a County/LEA Authorizing Report, Report C/A 1.17 – *C/A FRPM/English Learner/Foster Youth Counts*. This report displays, for the school districts and charter schools in the COE’s jurisdiction, the certified counts of unduplicated students by LEA and schools within the LEA. COEs should review this report for reasonableness and communicate any potential issues to the school district or charter school during the CALPADS Fall 1 amendment window. COEs may want to judge reasonableness based on prior year data. COEs are not required to certify this report.

To access this report, the CALPADS LEA Administrator for the COE must:

1. Create a new account with specific roles or add specific roles to the existing account as follows:
 - a. County Role
 - b. Free Reduced Lunch
2. Log into CALPADS with appropriate account
3. Navigate to the Reports tab and select the County/LEA Authorizing Reports
4. Select Report C/A 1.17 – *C/A FRPM/English Learner/Foster Youth – Count*

Will any adjustments be applied to the unduplicated student count certified in Fall 1 prior to use in LCFF calculations? (Revised 04-Dec-2015)

The data from CALPADS Certification Report 1.17, *FRPM/English Learner/Foster Youth – Count* are the starting point for the LCFF supplemental and concentration grant calculations. Adjustments are made to the counts certified in the 1.17 CALPADS report based on data submitted by COEs in the 1.19 CALPADS report. Students served by the COE or a county program charter that are on probation, probation referred, expelled pursuant to EC Section 48915 (a) or (c), or in juvenile court schools, are attributed to the COE. All other students are attributed to their district of residence or the county program charter. Additional adjustments may be made as a result of audit findings reported to the CDE.

Is the calculation of the “unduplicated pupils” percentage based on annual or a multi-year average of data? (Revised 04-Dec-2015)

The LCFF calculation uses a three-year average based on the current year and two prior years. However, for the first year of implementation (2013–14), it will be based on one year of data only. In 2014–15 it will be based on two years of data. In the 2014–15 and 2015–16 calculations, pursuant to EC sections 2574(b)(1)(D) and 42238.02(b)(5)(D), the 2014–15 unduplicated percentage will be used in place of the 2013–14 unduplicated percentage if the 2014–15 unduplicated percentage is higher.

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Free and Reduced-Price Meal (FRPM) Income Eligibility Under the LCFF

Which students are “eligible for free or reduced-price meals” under the LCFF? (Revised 16-May-2016)

Any student who meets the federal income eligibility criteria or is deemed to be categorically eligible for FRPM under the National School Lunch Program (NSLP) will be counted as FRPM-eligible. Except for directly certified and foster students identified through a statewide match, LEAs must submit the appropriate student program (SPRG) records to CALPADS in order for the students to be counted as FRPM-eligible. Based on these criteria, the following students are considered FRPM-eligible:

- Students meeting NSLP income criteria as documented by an NSLP application form on file (code 181—free meal or 182—reduced-price meal).
- Students identified by the LEA to meet the same household income eligibility criteria required by the NSLP as documented on an alternative household income data collection form (program code 181—free meal or 182—reduced-price meal).
- Students categorically eligible for FRPM, including:
 - ◆ Migrant students (program code 135)
 - ◆ Homeless students (program code 191)
 - ◆ Foster students identified through a statewide match with California Department of Social Services foster data (program code not needed)
 - ◆ Students participating in the Food Distribution Program on Indian Reservations (FDPIR) (program code 181—free meal)
- Students directly certified as eligible for free meals based on the CALPADS state-administered automatic match with California’s CalFresh (formerly Food Stamp) and CalWORKs eligibility data (program code not needed).
- Students directly certified as eligible for free meals based on a match conducted by an LEA and its county welfare department of student enrollment and CalFresh and CalWORKs eligibility data (program code 181—free meal).

It is important to note that LEAs may not collect NSLP applications for students enrolled in schools with Provision 2 or 3 status in non-base years or Community Eligibility Provision (CEP) at any time. However, students enrolled in Provision 2 or 3 or CEP schools may qualify as FRPM-eligible for LCFF purposes through the direct certification process: based on their migrant, homeless, or foster status; or by a local process, such as collection of an alternative household income form to establish that the student’s household meets the income eligibility criteria required by the NSLP.

What is the timeline for determining income eligibility for free or reduced-price meals to qualify for LCFF?
(Revised 08-July-2014)

Eligibility based on an NSLP application or alternative household income data collection form. To be included in the LCFF unduplicated student count, an NSLP application or alternative household income data collection form must be submitted by students to their schools between July 1 and October 31 of the school year. For example, a student who submits an application on October 31, 2014 may be included in the 2014–15 LCFF unduplicated student count, if found to be eligible for FRPM. Applications submitted between July 1 and October 31 may be processed and approved by the LEA after October 31 and students found to be eligible may be included in that year. Although students may be considered eligible for free/reduced price lunch programs in the first 30 days of a school year based on the prior year’s eligibility, students may not be coded as FRPM-eligible based on this 30-day eligibility window.

For these students to be included in the unduplicated count, LEAs must submit an open program record with a Free Meal program code of 181 or a Reduced-Price Meal program code of 182 that is open over Census Day. This means that LEAs may use a program start date that is before Census Day for applications processed after Census Day. LEAs may update CALPADS with FRPM program records until the close of the CALPADS Fall 1 amendment window, which is generally in February. (Specific dates are posted on the [CALPADS Web Page](#).)

LEAs are required to verify a percentage of NSLP applications by November 15 of each year. If it is discovered during the income verification that a student should not have been designated as FRPM eligible, then the LEA must submit a correction to the FRPM record during the amendment period.

Eligibility based on direct certification. Students directly certified through the statewide process performed by CALPADS in July through November are included in the unduplicated student count for LCFF. (The direct certification process in CALPADS occurs on the second day of each month. The direct certification November pull is included in order to capture students directly certified in October.) CALPADS Certification Report 1.17 – *FRPM English Learner Foster Youth – Count* automatically includes these students. LEAs do not need to submit a Free Meal program record for these students.

Students directly certified through a local process conducted between July 1 and October 31 may be included in the unduplicated student count for LCFF. To be counted the LEA must submit a primary or short-term enrollment in CALPADS, and a Student Program (SPRG) File with a Free Meal Program record (program code 181). Both the enrollment and Free Meal program record must be open over Census Day.

Can an LEA share its FRPM data with another LEA for LCFF purposes? (Posted 06-Nov-2014)

Yes. LEAs may obtain FRPM data from other LEAs as students transfer from one LEA to another. Assembly Bill 1599 (Chapter 327, Statutes of 2014) amended *EC* Section 49558 (that governs the confidentiality of school meal records) to clarify that LEAs may disclose individual FRPM eligibility data with other LEAs for NSLP/meal certification purposes, and for LCFF data collections/calculations.

COEs often run special day classes at a district. The district collects FRPM data, provides meals, and collects reimbursements for those meals. The COE reports enrollment for those students in CALPADS and needs to obtain the FRPM data from the collecting district. Can the district release that information to the COE? (Posted 06-Nov-2014)

Yes. Rules about information sharing apply to school districts, COEs, and charter schools.

Can an LEA provide the actual reporting form (NSLP or alternative household income verification) to auditors? (Posted 06-Nov-2014)

Yes. LEAs (in the case of alternative household income forms) and food service departments (in the case of NSLP forms) may allow auditors access to individual forms for review, either for NSLP audits or LCFF audits. However, all documentation and information related thereto provided by the LEA staff (including any food services staff) to auditors is to be kept in strict confidence adhering to all state and federal privacy laws and is to be used solely for the purpose of determining whether a student is correctly designated as FRPM eligible.

LEAs (in the case of alternative household income forms) and food service departments (in the case of NSLP forms) have the discretion whether to allow auditors to leave the campus with the forms, make copies, or have the forms or copies e-mailed or mailed off campus. Further, auditors may be required to review the forms onsite to maintain confidentiality, even if the auditor wants an additional sample of forms and has already left the campus.

Who can an LEA, auditor, or food service personnel contact at CDE if they need further clarification on the documentation that is allowed to be released? (Posted 06-Nov-2014)

- For questions related to LCFF funding and the alternative household income form, please contact PASE@cde.ca.gov.
- For questions about CALPADS, please contact the CALPADS Service Desk at calpads-support@cde.ca.gov.

- For questions related to the NSLP application, please contact your School Nutrition Program County Specialist. The SNP County Specialist list is available in the Child Nutrition Information Payment System Download Forms section entitled “Caseload SNP.” If you do not have access to CNIPS, please call 1-800-952-5609 and you will be directed to your SNP County Specialist.

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Unduplicated Pupils at Schools with Provision 2 and 3 or Community Eligibility Provision (CEP) Status

How will pupils eligible to receive free and reduced-price meals in Provision 2 and 3 or CEP schools be counted for LCFF purposes? (Updated 15-Oct-2015)

Under the National School Lunch Program (NSLP):

- Schools with Provision 2 and 3 status receive reimbursements for meals served based on participation in a base year (of a four-year cycle for Provision 2; five-year cycle for Provision 3). These schools collect NSLP eligibility applications in the base year, but do not collect eligibility applications in the subsequent years the school is on Provision 2 and 3 status, except to reestablish a base year.
- Schools participating under the CEP receive reimbursements for meals served based on the percentage of identified pupils each year (in a four-year cycle, plus grace year). Identified pupils are pupils directly certified for meals who receive CalFresh, CalWORKs, and Food Distribution Program on Indian Reservations (FDPIR) benefits, and the extension of these benefits to pupils within the same household. It also includes pupils certified as foster, homeless, migrant, runaway, or participating in Head Start Programs; these pupils are deemed categorically eligible. These schools do not collect NSLP eligibility applications in the four-year cycle or in the grace year.

To be counted as eligible for free or reduced-price meals (FRPM) for purposes of the LCFF, pupils must meet income eligibility criteria for the NSLP through an approved NSLP application or alternative household income data collection form, be directly certified to receive free meals, or be categorically eligible. This means that in Provision 2/3 and CEP schools, for students who are not directly certified or categorically eligible, LEAs must determine income eligibility through an alternative household income data collection form and submit a corresponding program record in CALPADS. Identifying a pupil as income-eligible or not income-eligible in CALPADS does not affect the pupil's ability to receive a free meal in a Provision 2/3 or CEP school.

To further reduce the burden of data collection, *Education Code (EC) Section 42238.01(a)* was recently amended (Chapter 327, Statutes of 2015) to provide that an LEA participating in Provision 2/3 or CEP “*may establish a base year for purposes of the local control funding formula by determining the pupils at the school who are eligible for free or reduced-price meals and using each pupil's eligibility status in that base year to report eligibility for up to each of the following three school years. The school may include between base year eligibility determinations, any newly enrolled pupils who are determined to be eligible for free or reduced-price meals or any current pupils found to be newly eligible for free or reduced-price meals as identified through a local or state direct certification match or other categorical designation.*” (Note: The base year established for local control funding purposes is distinct from the Provision 2/3 or CEP “base year” under the NSLP, although, as explained below, schools can establish the same year as “base years” for both purposes.)

Determining Base Year: LEAs using the option to establish an LCFF base year must collect eligibility data for all eligible pupils at least once every four years. The pupil's eligibility status in the LCFF base year, which is either based on income data from an NSLP application or alternative household income data collection form, or through

direct certification or categorical eligibility, remains the same until the LEA establishes a new LCFF base year for the school. Schools may perform the LCFF base year data collection during the same year that they establish a Provision 2/3 base year under the NSLP, in which case, NSLP applications can be used for LCFF purposes. CEP schools do not collect NSLP applications so those schools must use alternative household income data collection forms to determine pupil eligibility, even in base years.

Since pupils in Provision 2/3 and CEP schools who are identified as meeting NSLP income requirements based on an NSLP application or alternative household income data collection form in the base year retain eligibility for purposes of LCFF into subsequent non-base years, all schools must submit an FRPM program record for these pupils to CALPADS *every year* in order to be counted for LCFF. The application or alternative form collected in the base year can be used as the basis for the submission of the annual program record for each of the subsequent years before re-establishing a new base year.

Pupils in Provision 2/3 and CEP schools who are identified as meeting NSLP eligibility requirements based on direct certification or categorical eligibility in the base year, also retain eligibility for purposes of LCFF in subsequent non-base years, even if the pupils are not directly certified or categorically eligible in the subsequent non-base years. In order to be counted for LCFF, LEAs must submit **FRPM program records** to CALPADS for these pupils in each of the intervening years. For students who were categorically eligible based on their homeless or migrant status, but who are no longer homeless or migrant in subsequent non-base years, LEAs should continue to submit FRPM program records but should no longer submit homeless or migrant program records. The direct certification list or documentation of categorical eligibility collected in the base year can be used as the basis for the submission of the annual program record for each of the subsequent years before re-establishing a new base year.

Additions to Base Year: During the intervening years between base years, LEAs should collect data only from newly enrolled pupils. Since Provision 2/3 schools do not collect NSLP applications between base years and CEP schools never collect NSLP applications, LEAs can only make income eligibility determinations on newly enrolled pupils who were not directly certified or categorically eligible using alternative household income data collection forms. LEAs must submit FRPM program records to CALPADS for newly enrolled pupils meeting the income eligibility requirements, as well as for newly enrolled pupils directly certified through a local match or categorically eligible for benefits, in order to be counted for LCFF. In addition, LEAs may submit FRPM program records for currently-enrolled pupils who were not included in the base year but were later determined to be eligible through direct certification or categorical eligibility. (See “What data must be collected by Provision 2/3 and CEP schools for newly enrolled pupils in intervening years to determine eligibility for LCFF?” for further detail.)

A school's base year designation is not submitted to the CDE and should be documented by the LEA for auditing purposes. Schools should be prepared to show auditors the original documentation that a pupil is FRPM eligible, which would be the NSLP application or household income data collection form, the direct certification list, or the documentation of categorical eligibility submitted in the base year. Pupils enrolled after the base year would have documentation from the year they were enrolled. Pupils enrolled in a school during a base year and who were not eligible for purposes of LCFF but were subsequently directly certified or determined to be categorically eligible in non-base years would have the documentation from the year they were certified or determined to be categorically eligible.

Is FRPM-eligibility data used for more than calculating LCFF? (Updated 15-Oct-2015)

LCFF funding calculations are not the only reason FRPM eligibility data is collected; it is also collected in aggregate to track the academic achievement of the socioeconomically disadvantaged pupil group as defined in California's accountability workbook approved by the SBE and submitted to the federal United States Department

of Education as required by federal accountability statute. Therefore, any pupils identified as FRPM eligible are included in the schools' socioeconomically disadvantaged accountability subgroup. FRPM data may also be used to determine funding for categorical programs such as the Prop 39 Clean Energy Jobs Act.

What information must be collected on the alternative household income data collection forms for Provision 2 and 3 schools, schools participating under the CEP, or schools that do not participate in the NSLP? (Updated 15-Oct-2015)

All information collected on the NSLP eligibility application forms is not required to be collected on alternative household income data collection forms for LCFF and accountability purposes. Forms that contain the following minimum information would be considered valid documentation of FRPM eligibility:

- Information sufficient to identify the pupil(s)
- Information sufficient to determine that the pupil or household meets federal income eligibility criteria sufficient to qualify for either a free or reduced-priced meal under the Richard B. Russell National School Lunch Act (Public Law 113-79)
- Certification that information is true and correct by the pupil's adult household member

The CDE has developed several sample forms to collect income eligibility information. These forms are not designed for and should not be used to determine eligibility for free or reduced-price meals under the NSLP. Please note that the ranges used to determine income eligibility are updated annually. Updated Household Size and Income Eligibility data located on the California Department of Education's [School Nutrition Programs Eligibility Materials Web page](#). Category 1 is the range for free meals and category 2 is the range for reduced-price meals.

- [Household Income Data Collection Form Sample 1 \(English\) \(DOC; Revised 14-May-2015\)](#)
This form collects information for multiple children in a household. Parents/guardians would calculate their annual income and select among income ranges. Please note that LEAs need to update the form annually to reflect the current year's household size and income eligibility ranges.
 - ◆ [Available translations of Household Income Data Collection Form Sample 1](#)
- [Household Income Data Collection Form Sample 2 \(English\) \(DOC; Revised 14-May-2015\)](#)
This form collects information for multiple children in a household. Parents/guardians would list their income sources and amounts. The school would determine whether the income falls within specified ranges.
 - ◆ [Available translations of Household Income Data Collection Form Sample 2](#)
- [Household Income Data Collection Form Sample 3 \(English\) \(DOC; Revised 14-May-2015\)](#)
This form collects information for multiple children in a household. Parents/guardians would select among income ranges, which are presented for various frequencies of payment (weekly, monthly, yearly, etc.). Please note that LEAs need to update the form annually to reflect the current year's household size and income eligibility ranges.
 - ◆ [Available translations of Household Income Data Collection Form Sample 3](#)
- [Household Income Data Collection Form Sample 4 \(English\) \(DOC; Revised 14-May-2015\)](#)
This form collects information for one child. Parents/guardians would provide their total income and household size. The school would determine whether the income falls within specified ranges.
 - ◆ [Available translations of Household Income Data Collection Form Sample 4](#)
- [Household Income Data Collection Form Sample 5 \(English\) \(XLS; Revised 06-Oct-2014\)](#)
This form collects information for multiple children in a household. Parents/guardians would list their income sources and amounts. The school would determine whether the income falls within specified ranges. The form includes other information that the school may wish to collect, such as eligibility for benefits under various federal programs.
 - ◆ [Available translations of Household Income Data Collection Form Sample 5](#)

It should be noted that the data collection requirements applying to Provision 2/3 and CEP schools also apply to schools that do not collect NSLP applications for other reasons, for example schools that do not participate in the NSLP. Please also note that only Provision 2/3 and CEP schools can establish a base year for LCFF purposes (see FAQs above) and collect data less frequently than annually; other schools must collect data every year.

What data must be collected in intervening years by Provision 2/3 and CEP schools for newly enrolled pupils transferring from another LEA to determine eligibility for LCFF? (Updated 15-Oct-2015)

The pupil enrolls prior to the October Census Day:

- If transferring from another LEA that has determined eligibility during the current school year, the new LEA can accept the supporting documentation collected by the previous LEA and use the information for Census Day reporting for the current year and in future non-base years. Only current-year eligibility determinations can be used for this purpose; eligibility determinations made by the previous LEA in prior school years cannot be carried over and used by the new LEA.
- If eligibility has not been determined for the current school year, the new LEA will need to determine eligibility for the pupil, either through collection of a household income data collection form or through direct certification or determination of categorical eligibility, and use the information for Census Day reporting for the current year and in future non-base years.

The pupil enrolls after the October Census Day:

- If transferring from another LEA that has determined eligibility during the current school year, the new LEA can accept the supporting documentation collected by the previous LEA and can use the information in future non-base years without the new LEA having to re-determine eligibility. Since the pupil was not enrolled in the LEA on Census Day, the pupil would not be included in the current year Census Day count.
- If eligibility has not been determined by the other LEA during the current school year, even though it does not impact LCFF counts for the current year, the new LEA should determine the pupil's eligibility as soon as possible after enrollment because this information is used in the current year for accountability subgroup determinations and other reporting, and will be needed in future non-base years for LCFF.

When accepting supporting documentation from another LEA, the new LEA must ensure the documentation provided is from the current school year. Once eligibility is established by the new LEA, it may carry over into subsequent years, and eligibility for that pupil does not need to be re-determined until the school re-establishes its base year. In this case, schools should be prepared to show auditors the original documentation that designated the pupil as FRPM eligible, which would be the NSLP application, alternative household income data collection form, direct certification list or documentation of categorical eligibility sent from the prior school.

What data must be collected in intervening years by Provision 2/3 and CEP schools for pupils transferring between schools within the same LEA to determine eligibility for LCFF? (Updated 15-Oct-2015)

For any pupil transferring to a Provision 2/3 or CEP school in a non-base year within the same LEA, the LEA may use the FRPM eligibility previously established within the LEA, whether eligibility was established in the current year or in prior years, as long as documentation supporting eligibility for those pupils is less than four years old. Once eligibility has been determined by the new school, it may be carried over as long as the LEA updates pupil eligibility at least once every four years.

If a family does not complete an NSLP application or alternative household income data collection form during the LCFF base year and the pupil is not directly certified or determined to be categorically eligible, can a Provision 2/3 or CEP school collect an NSLP application or household income form from that continuing family during the non-base years? (Updated 15-Oct-2015)

No. If a Provision 2/3 or CEP school has established an LCFF base year, the school cannot collect NSLP applications or alternative household income data collection forms from continuing pupils during non-base years. However, pupils not deemed eligible in the LCFF base year who are later directly certified or determined to be categorically eligible during non-base years can be included in the LEA's unduplicated pupil count and their eligibility can be carried over to non-base years until a new base year is established.

Can an LEA share FRPM or Alternative Household Income data with another LEA for LCFF purposes?
(Updated 15-Oct-2015)

While Education Code section 49558 previously restricted the sharing of NSLP applications between LEAs for purposes other than administering the NSLP program, a recent amendment [Assembly Bill 1599 (Chapter 327, Statutes of 2014)] to Section 49558, allows LEAs to share pupils' names and FRPM eligibility status with other LEAs when necessary for LCFF data calculations. In addition, alternative household income data and pupils' eligibility status, and the forms themselves, can be shared with other LEAs as necessary for LCFF calculations.

Can the cafeteria fund be used to support administrative functions related to the alternative household income data collection process? (Updated 15-Oct-2015)

No. Federal and California State laws prohibit the school cafeteria fund from paying for functions that are not related to the NSLP. The development, distribution, receipt, review, and approval of an alternative household income data collection form, are not functions related to the NSLP; therefore, cafeteria funds cannot be used for activities related to the alternative household income data collection process.

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English Learners Under the LCFF

Which students are classified as English learners under the LCFF? (Revised 04-Dec-2015)

A student is classified as an English learner for LCFF purposes if he or she is identified in CALPADS as enrolled on Census Day with an English Language Acquisition Status (ELAS) of "English learner" (EL). Please see the Auditing topic for additional information regarding documentation.

Can a student with an ELAS of "To Be Determined" (TBD) who is later determined to be an English learner be included in the LCFF unduplicated student count? (Posted 08-July-2014)

If an LEA previously submitted an ELAS of TBD for a student, and the LEA determines after Census Day (the first Wednesday in October) that the student is an English learner, the LEA may update the TBD status to "EL" with a start date that is before Census Day. If this update is done before the LEA certifies its Fall 1 data in CALPADS, then the student will be included in the LCFF unduplicated student count.

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Foster Youth Under the LCFF

Who are considered "foster youth" under the LCFF? (Posted 08-July-2014)

Pursuant to recent revisions to *EC* Section 42238.01(b), the following children and youth are considered "foster youth" for purposes of the LCFF:

- A child or youth who is the subject of a petition filed under *Welfare and Institutions Code (WIC) Section 300* (meaning a court has taken jurisdiction over a child and declared the child to be a dependent of the court due to the presence or risk of abuse or neglect). This includes both children who are living at home while a dependent of the court as well as children who the court has ordered to be removed into the care, custody and control of a social worker for placement outside the home.
- A child or youth who is the subject of a petition filed under *WIC Section 602* (meaning a court has taken jurisdiction over a child and declared the child to be a ward of the court due to the child's violation of certain criminal laws) *and* has been ordered by a court to be removed from home pursuant to *WIC Section 727* and placed in foster care as defined by *WIC Section 727.4(d)*.
- A youth between ages 18 and 21 who is enrolled in high school, is a non-minor dependent under the placement responsibility of child welfare, probation, or a tribal organization participating in an agreement pursuant to *WIC Section 10553.1*, and is participating in a transitional living case plan.

For foster youth living outside the home, does the type of out-of-home placement matter? (Posted 08-July-2014)

If a child is a foster youth as defined by *EC Section 42238.01(b)*, where that child or youth is placed does not matter. Typical placement types include, but are not limited to, a county shelter/receiving home, court specified home, Foster Family Agency Certified Home, Foster Family Home, Group Home, Guardian with Dependency, Medical Facility, Non-Foster Care Home, Relative/NREFM (Non Related Extended Family Member) Home, Small Family Home, Supervised Independent Living Placement, or Tribe Specified Home. A foster youth as defined under LCFF may also be temporarily living in a Juvenile Hall.

Who is not considered “foster youth” under the LCFF? (Posted 08-July-2014)

- A child or youth who is in a “voluntary placement.” Voluntary placements are not subject to a petition filed under *WIC Section 300*.
- A child or youth who is living with relatives or friends and who is not a dependent of the court (i.e. is not subject to a *WIC Section 300* petition).
- A child or youth who is a ward of the juvenile court pursuant to a petition filed under *WIC Section 602* who is either living at home or has been ordered to be placed in a corrective or rehabilitative facility but has not been ordered to be removed from his or her home into a foster care placement pursuant to *WIC Section 727.4(d)*.

What is a Foster ID? (Posted 08-July-2014)

The Foster ID (also referred to as Foster Client ID or Student Foster ID) is a unique 10-digit number assigned by the Child Welfare System/Case Management System (CWS/CMS).

Which foster youth are included in the unduplicated count for purposes of calculating supplemental and concentration grants under the LCFF? (Revised 04-Dec-2015)

The foster youth included in the unduplicated count are those who the LEA report to the CALPADS as enrolled in a school in the LEA on Census Day (first Wednesday in October) and who have been identified as a foster youth through the statewide match or who have been identified through a local data matching process and submitted to and validated by CALPADS.

What is the statewide foster match? How does it differ from a local match? (Posted 08-July-2014)

The statewide process matches CALPADS enrollment data to data from the CWS/CMS. CALPADS reports and extracts are available so that LEAs are informed as to the students identified as foster youth from this match. Beginning in fall 2014, the foster data will be updated in CALPADS on a weekly basis so that LEAs will be able to continuously serve the appropriate population. The matches conducted so far have yielded a match rate of over 90 percent; therefore the vast majority of foster students will be identified through this statewide match.

LEAs may conduct local matches with their county welfare departments, in which student enrollment data from their student information systems is matched with data in CWS/CMS. The California Department of Social Services (CDSS) and the CDE will communicate to county welfare departments, county offices of education, and LEAs, the categories of youth in CWS/CMS that should be used for local matching processes.

Since both the statewide match conducted between CDE and CDSS and local matches conducted between LEAs and county welfare departments use foster data from the same source system, CWS/CMS, both the statewide and local matches should yield the same results. However, due to differences in matching logic or lag time in updating data systems, a local match may sometimes identify a student as a foster student who is not identified in the statewide match.

What happens if the state match does not identify a youth who is identified as a foster youth through a local match? (Revised 04-Dec-2015)

If an LEA identifies a student as a foster youth from a local match conducted with its county welfare department who is not identified from the statewide match, the LEA may want to work with its county welfare department to determine why a particular student is not identified in the statewide match. As the state match rate continues to improve, LEAs should be able to rely solely on the statewide match.

LEAs will also be provided a mechanism for submitting to CALPADS students who have not been identified through the state matching process. This mechanism will include submission of and validation of the 10-digit Foster ID or 19-digit Case ID in CALPADS. CALPADS will not use the program file for submission of foster data.

What additional information will CALPADS provide to LEAs on foster youth? (Revised 22-Oct-2014)

CALPADS will provide LEA staff with appropriate security roles the following information on foster youth:

- Foster ID (10-digit)
- Case Start Date
- Case End Date
- Case ID (19-digit)
- Episode Start Date (the start of an out-of-home placement)
- Episode End Date (the end of an out-of-home placement)
- Social Worker Name and Phone Number
- Court Appointed Educational Representative and Phone Number
- An indication of whether the student is receiving family maintenance services (and thus is living at home)
- County of jurisdiction
- Whether parental rights are limited (Y/N)
- Responsible Agency (Child Welfare or Probation)

How should LEAs account for changes in the population of foster youth throughout the year in preparing LCAPs? (Revised 04-Dec-2015)

LEAs should identify services to be provided to any youth who becomes a foster youth during the school year, even though the numbers of foster youth may fluctuate. Only a portion of foster youth may be “counted” in the unduplicated student count for the LCFF or in the school’s Academic Performance Index (API) because they change schools frequently.

What foster youth are included in the API foster youth subgroup for state accountability purposes?

(Revised 04-Dec-2015)

A foster youth who is continuously enrolled will be included in the API foster youth subgroup. *California Code of Regulations*, Title 5, sections 1039.2 and 1039.3, relating to the implementation of *EC Section 52052.1(a)(1)*, define continuously enrolled as a “student enrollment from Fall Census Day (first Wednesday in October) to the first day of testing without a gap in enrollment of more than 30 consecutive calendar days.”

What types of services may a foster youth receive from the child county social services or probation departments? (Posted 08-July-2014)

The overall goal of child social services is the reunification of children and youth with their families. Foster children and youth may go through a continuum of services or “service component types” ranging from pre-placement family maintenance to out-of-home placement to family reunification or permanent placement. The LCFF definition of foster youth includes children and youth receiving services along this continuum from the opening of the court case to its close.

The table below describes the major service component types. It will be useful for educational staff working with foster children and youth to understand where in the process a child or youth is and what services he or she is receiving from the child county social services or probation departments. The data provided in CALPADS will indicate whether a child or youth is in family maintenance; if the child is not in family maintenance, he or she is in an out-of-home placement.

Symbol	CWS/CMS Service Component Type	Description
FM	Pre-Placement (Family Maintenance)	Child/youth is living at home receiving family maintenance services aimed at preventing removal of the child.
FR	Family Reunification	Child/youth is in an out-of-home placement receiving services aimed at reuniting the family.
FM	Post-Placement (Family Maintenance)	Child/youth is in the process of being permanently reunited with his/her family following an out-of-home placement and is back living at home while the family receives services aimed at keeping the child in the home.
PP	Permanent Placement (Previously referred to as “long-term foster care”)	Child/youth is in an out-of-home placement permanently and services to the family have been terminated.

ST	Supported Transition	A nonminor dependent age 18–21 participating in a transitional independent living case plan.
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Auditing

What documentation can LEAs provide their auditors to show that a student is correctly designated as an English Learner (EL) in CALPADS? (Revised 04-Dec-2015)

If the student is designated as an EL, then LEAs can provide the following:

- A copy of the parent/guardian notification letter that states the student is initially designated as an EL or is a continuing EL, and a copy of the California English Language Development Test (CELDT) individual Student Performance Level Report that indicates the student’s overall performance and domain scores do not meet the CELDT criterion for English proficiency. Please refer to the [CELDT Information Guide](#) for examples of the individual student reports; refer to the section titled “Guide to the Student Performance Level Report.” If a continuing student is EL on Census Day, but subsequently takes the CELDT test and is re-designated as English proficient, the LEA does not need to change the program record since the student was appropriately designated as EL on Census Day.
- If the results on the Student Performance Level Report indicate that the student has met the CELDT criterion for English proficiency, then the LEA should provide the auditor its Policy/Procedures for Reclassification and any documentation that was used to determine the student’s EL status consistent with the LEA policy. For more information on reclassification, refer to the CELDT Information Guide section titled “Guidelines for Reclassification.”

What documentation can LEAs provide auditors to show that a student is correctly designated as eligible for free or reduced-price meals (FRPM) in CALPADS? (Revised 04-Dec-2015)

To be correctly designated as FRPM eligible, a student must be part of a household that meets income eligibility requirements or the student must be categorically eligible based on his or her status as a foster, homeless, migrant, or runaway child or on the fact that the student’s household participates in the CalFresh, CalWORKs or Food Distribution Program on Indian Reservation (FDPIR) programs. Students who are members of households that receive CalFresh and/or CalWORKs benefits should have been directly certified to receive FRPM benefits through an automatic state data match, and thus should be indicated in CALPADS as “directly certified” to receive benefits.

Under the Audit Guide section for Unduplicated Local Control Funding Formula Pupil Counts, auditors do not need to review documentation for those students who are indicated in CALPADS as (1) “directly certified” to receive FRPM benefits or (2) a foster, homeless, migrant, or runaway child. For other students, an LEA can prove that a student is correctly designated FRPM eligible by providing documentation to support the designation. Supporting documentation may include:


- A copy of a student’s National School Lunch Program (NSLP) application.
- A copy of an LEA’s alternative household income eligibility form which demonstrates that a student is a member of a household that meets NSLP income eligibility requirements.
- Any other documentation which demonstrates that the student is categorically eligible to receive benefits under the NSLP, such as (1) documentation that the student is a foster, homeless, migrant or runaway child or (2) direct certification lists obtained from the county welfare department or county office of education.

Please note that, to reduce the burden of data collection, schools participating in Provision 2 or 3 or the Community Eligibility Program (CEP) may establish a “base year” for LCFF purposes (this is different from the base year under the NSLP). Schools using this option must collect household income data for all eligible students at least once every four years, and collect income data for every newly enrolled student in the intervening years. Schools may perform the LCFF base year data collection during the same year that they establish a new base year under the NSLP. Schools will need to submit data for identified students to CALPADS every year. Auditors will review CALPADS data for students in these schools just as they review CALPADS data at other schools, so schools should be prepared to show auditors the original documentation that a student is FRPM eligible, which may be up to three years old.

All documentation and related information provided by LEA staff (including any food services staff) to auditors is to be kept in strict confidence adhering to all state and federal privacy laws and is to be used solely for the purpose of determining whether a student is correctly designated as FRPM eligible.

See the “Free and Reduced Price-Meal (FRPM) Income Eligibility under the LCFF” topic for additional information about auditors’ access to records.

Are any changes to the Audit Guide anticipated for LCFF? (Revised 04-Dec-2015)

Yes. LCFF related audit procedures have been added to the Audit Guide. The specific procedures can be found under Audit Guide on the [Education Audit Appeals Panel Web site](#) .

Below is a summary of the topics by fiscal year.

Fiscal Year 2015-16 and thereafter

- Unduplicated Pupil Count
- K-3 Grade Span Adjustment
- Local Control and Accountability Plan
- Transportation Maintenance of Effort

Fiscal Year 2014-15

- Unduplicated Pupil Count
- K-3 Grade Span Adjustment
- Local Control and Accountability Plan
- Transportation Maintenance of Effort
- Regional Occupational Centers or Program Maintenance of Effort
- Adult Education Maintenance of Effort

Fiscal Year 2013-14

- Unduplicated Pupil Count
- Local Control Funding Formula Certification

What should an LEA do if there were Unduplicated Pupil Counts that were misreported? (See the “Unduplicated Pupils and California Longitudinal Pupil Achievement Data System” topic for more information on Unduplicated Pupil Counts) (Posted 04-Dec-2015)

If an LEA has misreported unduplicated pupil counts a correction will need to be made in the Principal Apportionment Data Collection Software for the appropriate fiscal year. The LEA will complete the School District, Charter School, or COE (depending on the type of LEA) Audit Adjustments to CALPADS Data entry screen in the

Principal Apportionment Data Collection Software in Annual mode. The LEA will enter the net adjustment to the enrollment or unduplicated pupil count in the appropriate column, according to the audit findings. If the adjustment is not the result of an audit finding, an auditor's letter of concurrence will need to be submitted as substantiation. Additional information on how to report an adjustment as well as the software is available at the [Principal Apportionment Data Collection Web page](#) by selecting the appropriate fiscal year.

Will a CALPADS Audit Adjustment correction submitted through the Principal Apportionment Data Collection Software affect other funding or data files based on enrollment, free and reduced priced meals (FRPM), English Learner (EL), or Foster status? (Posted 04-Dec-2015)

The adjustments will only affect the Local Control Funding Formula (LCFF) Unduplicated Pupil Percentage (UPP) calculation(s) and will not be used to modify previously certified CALPADS data for any other purpose. The UPP is used in the calculation of supplemental and concentration grants in the LCFF Target Entitlement.

How do auditors audit Local Control and Accountability Plan (LCAP) expenditures when LEAs don't account for their base, supplemental, and concentration grant funds separately in the general ledger (GL)? (Posted 04-Dec-2015)

When auditing LCAP expenditures, auditors should begin by selecting an action or service from the LCAP that the LEA has identified as having expenditures, rather than beginning with the GL. LCAP expenditures may not be neatly identified under specific categories in the GL. The LEA will have to provide information on where to find sample expenditures for a particular action or service.

For example, an LEA may improve services by adding five days to the school year. Expenditures for that action could be found throughout the entire general ledger; perhaps under teacher salaries, custodial salaries, transportation costs, heating and air conditioning cost, etc. In another example, an LEA may hire ten tutors to help targeted students learn English. Expenditures for that action might be found in one place in the GL. Each LEA makes its own decision on how to track LCAP expenditures, so the LEA will need to communicate with the auditor when the auditor is performing this audit step.

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Categorical Programs

Which categorical programs were eliminated with the enactment of LCFF? (Revised 04-Dec-2015)

The LCFF legislation eliminated most state categorical funding streams. Categorical funding received in 2012–13 from the programs listed in Figure 1 below form the basis for determining an LEA's floor during the LCFF phase-in period. These amounts reflect any basic aid fair share reduction for a school district. More information on the LCFF transition calculations, including floor funding, can be found in the LCFF Transition Calculation funding exhibits and exhibit reference guides on the [Principal Apportionment page](#) for each fiscal year.

Except for the Home-to-School Transportation program, Small School Bus Replacement Program, and the Targeted Instructional Improvement Block Grant, categorical program amounts included in the 2012–13 funding level calculation will not be separately identifiable funding streams in the LCFF target, nor do their associated compliance requirements remain, except as specified for Home-to-School Transportation. **These programs were identified initially only as a means to develop an aggregate funding amount for use in LCFF transition calculations.** See individual topics in the LCFF FAQ's for more information on some of these programs.

Figure 1: 2012–13 Categorical Programs Used in the LCFF Calculations

Program	2012–13 Budget Item
Administrator Training Program	6110-144-0001
Adult Education	6110-156-0001
Alternative Certification Programs (Commission on Teacher Credentialing)	6360-101-0001
Arts and Music Block Grant	6110-265-0001
Bilingual Teacher Training Assistance	6110-193-0001
California Association of Student Councils	6110-242-0001
California High School Exit Examination Intensive Instruction	6110-204-0001
California School Age Families Education (Cal-SAFE) Program	6110-198-0001
Categorical Programs for New Charter Schools	6110-212-0001
Center for Civic Education	6110-208-0001
Certificated Staff Mentoring	6110-267-0001
Charter School Categorical Block Grant	6110-211-0001
Class-Size Reduction, Grade 9	6110-232-0001
Class-Size Reduction, Kindergarten-Grade 3	SB 1016 (Chapter 38, Statutes of 2012), Section 91
Community Based English Tutoring	6110-227-0001
Community Day School Additional Funding for Mandatory Expelled Pupils	<i>Education Code, Section 48915(c)</i>
Community Day Schools	6110-190-0001
County Office Oversight, Williams Audits	6110-266-0001
County Offices of Education (COE) Fiscal Oversight	6110-107-0001
Deferred Maintenance	6110-188-0001
Economic Impact Aid (EIA)	6110-128-0001
Education Technology	6110-181-0001
Gifted and Talented Education (GATE)	6110-124-0001
Instructional Materials Funding Realignment	6110-189-0001
International Baccalaureate/Advanced Placement Fee Reimbursement	6110-240-0001
Mathematics and Reading Professional Development	6110-137-0001

Middle and High School Supplemental Counseling	6110-108-0001
National Board for Professional Teaching Standards Certification Incentive Program	6110-195-0001
Oral Health Assessments	6110-268-0001
Peer Assistance and Review	6110-193-0001
Physical Education Teacher Incentive Grants	6110-260-0001
Professional Development Block Grant	6110-245-0001
Pupil Retention Block Grant	6110-243-0001
Pupil Transportation	6110-111-0001
Reader Services for Blind Teachers	6110-193-0001
Regional Occupational Centers and Programs	6110-105-0001
School and Library Improvement Block Grant	6110-247-0001
School Safety Block Grant	6110-228-0001
School Safety Consolidated Competitive-Grant, School Community Violence Prevention	6110-248-0001
Supplemental Instruction	6110-104-0001
Targeted Instructional Improvement Block Grant	6110-246-0001
Teacher Credentialing Block Grant, Beginning Teacher Support and Assessment	6110-244-0001
Teacher Dismissal Apportionments (State Controller's Office)	6110-209-0001

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Necessary Small Schools

Are there any changes to funding of necessary small schools (NSSs)? (Revised 04-Dec-2015)

The funding calculations for NSSs under the LCFF are similar to calculations under previously existing law, in that school districts have the option of selecting NSS funding in lieu of the adjusted grade span base grant funding for eligible schools. However, the LCFF legislation did update the eligibility criteria for NSS funding. For example, under the LCFF legislation, elementary schools in one-school school districts are required to meet distance requirements (*EC* Section 42283) in order to qualify for NSS funding. All NSS statutes are contained in *EC* Section 42280 through 42286. A necessary small high school that previously achieved NSS status as the only high school in a unified district may continue to qualify for NSS, subject to a sunset date, if the district has 50 or fewer pupils per square mile of district territory.

How will NSS funding be calculated during LCFF Transition period? (Posted 04-Dec-2015)

Beginning with 2013–14 and until full implementation of LCFF, there will be two calculations for NSS school districts, the School District NSS Allowance for the LCFF Target and the School District NSS Allowance for the LCFF Floor. Detailed descriptions of the calculations and data sources for these exhibits are contained in the Exhibit Reference Guide, available in the applicable fiscal year section on the [Principal Apportionment Web page](#). Actual funding will be determined in accordance with LCFF Transition calculations, summarized in the [LCFF Funding section](#) of the LCFF Frequently Asked Questions and described in detail in the Exhibit Reference Guides.

Is additional funding available for districts subject to the “hold harmless” provisions? (Revised 04-Dec-2015)

If a school district qualified for NSS funding in 2012–13, the amount of NSS funding the school district received in 2012–13 will be included in its minimum state aid calculation, which may provide additional state funding if the amount calculated for minimum state aid exceeds the net state aid amount calculated under the LCFF. This provision is applicable to all school districts with 2012-13 NSS allowances, regardless of current year NSS eligibility. (*EC* Section 42238.03(e)).

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Home-to-School Transportation

Is Home-to-School Transportation included in the LCFF? (Revised 04-Dec-2015)

The amount of Home to School Transportation (HTS) funding received in 2012-13, net of any Control Section 12.42 reduction, is included in both the school district and county office of education LCFF floor and the LCFF target entitlement calculations. For purposes of LCFF and these frequently asked questions, HTS includes entitlements for Home to School, Severely Disabled or Orthopedically Impaired and the Small District and COE Bus Replacement Program.

Does an LEA need to continue to spend LCFF funds on Home-to-School Transportation? (Revised 04-Dec-2015)

Yes, there is a maintenance of effort requirement for home-to-school transportation. LEAs must spend at least as much of their transportation funding on transportation as they spent in 2012–13, per *EC* sections 2575 (k)(1) and 42238.03 (a)(6). Specifically, *EC* Section 42238.03 (a)(6) states, in part:

“...of the funds a school district receives for home-to-school transportation programs the school district shall expend, pursuant to former Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5, former Article 10 (commencing with Section 41850) of Chapter 5, and the Small School District Transportation program, as set forth in former Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of Division 3 of Title 2, as those articles read on January 1, 2013, no less for those programs than the amount of funds the school district expended for home-to-school transportation in the 2012–13 fiscal year.”

The amount of “funds a school district receives” is the amount that the LEAs received in 2013–14; subsequent to 2013-14, this amount is flat-funded in both the floor and target entitlements (unless the amount is augmented in 2015-16 by a joint powers agency (JPA) or a county office of education; see below for more information).

The maintenance of effort (MOE) is the lesser of (1) the actual 2012–13 expenditures or (2) the amount received in 2013–14. Beginning in 2015-16, the amount received should be increased to reflect any home-to school entitlement increase made available pursuant to Assembly Bill 104 (Chapter 13, Statutes of 2015). As reference, the amount received in 2013–14 as the Transportation add-on equals the total 2012–13 Pupil Transportation

entitlement (including Home to School, Severely Disabled or Orthopedically Impaired and Small District and COE Bus Replacement) less the Control Section 12.42 reduction. The amount received each year can be seen on Line A-8 of the [2012-13 Categorical Program Entitlements Subsumed into LCFF funding exhibit](#) on the Principal Apportionment web page.

The legislation also required LEAs that passed through funds in 2012–13 to transportation JPAs to continue to pass through those funds in the 2013–14 and 2014–15 fiscal years. In addition, JPAs that received transportation funds directly in the 2012–13 fiscal year continued to receive those funds directly for the 2013–14 and 2014–15 fiscal years. Beginning in 2015-16, HTS funds allocated to JPAs during 2013-14 and 2014-15 are added to individual LEA LCFF funding calculations.

Why did my district’s Home-to-School Transportation funding go up in 2015-16 and do I have an MOE requirement to spend those funds on transportation? (Posted 04-Dec-2015)

Assembly Bill 104 (Chapter 13, Statutes of 2015) allows a JPA to transfer HTS entitlements that went directly to the JPA in 2013-14 and 2014-15, to its member districts. The bill also transferred HTS entitlements from the Los Angeles County Office of Education to certain school districts in Los Angeles County. These additional funds should be included in each receiving district’s MOE requirement beginning in 2015-16, as explained above.


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Economic Impact Aid

Will LCFF funding include an amount equal to what the LEA previously received as Economic Impact Aid (EIA) funds? What requirements, if any, apply to these funds? (Revised 04-Dec-2015)

During the LCFF phase-in period beginning in the 2013-14 fiscal year, EIA is one of the programs for which the amount of funds received in 2012-13 is included in the LCFF floor entitlement. However, the portion of LCFF funding attributable to 2012–13 EIA funding amounts will not be separately identified and will not be subject to EIA spending requirements.

Can EIA carryover funds be used for any educational purpose? (Revised 04-Dec-2015)

No, funds allocated for EIA must be used as originally purposed for English learners and educationally disadvantaged youth. The categorical intent continues to be in effect for EIA program funds allocated in the 2012-13 fiscal year and prior, pursuant to *EC* sections 54000 et seq. and [California Code of Regulations, Title 5, Section 4200](#) .

Are the data reported in the Consolidated Application Reporting System and used in EIA allocation formulas now irrelevant under LCFF? (Revised 04-Dec-2015)

No. Any current EIA funds carried forward from the 2012-13 fiscal year and prior, will remain subject to the original requirements for the life of those funds.

Will the CDE’s 2015-16 Federal Program Monitoring (FPM) process still apply compliance standards to LEAs carrying forward unspent EIA funds? (Revised 04-Dec-2015)

Yes, FPM will continue to monitor the use of EIA program funds carried over from the 2012-13 fiscal year and prior, until all EIA monies have been expended.

Was the new Web posting requirement of SB 754 eliminated? (Revised 18-Nov-2014)

No, the requirement to post EIA funding data is still in effect under current law *EC* Section 54029.

If a district has EIA carryover and distributes to school sites as required, do those sites in receipt of EIA need to continue with their English Learner Advisory Committees (ELACs)?

As long as EIA funds continue to be carried over, the associated requirements will continue to exist, including requirements for ELACs.

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Parent and Community Engagement

Should we include parent groups in conversation regarding expenditures associated with funding increases? (Revised 04-Dec-2015)

Statute requires the inclusion of parents, including parents or legal guardians of targeted disadvantaged pupils in the planning and implementation of the LCFF. School districts need not establish new parent advisory groups if the LEA has previously existing groups that satisfy the new requirements.

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LCFF Funding for County Office of Education (COE) Schools

How are COEs funded under the LCFF Target? (Revised 04-Apr-2016)

The COE LCFF Target consists of a COE operations grant for countywide oversight activities and an alternative education grant for instructional services.

The COE operations grant is based on (1) a minimum grant per county, (2) the number of school districts in the county, and (3) the average daily attendance (ADA) within the county attributable to school districts and charter schools.

In accordance with *EC* 2574(c)(4), the alternative education grant supports the COE's instructional activities for the following:

- Students on probation, probation referred, or expelled pursuant to *EC* 48915 (a) or (c). In addition to the base grant, COEs receive a supplemental grant equal to 35 percent of the base grant for targeted disadvantaged students and a concentration grant equal to 35 percent of the base grant for targeted disadvantaged students exceeding 50 percent of enrollment.
- Students attending juvenile court schools. Additionally, all juvenile court school students are deemed to be eligible for the supplemental and concentration grants provided for targeted disadvantaged students. The supplemental grant is equal to 35 percent of the base grant, and the concentration grant is equal to 17.5 percent of the base grant.

COE LCFF Target funding rates for the current fiscal year are available at the [Funding Rates and Information Web page](#).

How are other pupils that are served by COEs, but do not meet the criteria for the Alternative Education Grant, funded? (Revised 04-Dec-2015)

Funding for these students is allocated to their school district of residence.

Additional information about how the funding for these students is calculated under LCFF, is available at the [Frequently Asked Questions Web page](#).

How is a COE's LCFF Transition Entitlement determined? (Posted 04-Dec-2015)

If a COE's LCFF Target calculated for the 2013-14 fiscal year was below the COE's funding level under the former revenue limit and categorical system, the COE's LCFF Transition Entitlement will be based on 2012-13 fiscal year funding levels, portions of which will be adjusted for current year ADA. These COEs are known as "hold harmless COEs". For all other COEs, the LCFF Transition Entitlement will be equal to the COE's calculated LCFF Target.

Have all COEs reached their LCFF funding Target? (Posted 04-Dec-2015)

Yes, as of the 2014-15 fiscal year, all 58 COEs are now funded at or above (hold harmless) their calculated LCFF Target, and no more LCFF gap funding is needed. Gap funding for COE LCFF implementation was provided in 2013-14 and 2014-15 to bring any COE formerly below its funding target up to the LCFF Target.

What is the LCFF "hold harmless" provision? (Posted 04-Dec-2015)

The hold harmless provisions of LCFF guarantee that no COE loses funding due to LCFF. Therefore, some COEs are "hold harmless" and receive an LCFF Transition Entitlement based on their 12-13 fiscal year funding. These COEs will continue to be funded above their LCFF Target until the LCFF Target is greater than the hold harmless funding.

Additional frequently asked questions (FAQs) about this topic are available on the [COE FAQ page](#).

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Charter Schools

Does Local Control Funding Formula (LCFF) apply to charter schools? (Revised 27-Jul-2015)

Yes. Charter schools receive funding pursuant to the LCFF and must comply with the applicable LCFF provisions. Resources for charter schools, including resources related to LCFF, can be viewed on [CDE's Charter Schools Division webpage](#).

Must a charter school complete a Local Control and Accountability Plan and Annual Update (LCAP)? (Revised 27-Jul-2015)

Yes, all charter schools must complete an LCAP and annual update, using the Local Control and Accountability Plan and Annual Update template adopted by the State Board of Education (SBE), as stated in Title 5 California *Code of Regulations* Section 15497.5. There are no waivers or exemptions to this requirement. See citations on the [LCFF main Web page](#).

Must a charter school's adopted LCAP be a three-year plan? (Posted 27-Jul-2015)

The LCAP instructions note that charter schools may adjust the goals table in Section 2 of the LCAP template to align to the term of their budget that is submitted to their authorizer pursuant to *EC* Section 47604.33. The term of the charter school's budget may be one or more years as set forth in the petition or the charter school's Memorandum of Understanding with its authorizer.

How does the content of a charter school's LCAP differ from the charter petition? (Revised 27-Jul-2015)

A charter school's LCAP is a separate document from the charter petition. Both the charter petition and LCAP must describe goals and specific actions to achieve those goals, as well as measurable pupil outcomes, for all pupils and each subgroup of pupils identified in *EC* Section 52052, including pupils with disabilities, for each of the state priorities that apply to the grade levels served and the nature of the charter school program. [*EC* Section 47606.5(a)]. However, the charter LCAP must also include additional information regarding goals, actions and services, including: budgeted expenditures; identification of pupils to be served within a scope of services, including services for unduplicated pupils that will benefit from an additional service or action above what is provided to all pupils; and identification of services being funded on a charterwide basis, with a description of how those services are principally directed towards, and effective in, meeting the charter's goals for unduplicated pupils in the priority areas. In addition, the LCAP annual update must include actual annual measurable outcomes; estimated actual annual expenditures; and a statement of changes in goals, actions, services, and expenditures to be made as a result of the annual review of past progress.

Does the charter school authorizer approve the charter school's LCAP? (Revised 27-Jul-2015)

No. The charter school governing body adopts the LCAP and annual update. Pursuant to *EC* Section 47604.33, a charter school is required to submit its LCAP and annual update to its chartering authority and the county superintendent of schools. Statute does not require the authorizer to approve the LCAP and annual update.

May a charter school make changes to its Local Control and Accountability Plan and Annual Update (LCAP) subsequent to adoption by the charter school's governing body? (Posted 09-Dec-2015)

Yes: During the period that the LCAP is in effect, which is after it has been approved by the charter school's governing body, the governing body may adopt revisions if it follow the same process used for adopting the LCAP initially. This process includes consultation with teachers, principals, administrators, other school personnel, parents and pupils. Any revisions must be adopted by the school's governing body at a public meeting.

What is the responsibility of the charter school authorizer as it relates to the LCAP? (Revised 27-Jul-2015)

A charter school's chartering authority must ensure that the charter school has complied with all reports required of charter schools by law, including the LCAP and annual update (*Education Code* Section 47604.32; Title 5 California *Code of Regulations* Section 15497.5).

Are there specific timelines to which the charter school must adhere in adopting its LCAP and annual update? (Revised 27-Jul-2015)

Pursuant to *EC* sections 47606.5, 47604.33, and Title 5 California *Code of Regulations* Section 15497.5, on or before July 1 of each year, a charter school must complete an LCAP and annual update using the LCAP template adopted pursuant to *EC* Section 52064.

Because the charter school authorizer does not approve a charter LCAP, the timeline identified in statute to request clarification in writing by August 15 from school districts or county superintendents of schools, or to approve the LCAP by October 8, does not apply to charter schools' LCAPs or annual updates.

However, as is the case with charter school budgets and audits, a charter school must prepare and submit the LCAP and annual update to the chartering authority and the county superintendent of schools by July 1 of each year pursuant to *EC* Section 47604.33.

When does a new charter school's governing body have to adopt its initial LCAP? (Posted 27-Jul-2015)

The law is not explicit as to when a charter school must adopt its initial LCAP. As stated in the fourth Charter Schools FAQ [**How does the content of a charter school's LCAP differ from the charter petition?**], a charter's petition must describe goals and specific actions to achieve those goals as well as measurable pupil outcomes, for all pupils and each subgroup of pupils identified in *EC* Section 52052, including pupils with disabilities, for each of the state priorities that apply to the grade levels served and the nature of the charter school program. [*EC* Section 47606.5(a)]. A charter must also adopt an LCAP, using the SBE-approved template, which requires additional information regarding goals, actions and services, and expenditures, as described in the fourth Charter Schools FAQ [**Does the charter school governing body need to hold a public hearing to adopt the LCAP and annual update?**]. A charter's pupil populations and stakeholder community may not be fully identified until the charter enrolls students and begins operations. However, based upon the charter petition and population intended to be served, a charter preparing to enroll pupils will have available to it the additional information required to be set forth in its LCAP, and be able to identify some stakeholders for consultation. The additional information required in the LCAP is important to stakeholders' understanding of a charter school's planned operation. Accordingly, a charter school must adopt its LCAP, using the approved template, by: July 1 of its first operational year; or, the date the petition is approved, if it is approved after July 1 and the charter becomes operational in the same year in which the petition is approved. If the charter determines after it becomes operational that revisions to the LCAP are warranted, the initial LCAP may be revised and adopted, with stakeholder engagement.

Do charter schools need to address the LCFF state priorities in their petitions? (Revised 27-Jul-2015)

Yes. Pursuant to *EC* sections 47605 and 47605.6, charter schools that file an initial charter petition or a renewal petition shall incorporate into the charter petition the required state priorities identified in *EC* Section 52060. *EC* sections 47605 and 47605.6 require a charter petition to include a description of the annual goals and actions in the eight state priority areas in *EC* Section 52060 that apply to the grade levels served and the nature of the charter school's program including modifications to reflect only the statutory requirements explicitly applicable to charter schools in the *Education Code*.

Is an LCAP considered a material revision to the charter petition? (Updated 27-Jul-2015)

The statute is silent; however, the LCAP template adopted by the SBE is a separate document from the charter petition and therefore is not automatically considered a material revision to the charter petition. However, if in completing an LCAP, the charter school or its authorizer determines that changes to the charter petition are necessary, then a material revision may be needed.

Does the charter school governing body need to hold a public hearing to adopt the LCAP and annual update? (Revised 27-Jul-2015)

The statute is silent; however, charter schools are required to consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing the annual update [*EC* 47606.5(c)]. Charter schools are encouraged to follow a process similar to that required for a school district, which is to hold an initial public hearing to solicit recommendations and comments on the LCAP and annual update, followed by a subsequent public meeting for adoption of the plan, before submitting the adopted LCAP to the charter authorizer.

May a charter school operator with numerous schools prepare a single LCAP for all of its schools?

(Updated 27-Jul-2015)

No. The charter school or its operator must prepare a separate LCAP for each charter school that has a separate petition.

Does a charter school need to have a school site council to review the LCAP and annual update? (Updated 27-Jul-2015)

No, a charter school is not required to establish a site council to comply with the requirement to consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing its LCAP and annual update. [EC Section 47606.5]. Consultation with an existing site council may satisfy this requirement if the site council includes membership that meets the requirements of EC Section 47606.5.

Do the grade span adjustment requirements in EC Section 42238.02(d)(3)(B) apply to charter schools?

(Updated 27-Jul-2015)

No. EC Section 42238.02(d)(3)(B) applies specifically to school districts.

Where is the LCAP template available? (Revised 27-Jul-2015)

A copy of the SBE approved template may be [downloaded](#) (DOC) from the CDE's Web site.

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K–3 Grade Span Adjustment

What are the conditions for receiving the kindergarten through grade three (K–3) grade span adjustment (GSA)? (Revised 04-Dec-2015)

As a condition of receiving the K–3 GSA, which is equal to 10.4 percent of the K–3 base grant, school districts must meet one of the following conditions:

- If a school site's average K–3 class enrollment was more than 24 pupils in the 2012-13 fiscal year, make progress toward maintaining, at that school site, an average K–3 class enrollment of not more than 24 pupils.
- If a school site's average K–3 class enrollment was 24 pupils or less in the 2012-13 fiscal year, maintain, at that school site, an average K–3 class enrollment of not more than 24 pupils.
- Agree to a collectively bargained alternative to the statutory K–3 GSA requirements.

For additional information relating to the class size requirements for the K–3 GSA, refer to [Education Code Section 42238.02\(d\)](#) and [Title 5 California Code of Regulations Section 15498](#).

How should a school district determine the required K–3 average class enrollment for each school site?

(Revised 30-May-2017)

If a school site's average K–3 class enrollment was 24 pupils or less in the 2012–13 fiscal year, the district must maintain, at that school site, an average K–3 class enrollment of not more than 24 pupils, unless a collectively bargained alternative ratio is agreed to by the school district.

If a school site's average K–3 class enrollment was more than 24 pupils in 2012–13, the required average class enrollment is determined as follows, unless a collectively bargained alternative ratio is agreed to by the school district:

1. Determine the prior year average K–3 class enrollment at the school site. In 2013–14, this will be the 2012–13 actual level. In subsequent years, this will be the result of the calculation in Step 4 for the prior year.
2. Subtract 24 from Step 1.
3. Multiply the result of Step 2 by the percentage of gap funding provided in the current fiscal year. The school district may use either the DOF Gap Estimate as of the May Revision or the Actual Gap Certified by CDE as of the Actual P-2 (June) certification, which may be found on [CDE's Gap and COLA Web page](#) for each fiscal year.
4. Subtract the result of the calculation in Step 3 from the prior year average K–3 class enrollment in Step 1, to determine the maximum average K–3 class enrollment at the school site in the current year.

More detailed information on how to calculate average class enrollment and related program information can be found on the [LCFF K-3 GSA final regulations](#) (DOC).

If the Actual percentage is lower than what was Estimated at May Revision, can I use that percentage to determine progress? (Posted 04-Dec-2015)

Yes, school districts can use either the Estimated or Actual funding gap percentage, and can change which percentage is used each year when determining progress.

Must every K–3 classroom at a school site be at the specified average K–3 class enrollment or below? (Posted 10-Mar-2014)

No. An individual classroom may be higher or lower than the specified average so long as the average class enrollment of all K–3 classrooms at the school site is at, or below the specified average K–3 class enrollment.

When may school districts use a collectively bargained alternative to an average K–3 class enrollment of not more than 24? (Posted 10-Mar-2014)

A school district may use this option when the district has collectively bargained an alternative annual average K–3 class enrollment for each school site in contemplation of or subsequent to enactment of *EC* Section 42238.02. A school district can demonstrate that it agreed to an alternative in different ways. For example, the school district could enter into a new collective bargaining agreement, renegotiate an existing collective bargaining agreement, or mutually agree with its local union that an existing collective bargaining agreement contains an alternative annual average class enrollment for each school site. District legal counsel should be consulted as appropriate.

Do charter schools need to progress toward or maintain an average K–3 class enrollment of 24 to receive the K–3 GSA funding? (Posted 10-Mar-2014)

No. Pursuant to *EC* Section 42238.02(d)(3)(C) only “school districts” must make progress towards average K–3 class enrollment of 24 at each school site.

May a districtwide average be used instead of a school site average? (Posted 10-Mar-2014)

No. Statute only allows for a school site average.

May the requirements be waived by the Superintendent or the SBE if a school district determines that exceeding the school district's required average K–3 class enrollment at a particular school site is in the best interest of a student or students? (Posted 10-Mar-2014)

This section of law may not be waived by the Superintendent or the SBE. Please note that school districts may collectively bargain an alternative.

Will school districts need to provide a report similar to the J-7 CSR (class-size reduction) report to get grade-span adjustment funds? (Posted 10-Mar-2014)

No. The K-3 GSA funds will automatically be included in the districts' principal apportionment funding. However, districts will be required to show their independent auditors either 1) their collectively bargained alternative, or 2) their calculations showing that the K-3 GSA requirements were met. If the K-3 GSA requirements were not met, then the auditor will issue an audit finding disallowing the K-3 GSA add-on funding, and the funding will be adjusted in the district's next principal apportionment certification.

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California Collaborative for Educational Excellence

What is the Collaborative for Educational Excellence (CCEE)? (Posted 14-May-2014)

The CCEE (*EC* Section 52074) will provide advice and assistance to LEAs (charter schools, school districts, and county offices of education) in achieving the goals set forth in the LCAPs.

What is the role of the CCEE fiscal agent? (Revised 04-Dec-2015)

The Superintendent apportions funds appropriated for the operation of the CCEE to the fiscal agent. Riverside County Office of Education is the fiscal agent and is responsible for maintaining accurate, current, and complete records regarding operation of the CCEE, in accordance with all fiscal reporting and auditing standards required by state law and the CDE.

What is the composition of the CCEE governing board? (Posted 14-May-2014)

The CCEE governing board consists of the following five members:

1. The Superintendent or his or her designee
2. The president of the state board or his or her designee
3. A county superintendent of schools appointed by the Senate Committee on Rules
4. A teacher appointed by the Speaker of the Assembly
5. A superintendent of a school district appointed by the Governor

What is the role of the CCEE governing board? (Posted 14-May-2014)

The CCEE board shall govern the CCEE and direct the fiscal agent to contract with individuals, LEAs, or organizations with the expertise, experience, and a record of success that includes but is not limited to the following areas:

1. State priorities as described in subdivision (d) of *EC* Section 52060
2. Improving the quality of teaching
3. Improving the quality of school district and schoolsite leadership

4. Successfully addressing the needs of special pupil populations, including, but not limited to, English learners, pupils eligible to receive a free or reduced-priced meal, pupils in foster care, and individuals with exceptional needs

How will the adoption and use of the evaluation rubric support the work of the CCEE? (Revised 04-Dec-2015)

The SBE shall adopt evaluation rubrics on or before October 1, 2016. The evaluation rubrics will support the following purposes:

1. To assist LEAs with the evaluation of strengths and weaknesses that require improvement
2. To assist county superintendents in identifying school districts and charter schools in need of technical assistance pursuant to *EC* sections 52071 and 47607.3
3. To assist the Superintendent in identifying school districts in need of intervention pursuant to *EC* Section 52072. The CCEE will provide advice and assistance in achieving the goals that are identified in an LEA's LCAP. The results of the evaluation rubric may inform the work of the CCEE

Where can I find more information about the CCEE? (Posted 04-Dec-2015)

Information, such as board agendas and minutes, are available on the [CCEE website](#) .

Back to top

Contact Information

For all LCFF fiscal questions, contact the Office of Principal Apportionment and Special Education at PASE@cde.ca.gov. For all LCFF program questions, contact the Local Agency Systems Support Office at LCFF@cde.ca.gov.

Questions: Local Agency Systems Support Office | LCFF@cde.ca.gov

Last Reviewed: Thursday, June 15, 2017



Home / Newsroom / Editorials & Letters / Letters

**California Department of Education
Official Letter**

January 25, 2016

Dear County and District Superintendents, Charter School Administrators, and High School Principals:

IMPLEMENTATION OF ASSEMBLY BILL 2160: SUBMITTING GPAs FOR CAL GRANTS

I am writing to remind you of a new law that affects your high school campus. Assembly Bill 2160 (Chapter 679, Statutes of 2014), commonly referred to as the "Ting Bill," was signed into law in September 2014, amending Section 69432.9 of the California *Education Code*. This law mandates that all public schools electronically submit grade point averages (GPAs) for grade twelve students to the California Student Aid Commission (CSAC). In addition, AB 2160 requires the school district or charter school to notify parents in writing of certain opt-out requirements.

Electronic submission of GPAs is required each academic year for all grade twelve pupils except for individual students who opt out. GPAs for seniors in the 2015–16 school year must be submitted **before March 2, 2016**.

Electronic GPA submission is achieved through the use of the CSAC's WebGrants system, which is accessible at <https://webgrants.csac.ca.gov/common/logon.aspx>. High schools that do not currently have access must submit the High School Access Request Form. Districts must submit the District Access Request Form. Both forms are accessible through the CSAC High Schools Web page at <http://www.csac.ca.gov/doc.asp?id=983>.

Additionally, both schools and districts must submit the FAFSA/Dream Act Completion Agreement (http://www.csac.ca.gov/pubs/forms/grnt_frm/fafsa_dream_act_completion_program_agreement.pdf, which is also available through the CSAC High Schools Web page above). It is critical for districts and charter schools to submit these forms to the CSAC as soon as possible. **Schools with current WebGrants accounts will lose WebGrants access if the FAFSA/Dream Act Completion Agreement is not submitted to the CSAC.**

Schools and districts that have not previously uploaded GPAs to the CSAC electronically should plan to do so immediately upon receiving WebGrants access; staff involved with GPA uploads must have list-serv subscription to receive notification when the system opens. To subscribe, go to the CSAC List-serv Subscription Services Web page at <http://www.csac.ca.gov/prosubscription.asp>. Training regarding electronic GPA submission and other topics is available on the CSAC Webinar Trainings Web page at <http://www.csac.ca.gov/doc.asp?id=55>.

For more information, please see the Ting Bill Requirements Letter at http://www.csac.ca.gov/ting_bill.asp or contact the CSAC's Institutional Support by phone at 888-294-0153 or by e-mail at schoolsupport@csac.ca.gov.

Thank you for your attention to this important subject.

Sincerely,

Tom Torlakson

TT:df



Home / Newsroom / Editorials & Letters / Letters

**California Department of Education
Official Letter**

September 19, 2017

Dear County and District Superintendents, Charter School Administrators, High School Principals, and High School Counselors:

CAL GRANT GRADE POINT AVERAGE SUBMISSION REMINDER

We welcome you back to school and look forward to another successful year as we partner together to provide financial aid options to all of your college-bound students. As you know, there have been changes to the *California Education Code (EC)* that will increase the effectiveness of the Free Application for Federal Student Aid (FAFSA) and the California Dream Act Application (CADAA). Our goal is to provide information and resources that will assist high schools with successfully submitting senior grade point averages (GPAs) and monitoring their students throughout the Cal Grant awards process.

Effective January 1, 2017, changes to the *EC* related to new timelines for districts and public high schools are applicable. GPAs are now due to the California Student Aid Commission (CSAC) by **October 1, 2017**. To prepare for an earlier upload, high schools are also required to provide the Opt-Out alternative to students by January 1 of their junior year. Please refer to the table below, which outlines important dates for the 2018–19 award year:

2018–19 Award Year (Class of 2018)

Date	Deadline
May 1, 2017	GPA submission window opened
October 1, 2017	High school GPA submission deadline
October 1, 2017	2018-19 FAFSA/CADAA is available
January 1, 2018	GPA Opt-Out due (Juniors — Class of 2019)
March 2, 2018	FAFSA/CADAA deadline for Cal Grant applications
August 31, 2018	High School graduation verification deadline

This year, high schools have the ability to track FAFSA and CADAA completion rates through the CSAC's online dashboard. The dashboard will show the number of FAFSAs and CADAA's submitted by a high school or district. It will provide completion percentages as a function of the senior enrollment numbers. In addition, it will identify the number of Cal Grant applications submitted and the number of awards offered. The dashboard will be available on the CSAC Web site at <http://www.csac.ca.gov>. High schools will be able to utilize the CSAC dashboard starting October 1, 2017.

After submitting GPAs to the CSAC, high schools should monitor their students throughout the awards process. This includes identifying students who have not submitted an application and performing outreach to encourage them to apply. Also, high schools must utilize the WebGrants Reports to identify students whose GPAs are not matched to an application. If a GPA is not matched to an application, the student cannot be considered for a Cal Grant award. For more information about how to match and edit GPAs, please refer to the CSAC's Mini-Trainings Web page at <http://www.csac.ca.gov/doc.asp?id=1445>.

The 2017 High School Counselor Workshops are being offered at various locations throughout California. This year, the CSAC will cover Cal Grant program basics and eligibility, updates to the CADAA, high school responsibilities, and provide helpful hints. If you are interested in attending one of the free 2017 High School Counselor Workshops in your area, please register at https://events.com/r/en_US/registration/2017-high-school-counselor-workshops-august-32426. The CSAC will continue to host a series of Cal Grant GPA upload Webinars to assist with the Cal Grant GPA submission process. To register for the Webinars, please visit the CSAC training Web page at <http://www.csac.ca.gov/doc.asp?id=55>.

For more information, please visit the CSAC Web site at <http://www.csac.ca.gov> or contact CSAC's Institutional Support by phone at 888-294-0153 or by e-mail at schoolsupport@csac.ca.gov.

Sincerely,

Tom Torlakson
State Superintendent of Public Instruction
California Department of Education

Lupita Cortez Alcalá
Executive Director
California Student Aid Commission

TT:LCA:lfb
2017-06322

Last Reviewed: Wednesday, September 20, 2017

Instructions

1. Student Last Name: Enter student last name as it appears/will appear on the student's FAFSA or Dream Act Application.

2. Student First Name: Enter student first name as it appears/will appear on the student's FAFSA or Dream Act Application.

3. Permanent Mailing Address: Enter the student's permanent mailing address, street address, city, state and zip code.

4. Student's Date of Birth: Enter student's date of birth. For example, June 25, 1999 should be entered as 06-25-1999.

5. Student's E-Mail: Enter the student's e-mail address as it appears/will appear on the FASFA or Dream Act Application.

----- STUDENT AND PARENT CERTIFICATION -----

Student's Phone #: Enter the student phone number as it appears/will appear on the FASFA or Dream Act Application.

Parent Phone #: Enter the parent phone number as it appears/will appear on the FASFA or Dream Act Application.

Print Parent Name: Please print parent's full name as it appears/will appear on the FAFSA or Dream Act Application.

Parent E-Mail: Enter the parent e-mail address as it appears/will appear on the FASFA or Dream Act Application.

----- FOR SCHOOL USE ONLY -----

Note: As requested by the student and/or parent, please do NOT submit this student's GPA to the California Student Aid Commission.



Cal Grant Grade Point Average (GPA) Questions and Answers for High Schools

Why does the Commission require a Social Security number for a GPA verification?

Cal Grant statutes require the Commission to evaluate the financial need of an applicant by using Free Application for Federal Student Aid (FAFSA) financial information and determine academic merit by evaluation of the student's grade point average. These two separately submitted documents are matched using the applicant's Social Security number. Currently, there is no other unique identifier that allows the Commission to match these records. Therefore, please ensure that GPA verifications submitted through the Commission's secure Web site, or certified on the GPA Verification Form, have a valid Social Security number. If students don't have a Social Security number, they should address and resolve this potential problem in sufficient time to meet the Commission's March 2nd filing deadline.

Who can submit and certify a GPA?

GPA's may be certified by authorized representatives of high schools accredited by the Western Association of Schools and Colleges (WASC) or schools that have a University of California-approved course list. If a high school is not in the WASC region, accreditation by another regional accrediting agency is acceptable.

Whose GPA's should be submitted?

The Commission urges high schools to submit GPA's for their entire graduating senior class. Schools with year-round programs should ensure that their counseling programs and financial aid awareness programs address the needs of students not in attendance during the application periods.

Since students may apply for high school Entitlement Cal Grant awards within 18 months of graduation, schools are encouraged to submit GPA's for those students who graduated the previous year as well.

How can GPA's be submitted?

The most efficient way to submit GPA's is online using WebGrants. The WebGrants GPA function provides immediate feedback about GPA's that have been accepted and identifies any problems with the records during the upload. WebGrants users may certify a single GPA record or multiple records per submission.

Submitting the GPA electronically eliminates the need to mail a paper GPA Verification Form to the Commission. Schools and students may continue to submit verified paper GPA Verification Forms.

When should schools submit GPA's?

For the March 2nd deadline, the Commission begins accepting GPA's in November and urges schools to report GPA verifications as soon as possible.

How are GPA's to be calculated?

Calculate the GPA on a 4.00 scale computed to two decimal places (between 0.00 and 4.00). Do not use a weighted scale. Convert any grades with extra weighting for honors and advanced placement classes to a 4.00 scale before calculating the GPA. Do not include grades from physical education, Reserve Officer Training Corps (ROTC) and remedial coursework. Remedial coursework is defined as any course that is not counted toward high school graduation. Failing grades must be included in the GPA calculation unless the course has been retaken.

For students who are still enrolled, include all coursework for the sophomore year, the summer following the sophomore year, the junior year and the summer following the junior year in the calculation.

For high school graduates who apply after the senior year, a high school GPA includes senior year coursework.

High School Grade Point Average Questions & Answers - continued

What if applicants don't have a GPA, or attended a high school not eligible to verify a GPA, or have a GPA that is more than five years old?

An applicant who does not have a GPA or whose GPA is more than 5 years old may submit a test score from the General Educational Development Test (GED), the American College Test (ACT) or the SAT Reasoning Test (SAT I) to be considered for a Cal Grant award.

A student who attended a high school that had neither WASC accreditation nor a University of California-approved course list, must submit a GED, ACT, or SAT Reasoning Test score to be considered for a Cal Grant award.

If a test score will be submitted in lieu of a verified GPA, the student must take the test early enough to submit the results on or before the March 2nd postmark deadline. A signed GPA Verification Form with the student's Social Security number must be attached when submitting test scores. This will assure the test scores are used as an academic qualifier.

Is High School Graduation Required for Cal Grant Program Participation?

High school graduation, or its equivalent, is required for Entitlement Cal Grant program participation. Competitive Cal Grants do not require high school graduation. For those students who did not complete high school graduation requirements, the Commission can use the GED test date or the California High School Proficiency Examination (CHSPE) test date as equivalent to the date of high school graduation.

Although the CHSPE can be used as evidence of the equivalence of high school graduation, the Commission will not accept CHSPE results for use as an academic qualifier. Students who took the CHSPE to qualify to leave high school must submit a GPA or other academic qualifier to meet the Cal Grant academic qualifier requirement.

Can a GPA be certified for a student who has not passed the California High School Exit Examination (CAHSEE)?

High school graduation, or its equivalent, is required for Entitlement Cal Grant program participation. A public high school student who did not pass the CAHSEE exam and was required to do so cannot be paid Entitlement program benefits. State law allows students until December 31 of the award year to complete their high school graduation requirements and remain in the Entitlement program, although payment cannot be made until the school term starting after he or she completes all high school graduation requirements. His or her GPA is still valid for Competitive Cal Grant program consideration.

Do I need to resubmit GPAs for the September 2nd Competition?

The September 2nd deadline is used to select Competitive Cal Grants for students attending a California Community College. Students who were not awarded during the Commission's March 2nd cycle may compete for an award during the September cycle.

All GPAs received for the March 2nd deadline will be carried over for inclusion in the September competition. If the student's GPA has changed as a result of senior year coursework, the new GPA should be certified and submitted.

When will recipients be notified?

The Commission will begin notifying students of their Entitlement awards in mid-March. The timing of these notifications is driven by:


- ◆ Delivery to the Commission of College Cost information for all participating Cal Grant schools;
- ◆ The Commission's receipt of an electronic file from the federal processor of the FAFSA; and,
- ◆ Receipt of a verified GPA for the student.

Competitive award notifications are mailed in late April for the March 2nd deadline and early October for the September 2nd deadline.

Cal Grant 101

For Beginning Cal Grant
Administrators
2013 CASFAA Conference





Today's Agenda

- Cal Grant Application
- Basic Eligibility Requirements
- The Cal Grant Programs
- Cal Grant Payments
- WebGrants System
- WebGrants for Students
- Ways to Keep Up



CAL GRANT APPLICATION

FAFSA

49

Dream Act Application

GPA Verification

Deadlines

Cal Grant Application

FAFSA/Dream App.

Financial

- Can be submitted by online or paper
- Student must list CA school on their FAFSA/Dream app.
- Must complete the applicable year FAFSA/Dream app. for which they are applying.

GPA Verification Form

Academic

- Must be completed by paper or submitted electronically by institution
- CSAC received approximately 40,000 paper and 1.6 million electronic GPAs for the March 2013 deadline.

Both Financial and GPA Applications must be submitted

Cal Grant Application Deadlines

March 2nd, 2014*

- For students attending any eligible school
- Offers Cal Grant A, B, and C
- Entitlement and Competitive awards offered

September 2nd, 2014

- Only for students attending a California Community College (CCC)
- Students must be enrolled in the CCC by Sept. 2nd to be considered
- Only Cal Grant A and B awards are offered
- These are Competitive awards

*For any application deadline falling on a Saturday, Sunday or holiday, the deadline is moved to the next business day.



AB 131 Dream Act

Allows students who meet AB 540 criteria to receive Cal Grants

- Eligibility is the same except of residency determination
- Must meet all other Cal Grant requirements
- 2014 on-line application will become available January 6, 2014 to gather FAFSA like information

BASIC ELIGIBILITY REQUIREMENTS

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for cal grant program



2014-15

FAFSA Cal Grant Eligibility Requirements

- California resident
- U.S. citizen or eligible non-citizen
- Meet Selective Service requirements
- Attend an eligible California School
- Not owe state or federal grant repayment
- Not be in default on a student loan
- Not have earned a BA/BS degree
- Maintain Satisfactory Academic Progress
- Not incarcerated
- Be enrolled at least half-time
- Must have a Social Security number (Not from DACA)

2014-15

Dream Applicant Cal Grant Eligibility Requirements

- **Meet AB 540 requirements**
 - Attended a CA HS at least three full years
 - Graduate from a CA high school
 - File an affidavit with and attend an eligible California college
- **Meet Selective Service requirements**
- **Not owe state or federal grant repayment**
- **Not be in default on a student loan**
- **Not have earned a BA/BS degree**
- **Maintain Satisfactory Academic Progress**
- **Not be incarcerated**
- **Be enrolled at least half-time**

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CA Residency Requirement

Students must be CA residents for at least one year

For Public Institutions (CSU, UC, CC)

- Will use the residency dates and regulations approved by their governing boards.

Non-Public Institutions (ALL OTHER SEGMENTS)

- Will use term start date, the community college regulations or develop procedures consistent with the community college regulations.



Satisfactory Academic Progress (SAP)

- Schools must confirm that students are making satisfactory academic progress before disbursing funds using the school's SAP policy
 - Must notify the Commission of those students who are not making SAP
- GPA Verification is not required for renewal students

Satisfactory Academic Progress (SAP)

- Students must maintain SAP to be eligible for renewal awards
- To notify CSAC when a student is not making SAP
 - Payment Adjustment: \$0
 - Adjustment Reason Code: “NP”
- CSAC will send student letter regarding SAP
- Student will continue to be listed in the “Eligible” section of roster
- After three consecutive terms of not maintaining SAP, the student’s award is withdrawn

Financial Need Requirement

New and Renewal Students must meet same Financial Need requirements

Calculation:

Cost of Attendance (COA)

– Expected Family Contribution

Unmet Financial Need

Cal Grant A

Must have a minimum financial need of at least the maximum Cal Grant A award amount +\$1,500

Cal Grant B

Must have a minimum financial need of at least \$700

Cal Grant C

Must have a minimum financial need of at least the maximum Cal Grant C award amount +\$1,500



THE CAL GRANT PROGRAMS

Entitlement vs. Competitive

60

Cal Grant A

Cal Grant B

Cal Grant C

Entitlement vs. Competitive

HS Entitlement Program

- Offers Cal Grant A & B
- For current HS Seniors or recent HS graduates
- Must submit HS GPA and graduate on or after July 1st, 2012 (for 2014-15 AY)
- Unlimited number of awards

Competitive Program

- Offers Cal Grant A, B, and C
- For all students who do not meet Entitlement criteria
- Maximum number awards
 - 11,250 for March 2nd
 - 11,250 for Sept. 2nd
 - Total of 22,500 awards each year

Entitlement vs. Competitive

CC Transfer Entitlement Program

- Offers Cal Grant A & B
- For student who have attended a CCC and are now transferring to a BS/BS school
- Must submit CC GPA, have graduated from a California high school
- Unlimited number of awards

Cal Grant C

- Offered to students who have not been offered an A or B, and
- Are enrolled in an occupational or technical program
- Maximum number awards – 7,761 for March 2nd

**Competitive Scoring Process
(Cal Grant A & B)**

Once the student meets all eligibility requirements (income ceilings, minimum GPA, etc.), then CSAC will score the student based on the following criteria.....

Category Maximum Points Possible

Income	76 Points
GPA	70 Points
# of yrs out of HS	18 Points
Parents Edu. Level	18 Points
Household Status	18 Points
<hr/>	
Total Pts. Possible	200 Points

In 2013/14, the minimum score was set at 161 pts.

Cal Grant A

- Low to middle income students
 - Below income and asset ceilings
 - Have financial need
 - GPA minimum (3.00 H.S. or 2.40 College)
- 64
- AA and BA programs only
 - Maximum annual award amounts
 - Can be used for tuition and fees only
 - Community Colleges – Not paid, but held in reserve

Cal Grant B

- Very low income students
- Below income and asset ceilings
 - Must have at least \$700 in financial need
- GPA minimum 2.00
- AA, BA/BS and Certificate programs
- Freshman can receive up to \$1,473 living allowance for their first year.
- If attending Tuition charging institution, students can receive the same living allowance plus additional money for Tuition and Fees.

Cal Grant C

- Low to middle income students
- Can be used for tuition & fees and books & supplies
- NO GPA Requirement
- AA and Certificate programs
- Maximum annual award amounts
 - Tuition and Fees - \$2,462
 - At private vocational schools
 - Books and Supplies - \$547
 - At private vocational schools and
 - Community colleges

Transfer Entitlement Awards**


- Transfer from a CCC to a bachelors degree granting school during academic year
- Graduated from a California high school after June 30, 2000.
- Under age **28** by the end of the year for which they are applying
- Minimum GPA of 2.40
 - Earned at California Community College
 - Based on at least 24 semester units
- Enrolled in a bachelors degree program at a school that offers bachelors degrees

** Only offered for March 2nd deadline

CAL GRANT PAYMENTS

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Term advances
Supplemental payments



Cal Grant Term Advance

- CSAC will send a Cal Grant Advance payment at the start of each term.
- Currently, the Commission sends a percentage of the previous year's reconciled term amount to the institution at the beginning of each term.
- Institutions may receive supplemental disbursements within a week of the term advance by immediately reconciling eligible payments in WebGrants.

Cal Grant Advance


Example of a 50% Term Advance:

- In the 2012/13 AY, a college reconciled
 - \$150,000 in Fall 2012
 - \$130,000 in Spring 2013
- In August of 2013 (start of the 2013-14 AY), CSAC sent a Fall Term Advance
 - Fall Advance in the amount of \$75,000
- In January of 2014 (start of the Spring 13/14 Sem.), CSAC sent a Spring Term Advance
 - Spring advance in the amount of \$65,000



Cal Grant Supplemental Payments


- Institutions will post student payments in WebGrants, and use their Term Advance to pay students.
- Additional Funds are sent to institutions if needed on a weekly basis.
- Unused funds will be invoiced at the close of the academic year.
- The 2012/13 AY closed December 11, 2013, and invoices will be sent in January 2014.



Exploring WebGrants Functionalities

CASFAA 2013

The California Student Aid
Commission



Agenda

- What is WebGrants?
- Payment Reporting
- Adjustment Codes
- Payment Scenarios
- WebGrants Reports and Tools
- Cal ISIR Viewing Tool

CAL GRANT PAYMENT REPORTING

Updated On 04/15/2013

Be sure to save all entries before exiting the Roster or changes will be lost.

School ID = () Acad Year = 2012 - 2013 Format = CSAC Standard Roster Search = SSN

Search Roster: Last Name

Total number of records: 3409 Total number of pages: 682



1 2 3 4 5 6

Verify ELs as reported

CSAC ID: <input type="text"/>											View History			Record: 1
SSN	DOB	Grant ID	Cycle ID	Housing Code	Dep Status	New / Renewal	EL Code	CSAC Budget	EFC	Remain Elig	Forecast Elig	Roster Section		
E1				3	D	N	1	11703	0	400.00%	100.00%	ELIGIBLE(1)		

Custom Codes	1	2	3	4	5
High School Grad. Date Verification	Verified by STDT	Verify As	Yes - Graduated on 06/2012	New Grad Date:	Jan 2012

(High School Grad. Date Verification through CSAC) Request By : Student High School College

Education Level (EL) Verification Reported EL 1 Verified EL Status 1 -- Verification Not Required

Fall Term		Adj Reason Codes				Pay Status Codes				Delete Txn
Program Code	Award Type	Annual Award Amount	Term Amount	Adj Amount	Adj Reason	Pay Code	Annual Need	Income & Asset Year Used	Rec Type	
	Totals	\$1,473	\$737				11703			
B	ACSS	\$1,473	\$737						GRT	
Spring Term		Adj Reason Codes				Pay Status Codes				Delete Txn
Program Code	Award Type	Annual Award Amount	Term Amount	Adj Amount	Adj Reason	Pay Code	Annual Need	Income & Asset Year Used	Rec Type	
	Totals	\$1,473	\$736				11703			
B	ACSS	\$1,473	\$736						GRT	

Two Ways to Report Payments

1. Post payments directly to the Cal Grant Roster in WebGrants
 - a) Convenient for those last minute payments or adjustments
 - b) Most transactions process in real-time. No waiting!
 - c) Commonly used by schools with less than 100 students
2. Upload your Cal Grant Roster to WebGrants
 - a) Makes it easy to report payments for hundreds or even thousands of students
 - b) Use your Financial Aid Management System (FAMS), to import and export Cal Grant Roster data to the WebGrants system
 - c) File specifications are available in the “Help” menu of WebGrants

Weekly Process

- On a weekly basis, the Commission will process all accepted payments reported during the week.
- Once the payment/adjustment is reported and accepted, the Payment Status code will reflect either an **AP** (Accepted Payment) or **AA** (Accepted Adjustment)
- Over the weekend, all **AP's** and **AA's** will change to **RP** (Reconciled Payment) or **RA** (Reconciled Adjustment)
 - These payments will be reflected on your institutions Monthly Payment Activity report (if additional funds are needed, the Commission will send a Supplemental Payment)

Monthly Payment Activity

DATE	ACTIVITY	FUNDS DISBURSED TO INSTITUTION	PAYMENT TRANSACTIONS	BALANCE
08-14-12	FALL ADVANCE	21,869.00		21,869.00
08-17-12	FALL RECONCILED PAYMENT TRANSACTIONS		0.00	21,869.00
11-09-12	FALL RECONCILED PAYMENT TRANSACTIONS		30,121.00	-8,252.00
11-09-12	RECONCILED PAYMENT TO INSTITUTION	8,252.00		0.00
11-30-12	FALL RECONCILED PAYMENT TRANSACTIONS		4,054.00	-4,054.00
11-30-12	RECONCILED PAYMENT TO INSTITUTION	4,054.00		0.00
01-08-13	SPRING ADVANCE	7,798.00		7,798.00
02-01-13	FALL RECONCILED PAYMENT TRANSACTIONS		737.00	7,061.00
02-01-13	SPRING RECONCILED PAYMENT TRANSACTIONS		24,745.00	-17,684.00
02-01-13	RECONCILED PAYMENT TO INSTITUTION	17,684.00		0.00
02-15-13	SPRING RECONCILED PAYMENT TRANSACTIONS		736.00	-736.00
02-15-13	RECONCILED PAYMENT TO INSTITUTION	736.00		0.00
02-22-13	FALL RECONCILED PAYMENT TRANSACTIONS		-369.00	369.00
03-05-13	SPRING RECONCILED PAYMENT TRANSACTIONS		552.00	-183.00
03-05-13	RECONCILED PAYMENT TO INSTITUTION	183.00		0.00
03-22-13	FALL RECONCILED PAYMENT TRANSACTIONS		0.00	0.00
03-22-13	SPRING RECONCILED PAYMENT TRANSACTIONS		736.00	-736.00
03-22-13	RECONCILED PAYMENT TO INSTITUTION	736.00		0.00
	TOTAL FUNDS DISBURSED / TOTAL PAYMENTS	61,312.00	61,312.00	0.00

WEBGRANTS PAYMENT CODES

79

What do they do?

Updated On 04/15/2013

Be sure to save all entries before exiting the Roster or changes will be lost.

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E1				3	D	N	1	11703	0	400.00%	100.00%	ELIGIBLE(1)		

Custom Codes	1	2	3	4	5

High School Grad. Date Verification Status: Verified by STDT Verify As Yes - Graduated on 06/2012 New Grad Date: Jan 2012

(High School Grad. Date Verification through CSAC) Request By: Student High School College

Education Level (EL) Verification Reported EL 1 Verified EL Status 1 -- Verification Not Required

Fall Term		Adj Reason Codes				Pay Status Codes				Delete Txn
Program Code	Award Type	Annual Award Amount	Term Amount	Adj Amount	Adj Reason	Pay Code	Annual Need	Income & Asset Year Used	Rec Type	
	Totals	\$1,473	\$737				11703			
B	ACSS	\$1,473	\$737						GRT	
Spring Term		Adj Reason Codes				Pay Status Codes				Delete Txn
Program Code	Award Type	Annual Award Amount	Term Amount	Adj Amount	Adj Reason	Pay Code	Annual Need	Income & Asset Year Used	Rec Type	
	Totals	\$1,473	\$736				11703			
B	ACSS	\$1,473	\$736						GRT	

Payment Status Codes

Pay Status Code

PD- **P**aid **D** Payment

SC- **S**chool **C**hange

∞

NA- **N**ot in **A**ttendance

YA- **Y**es in **A**ttendance

What it does...

School verifies student is eligible for the term payment printed on the roster

School is adding a student to their Roster and not reporting payment information

Student is NOT in attendance; this code "hides" the student's record on the Roster and generates a letter to the student

Student IS in attendance again after being on "NA" status; recalls the student back to the eligible section of the Roster

Most Used Payment Adjustment Codes

Definition

AF, AT, AH- Misc. Adj. for Full, $\frac{3}{4}$, and Half Time Student

TT, HT- Attending $\frac{3}{4}$, Half Time and eligible for Full Pay

LA- Student taking Leave of Absence

OF, OT, OH- Student receiving outside funding and attending Full, $\frac{3}{4}$, and Half Time

When to use it...

When a student is attending Full, $\frac{3}{4}$, and Half Time, but not eligible for the maximum payment for their enrollment status

When student is attending $\frac{3}{4}$ or Half Time and is eligible for the maximum payment for their enrollment status

When a student's enrollment status is active, but not enrolled/registered for that term.

When a student is NOT eligible for a maximum Cal Grant payment due to outside scholarships, grants, etc. and is attending Full, $\frac{3}{4}$, and Half Time

The Leave of Absence

- The LA code for Leave of Absence is used
 - when a student is not in school but is expected to return, or
 - if the student decides to not receive payment for a term.
- When should the LA code for Leave of Absence not be used?
 - Student is not making Satisfactory Academic Progress
 - Student is not financially eligible
 - You don't know where the student is
- Who should report?
 - student can report, or
 - school can report if the school knows what the situation is.
- Comment: **The LA code is used only for an otherwise eligible student.**

Adjustment Codes to be mindful of...

- The following Adj. Codes will withdraw the student's Cal Grant Award;
 - **GR**—Recipient owes in Grant Refund
 - **IA, IB, IC**— Ineligible degree program for Cal Grant A, B, C
 - **LD**— Recipient in Default on Federal Student Loan
 - **NP** (3 consecutive terms)— Recipient Not making Satisfactory Academic Progress

COMMON PAYMENT SCENARIOS...

What If...?

- The student was enrolled Full-Time at the time of disbursement, then drops units?

Answer: Disbursements must be made within 15 days of
⌘ determination of the student's enrollment status as of the institutions Add/Drop date, census date, or its equivalent. Please refer to your institutions refund policy regarding drops in enrollment status after disbursement.

Comment: The 2012-16 IPA requires institutions to publish a term-by-term calendar identifying the Add/Drop and/or enrollment census dates or the equivalent

What If...?

- The student had a payment reported for a term but I need to back that payment out?
- 87 Answer: You use the “NS” code with a \$0 adjustment amount.

Comment: The student did not attend for the reported term, or payment was made in error.

What If...?

- I want to remove a non-enrolled person from the roster?

Answer: Use the “NA” Payment Status code

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Comments: This “banishes” the student record to the ineligible section of the roster, but he/she will still be on roster for the rest of the AY or until school change is reported

- To bring them back, use “YA”

WEBGRANTS REPORTS AND TOOLS

WebGrants Generated Reports

WebGrants Tools



Where to find all reports in WebGrants

- From the WebGrants Portal Menu, select the following;
 - “WebGrants”
 - “Data Transfer”
 - “Report Download”
- Choose the Report and Academic Year you would like to view
- Filter reports by using the “Month” and/or “Media Type” drop down menus

Data Transfer File Upload Report Download SSN/ID Main

Report Download

- To download or display a report or data file click on the Retrieve File button.
- All data columns can be sorted either ascending or descending order by clicking on the blue column headings.
- To compare two roster files, select Grant Roster for Report and Data File for Media Type.
- To delete uploaded Audit Files, select Audit File for Report and the Delete checkbox column will appear.

School ID = Acad Year = 2013-2014 Report = All Month = All Media Type = All

Privacy Policy

[Norton SECURED](#)
 powered by [VeriSign](#)

[Asset Protection Allowance Hold](#)
[Audit File](#)
[Automatic Leave](#)
[Award Status Extract - Awarded](#)
[Award Status Extract - Non Awarded](#)
[Award Status Extract Upload Summary](#)
[Byrd Rosters](#)
[Cal C Supplement Recipient](#)
[California Dream Act ISIRs](#)
[Chafee ILP Eligibility Verification Form](#)
[Chafee Need Analysis Report](#)
[Chafee Status Roster By School](#)
[Disqualified Renewal Students](#)
[E2 Verification](#)
[EL Verification Accept/Reject](#)
[EL Verification Upload Summary](#)
[Education Level Verification](#)

[.mission](#)
[Contact Us](#)

WEBGRANTS GENERATED REPORTS

What reports are available?

- **Accept/Reject-** Provides feedback after payments/adjustments have been reported. Informs users which records were accepted and which were rejected.
- **Award Status Extract-** Generated after an institution uploads an award status file which requests award status information for the requested list of students. (2 reports available 'Awarded' and 'Not Awarded')
- **Cal C Supplement Recipient-** Shows the name and address of all students who were found potentially eligible for the Cal Grant C, but have not returned the Cal Grant C Supplement form.

What reports are available? (Cont.)

- **Education Level Verification-** Provides a list of new Cal Grant recipients whose Education Level requires verification.
- **EL Verification Accept/Reject-** Provides feedback after an institution submits an EL Verification Report. Informs users which records were accepted and which were rejected.
- **GPA Summary-** Provides a summary of all GPA's submitted from an individual institution. Report gives all GPA records submitted electronically and by paper forms.

What reports are available? (Cont.)

- **Grant Roster**- A weekly report that contains the comprehensive list of Cal Grant recipients and their grant information for a particular institution and academic year.
- **Monthly Payment Activity**- Provides detailed description of an institution's payment activity between CSAC and the institution. Also gives Year-To-Date total for all money reconciled.
- **School Change Upload**- Is generated when an institution uploads a School Change Upload data file. Lists students for which a school change was requested via the uploaded data file for which insufficient data was provided. It also includes the total number of records successfully uploaded, and the number of records that could not be processed.
- **Secure File Transfer**- This report option gives the institution the ability to download files sent from CSAC in a secure manor.

What reports are available? (Cont.)

- **Unable to Determine Renewal Elig.-** Generated monthly between July and December that lists Cal Grant recipients that we think were enrolled at the particular institution for the prior year for whom at least one term has yet to be accounted for by the reporting of a payment, leave of absence, or another transaction.
- **Unclaimed Awards-** Generated periodically between October of the award year and the final reconciliation for that year. This report will list Cal Grant recipients who had no payments reported during the selected academic year at any of the institutions listed on the student's FAFSA application

WEBGRANTS TOOLS

In WebGrants, click on 'tools'

Webgrants Main Menu - Mozilla Firefox

File Edit View History Bookmarks Tools Help

ca.gov https://webgrants.csac.ca.gov/Common/default.aspx?id=98

Microsoft Forefront O... Webgrants Logon CSAC California Stud... Defect Tracker

Convert Webgrants Main Menu

California Student Aid Commission (SAPRD) WebGrants System

[Tools](#) [Help](#) [Sign Out](#)

Welcome! SA3JXW
To the CSAC Portal Menu

Please contact your School's System Administrator if you need access to additional screens.

Portal Menu WebGrants Table Edit User Administration	Account Information View Your Account Details Help With Your Account
--	---

The last time you logged on to this system was: 03/30/2012 09:31:44 am
Number of failed attempts since your last login: 0

[Privacy Policy](#) Copyright 2000-2012, California Student Aid Commission [Contact Us](#)
Revision: 9 Date: 12/14/2009 11:43:03 AM

Available tools

- **Grant Roster Template-** Formats roster data files into a Microsoft Excel Spreadsheet
- **Roster Data File Comparison-** Provides comparisons between a previous roster data file and the current file
- **Unclaimed Awards Template-** Formats Unclaimed award data files into a Microsoft Excel spreadsheet
- **Dream Application ISIRs (CaI ISIRs)**



Reports

- In the Data Transfer menu of WebGrants
 - Click “Report Download”
 - Select the Academic Year you wish to view
 - Select the “Report Type”
 - Click “GO”

Accept/Reject Report

This report provides confirmation that each transaction was accepted. Any transaction that failed edits, will be in your Rejected Section. The Rejected Section will always display as the first section if there are any rejected transactions.

1 SABRAR2 - 01 (EDE COPY) CALIFORNIA STUDENT AID COMMISSION
 ACCEPT/REJECT REPORT
 ACADEMIC YEAR 2011
 001111100 - ALLAN HANCOCK COLLEGE

PAGE : 1
 RUN DATE: 10/28/2011
 RUN TIME: 22:55:36

REJECTED SECTION

GRANT ID#	SSN	STUDENT LASTNAME	FIRST NAME	I	M	PROCESS SRC	ACT	PGM	ADJ	AMOUNT	ADJ RSN	PAY STATUS
6785		GONZALEZ	ELIDA			10/28/2011	C	U		776.00		PD
6785: PAY TYPE ACC: SCHOOL HAS ALREADY REPORTED PAYMENT												
6785			ROBERT			10/28/2011	C	0		288.00		PD
6785: PAY TYPE B&S: SCHOOL HAS ALREADY REPORTED PAYMENT												
6785		OROS	JOSE			10/28/2011	C	U		776.00		PD
6785: PAY TYPE ACC: SCHOOL HAS ALREADY REPORTED PAYMENT												

TOTALS												
BATCH - PAYMENTS REJECTED: 0 AMOUNT REJECTED: 0.00												
ONLINE - PAYMENTS REJECTED:												
COMBINED - PAYMENTS COMBINED: AMOUNT COMBINED:												

1SABRAR2 - 01 (EDE COPY) CALIFORNIA STUDENT AID COMMISSION
 ACCEPT/REJECT REPORT
 ACADEMIC YEAR 2011
 001111100 - ALLAN HANCOCK COLLEGE

PAGE : 2
 RUN DATE: 10/28/2011
 RUN TIME: 22:55:36

ACCEPTED SECTION

GRANT ID#	SSN	STUDENT LASTNAME	FIRST NAME	I	M	PROCESS SRC	ACT	PGM	ADJ	AMOUNT	ADJ RSN	PAY STATUS
		ACEVEDO	AMALIA			10/28/2011	C	U		216.00	IT	
		ACEVEDO	WILBALDO			10/28/2011	C	U		776.00		PD
		ACEVES	MITZI			10/28/2011	C	U		388.00	HI	
		ACEVES	RICARDO			10/28/2011	C	U		776.00		PD
		AGUILAR	FRANCO			10/28/2011	C	U		776.00		PD
		AGUILERA	ALBA			10/28/2011	C	U		776.00		PD
		ALBARRAN	MARIA			10/28/2011	C	U		288.00		PD
		ALBRIGHT	MEGAN			10/28/2011	C	U		776.00		PD

Monthly Payment Activity Report

The Monthly Payment Activity Report (MPA) is kind of like your Cal Grant Bank Account.

The MPA Report shows detailed data regarding the payments CSAC has sent to your institution and the reconciliation payments you have made to students.

The bottom of the report provides Year-To-Date activity broken down by term and payment type.

DATE	ACTIVITY	FUNDS DISBURSED TO INSTITUTION	PAYMENT TRANSACTIONS	BALANCE
08-23-11	FALL ADVANCE	141,653.00		141,653.00
08-26-11	FALL RECONCILED PAYMENT TRANSACTIONS		0.00	141,653.00
09-02-11	FALL RECONCILED PAYMENT TRANSACTIONS		0.00	141,653.00
10-07-11	FALL RECONCILED PAYMENT TRANSACTIONS		0.00	141,653.00
10-28-11	FALL RECONCILED PAYMENT TRANSACTIONS		260,346.00	-118,693.00
10-28-11	RECONCILED PAYMENT TO INSTITUTION	118,693.00		0.00
11-04-11	FALL RECONCILED PAYMENT TRANSACTIONS		704.00	-704.00
11-04-11	RECONCILED PAYMENT TO INSTITUTION	704.00		0.00
11-18-11	FALL RECONCILED PAYMENT TRANSACTIONS		1,374.00	-1,374.00
11-18-11	RECONCILED PAYMENT TO INSTITUTION	1,374.00		0.00
	TOTAL FUNDS DISBURSED / TOTAL PAYMENTS	262,424.00	262,424.00	

	YEAR-TO-DATE ACTIVITY			TOTAL
	FALL	WINTER	SPRING	
CAT/F	0.00	0.00	0.00	0.00
CBT/F	0.00	0.00	0.00	0.00
CBACC	255,692.00	0.00	0.00	255,692.00
CBTOTAL	255,692.00	0.00	0.00	255,692.00
CCF/F	0.00	0.00	0.00	0.00
CCB/S	6,732.00	0.00	0.00	6,732.00
CCTOTAL	6,732.00	0.00	0.00	6,732.00
GFT/F	0.00	0.00	0.00	0.00
TOTAL	262,424.00	0.00	0.00	262,424.00
GRAND TOTAL	262,424.00	0.00	0.00	262,424.00

Disqualified Renewal Students Report

Renewal students who do not meet the new Renewal requirements will be listed on this report LISTING:


SSN Last Name First Name CSAC ID number
 ISIR TXN number Program Code Award Amount
 Income/Asset year used Disqualification Reason

dirsr-2013-00116900-28nov13.txt CALIFORNIA STUDENT AID COMMISSION PAGE: 1
 BATCH DATE: 11/27/2013 DISQUALIFIED RENEWAL STUDENTS REPORT (00115000) RUN DATE: 11/28/2013
 ACADEMIC YEAR 2013 RUN TIME: 00:13:03

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16 REPORTED INCOME OVER THE CEILING
 17 - REPORTED ASSETS OVER THE CEILING
 18 - MINIMUM NEED NOT MET
 19 - UNMET FINANCIAL NEED BELOW MINIMUM REQ. FOR AWARD

SSN	Last Name	First Name	CSAC ID	ISIR Txn Nbr	CG Prog	Award Amount	Inc/Asset Year Used	Disq. Reasons
1715	STUDENT	MAIRES	401	02	A	\$5,472	2011	16
1893	STUDENT	SAM	639	01	A	\$5,472	2012	16
1458	STUDENT	WEIDEN	949	03	A	\$5,472	2013	16
1072	STUDENT	MARIAM	195	01	B	\$6,945	2013	16
1562	STUDENT	ASHEL	698	04	A	\$5,472	2013	16
1546	STUDENT	TRENT	586	02	A	\$0	2013	19
1987	STUDENT	REBECCA	666	01	A	\$0	2013	17
1059	STUDENT	ADRIAN	366	03	B	\$6,945	2013	16
1854	STUDENT	ERNEST	800	03	A	\$5,472	2013	16
1029	STUDENT	ANGELICA	403	02	A	\$5,472	2011	16
1723	STUDENT	LUIS	685	01	B	\$6,945	2013	16
1818	STUDENT	KAILYN	522	07	B	\$6,945	2013	16
1019	STUDENT	JOSEPH	998	02	A	\$0	2013	16
1756	STUDENT	JOSEPH	868	01	A	\$0	2013	19
1313	STUDENT	KAYLA	006	02	A	\$5,472	2013	16
1071	STUDENT	MICHELLE	336	01	A	\$0	2012	19
1431	STUDENT	KELSEY	374	01	A	\$0	2013	16
1556	STUDENT	ISSEL	547	01	B	\$6,945	2013	17




WEBGRANTS FOR STUDENTS (WGS)

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What is WGS?

Advantages of WGS



WebGrants for Students (WGS)


- Provides students online access to California assistance and more—
- Secure, 24/7, student-friendly access to their Cal Grant and Chafee Grant award status;
 - Links to other related financial aid sites.

www.webgrants4students.org

WebGrants for Students (WGS)

www.webgrants4students.org

- Access available after the FAFSA is filed
- Check application and award status
- Verify and update e-mail and mailing address
- View payment history
- Simulate Cal Grant status at eligible California schools
- Request a leave of absence
- Self-certify high school graduation
- Select links to other financial aid information sites



Ways to Keep Up

- List Serve
 - <http://www.csac.ca.gov/prosubscription.asp>
 - Choose “Professional”
- Webinars
 - Will the 2014 webinar schedule be posted by the CASFAA Conference?
 - Go to “College” “training”
- Workgroup Committees
 - See GSA 2013-37
 - <http://www.csac.ca.gov/secured/default.asp>

Advisory Workgroups

- Sign up for a Commission Advisory Workgroup and provide your input!

- ❖ **WebGrants Payment Codes Review Workgroup:**

Contact Jeana Maduli at JMaduli@csac.ca.gov

- ❖ **Student Communications & WebGrants Messaging Workgroup:**

Contact Linda Brown LBrown@csac.ca.gov

- ❖ **Competitive Scoring and Selection Criteria Workgroup:**

Contact Kurt Zimmer KZimmer@csac.ca.gov or Cheryl Phelps CPhelps@csac.ca.gov




Advisory Workgroups

- ❖ **The Cal Grant C Advisory Committee** will look at scoring, recent and upcoming statutory changes to selection criteria, and improving award utilization. Contact Lori Nezhura at LNezhura@csac.ca.gov.
- ❖ **The Financial Aid Debit Card Advisory Committee** will look at the use of debit cards, the impact to students, and the best practices for campuses using debit cards. Contact Bryan Dickason at BryanD@csac.ca.gov.
- ❖ **The Competitive Program Leaves of Absence Advisory Committee** will review the current leaves of absence process to determine whether or not to continue deferral of payments. Contact Tae Kang at TKang@csac.ca.gov.



Upcoming for 2014

- **2014-15 Dream Act Application** – releasing on January 6, 2014.
Attend our Dream Act Session!
- **Middle Class Scholarship Program** – CSAC continues to work with UC & CSU Staff to coordinate the initial year of scholarship program for the 2014-15 academic year
- **Enrollment Files** – CSAC may request enrollment files from Cal Grant participating institutions to increase award utilization, student communication and data matching for Cal Grant consideration



Thank You for Attending!
Enjoy the rest of the conference

Contact us at

888-294-0153

schoolsupport@csac.ca.gov



Cal Grant Handbook

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Introduction

History of the Commission

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History of the California Student Aid Commission

One of the earliest proposals for the development of a California state scholarship program was in the 1948 Strayer Committee report on the Needs of California in Higher Education. This proposal contained a plan for a series of subsistence scholarships to be awarded to deserving applicants throughout the state on the basis of academic ability and potential for success in college. In the spring of 1955, the Legislature passed Assembly Bill 1546, known as the Hegland-Shell-Donahoe and Donald D. Doyle Act, and the Governor signed the bill on July 8, 1955. The Act provided for a series of competitive undergraduate scholarships, which were to be used for payment of tuition and fees. The awards were to be granted on the basis of a competitive examination, demonstrated financial need, and additional requirements pertaining to residency and citizenship.

The law required that the program administration be assigned to a State Scholarship Commission, whose members were to be appointed by the Governor and that each scholarship be used for undergraduate study at an accredited collegiate institution within the state. Each awardee was eligible to renew the award; however, the award could not exceed a maximum of four years or the completion of the undergraduate program.

Eventually, legislation changed the name of the State Scholarship Commission to the California Student Aid Commission (Commission), expanded its membership, and the rest is history:

- The State Scholarship became the Cal Grant A program.
- In 1968 the College Opportunity Grant was created and later changed to the Cal Grant B program.
- In 1973 the Occupational Education and Training Grant was created and later changed to the Cal Grant C program.
- In 1977 legislation authorized the Commission to be California's designated guarantor for the Guaranteed Student Loan Program, which later changed to the Federal Family Education Loan (FFEL) Program.
- In 1996 legislation authorized the creation of a non-profit, public-benefit, auxiliary Corporation to assist the Commission in administering FFEL Programs. Following the passage of this legislation, the Commission founded EdFund as its loan auxiliary on January 1, 1997.
- Upon cessation of the FFEL program in 2009, the Commission's loan portfolio was transferred to a private, non-profit servicer, Educational Credit Management Corporation (ECMC), thus ending the Commission's participation in the federal loan programs.
- Cal Grant Entitlement awards began with the 2001-02 year. Senate Bill 1644, Statutes of 2000 (Chapter 403), created a new Cal Grant Program with guaranteed Entitlement awards for recent high school graduates. This legislation represented the greatest expansion of access to higher education in California since the federal government implemented the G.I. Bill.

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History of the California Student Aid Commission

- Assembly Bill (AB) 540 passed in 2001 to allow non-resident California students to pay the lower resident fees at California’s public colleges and universities. In July 2011, AB 130 was signed into law to allow AB 540 students to apply for private scholarships for use at California’s public higher education institutions. In October 2011, AB 131 was signed into law to allow AB 540 students to apply for California state financial aid such as the University of California Grants, State University Grants and Board of Governor’s fee waivers, Cal Grants, and other State-administered financial aid. Together, these two bills comprise the California Dream Act.
- In April 2012, the California Dream Act Application (CADA) was created to collect data from Dream Act students not eligible to file the Free Applicant for Federal Student Aid (FAFSA). The CADA is used by institutions in the awarding of financial aid/fee waivers to eligible AB 540 students, and by the Commission in awarding Cal Grants. Other than the residency exception made by AB 540, the Commission makes no distinction between Cal Grant awards resulting from either application. Likewise, verification of most Dream Application elements are the same as for students who filed the FAFSA, with differences outlined in this handbook.
- The Middle Class Scholarship (MCS) was established in the 2014-15 academic year to serve University of California (UC) and California State University (CSU) students with family income up to \$150,000 and whose family assets do not exceed \$150,000. The MCS is for those who are not already served by the federal Pell Grant, institutional grants, or the Cal Grant program.
- Over the years, several Specialized Programs have been created, and some have been phased out, in order to best serve specific student populations. Specialized Programs may include grants, scholarships, or loan repayment assistance, and the Commission administers some of them on behalf of other state agencies using state and federal funding.

The year 2015, marks the Commission’s 60th year of providing financial aid services to California students. In 2014-15, the Commission administered approximately \$1.8 billion in local assistance funding to approximately 350,000 students.

Since its creation by the Legislature, in 1955, the Commission continues to operate as the principal state agency responsible for administering state financial aid programs for students attending public and private universities, colleges, and vocational schools in California.

The Commission has never wavered from its central mission to ***make education beyond high school financially accessible to all Californians or our vision toward a California that invests in educational opportunity, fosters an active, effective citizenry, and provides a higher quality of social and economic life for its citizens.***

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3 - Applications, GPA and Deadlines

At the FAFSA on the Web site, students can make live contact, online, by selecting the Chat button conveniently located within the pages of the application.

Before sending the application, students should make sure they do the following:

- Carefully complete the demographic information including mailing address and email address.
- List an eligible Cal Grant school in the school release portion of the applications.
- Complete all questions that are presented. Skip logic in the applications may not be present for all possible questions.
- Complete the question on the FAFSA regarding parents' education, if the student wishes to receive maximum consideration for a Cal Grant Competitive award.
- Verify that the names and Social Security numbers on the application are correct.
- Applicants should print out and save a copy of the submission "confirmation" page, which includes the application confirmation number. This number can be used to prove timely submission, if necessary.

Consequence

The consequences of incomplete, incorrect or untimely submissions is that the awarding of a Cal Grant might be delayed or forfeited. Financial aid applications and the GPA have to be completed timely and accurately for a student to receive Cal Grant consideration.

Students who become aware of an error or omission on their applications should submit corrections directly to the processor as early as possible. As long as the original FAFSA/CADA application was received by the deadline, the Commission will use the most recent FAFSA/CADA information on record when running the March 2nd or September 2nd cycles.

Signatures Required

Applications - FAFSA (on the web or paper)	
Dependent Student	Student and one parent must sign with either signature or PIN
Independent Student	Student and, if applicable, spouse must sign with either signature or PIN

[Return to Table of Contents](#)

3 - Applications, GPA and Deadlines

[CEC 69432.9 \(c\)](#)

[CCR 30007](#)
[CCR 30008](#)

GPA

Though considered need-based financial aid, the Cal Grant program was designed to include an academic qualifier. A certified GPA establishes academic merit and is a critical component for a new applicant to be considered for a Cal Grant award. Once certified, the GPA may be submitted electronically by the school via WebGrants or the paper Cal Grant GPA Verification Form (G-4) may be submitted by mail. GPAs may be submitted beginning in October prior to the academic award year, but must be submitted by the deadline (March 2 or September 2, depending on the award cycle.)

If the student's GPA is higher than originally reported, they may update their GPA prior to the award cycle and the Commission will use the highest applicable GPA on file when the award cycle is run.

Types of GPAs

High School GPA

- High school GPAs should be based on classes successfully completed
- If student applies during senior year of high school, the GPA will be based on his/her sophomore and junior grades, including any summer terms after each of those years.
- If the student applies in the year following high school graduation or the equivalent ("one year out"), the GPA will be based on his/her sophomore, junior and senior grades.

Reestablished GPA

- Based on 16 to 24 community college transferable semester units

Community College GPA

- Based on at least 24 semester or 36 transferable quarter units

College GPA

- Based on at least 24 semester or 36 transferable quarter units, regardless of the grade received
- Does not include remedial courses

The majority of GPAs submitted for Cal Grant award consideration are uploaded directly from the student's former or current school. Electronic submission is encouraged and the preferred method for submitting GPAs.

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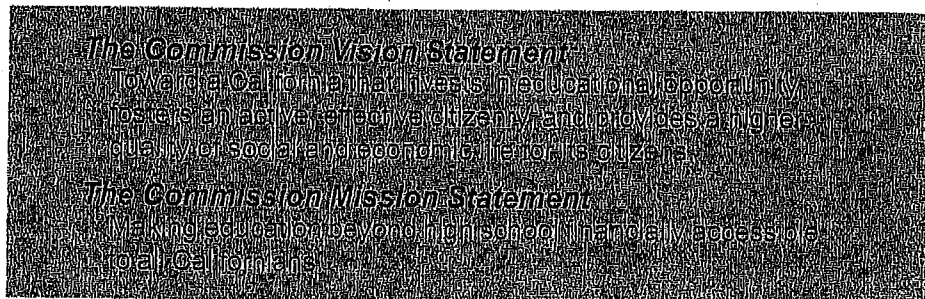
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1 About the California Student Aid Commission



1.1 Commission History

The California Student Aid Commission (Commission) was created by state law in 1955 as the California State Scholarship Commission. The new agency's primary mission was to oversee the California State Scholarship program, the forerunner of today's Cal Grant program. Since that time, the Commission has grown to administer grant, loan assumption and work study programs that total more than 700 million dollars for 2003-04.

Loan Guaranty Agency

The Commission is also the state's designated student loan guaranty agency for the Federal Family Education Loan (FFEL) Program. EDFUND was created in 1997 as a nonprofit 501(c)(3) public benefit corporation to provide loan services under FFEL on behalf of the Commission. The FFEL program is authorized under Title IV of the federal Higher Education Act of 1965.

These loan programs are the Federal Stafford Loan Program, Parent Loans for Undergraduate Students (PLUS) and Consolidation loans.

The Commission now provides loan guarantee services through EDFUND in excess of \$3.5 billion annually, providing educational opportunity to students in all segments of postsecondary education. Over one million students annually benefit from the Commission's important and varied financial aid programs. (C.E.C. 69431, 69432, 69671(a))



Policy Leadership Role

The Commission has a responsibility to provide leadership on financial aid issues and to make public policy recommendations concerning financial aid programs. To meet these responsibilities, the Commission collects information on student financial aid issues, evaluates the effectiveness of its programs, conducts research assessing California's financial aid needs, engages in long range planning as a foundation for program improvement, and disseminates information to parents, students, California educational institutions, the California Legislature and the Governor.

1.2 Membership, Meetings, Executive Director, Committees Commission Members

Governor Appointees- The California Student Aid Commission consists of 15 members. The Governor, with a two-thirds consent of the Senate, appoints eleven Commission members. By law, these appointments must include:

- ▶ three representatives from the general public;
- ▶ one representative from a California secondary school;
- ▶ two representatives, each of whom must be a student enrolled in a California postsecondary educational institution (in different segments at the time of appointment);
- ▶ one representative from the University of California;

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- ▶ one representative from the California State University;
- ▶ one representative from the California Community Colleges;
- ▶ one representative from a California independent college or university; and
- ▶ one representative from a public, proprietary or nonprofit California postsecondary school

Assembly and Senate Appointees- The Speaker of the Assembly appoints two Commission members and the Senate Rules Committee appoints two members. These members represent the general public. (C.E.C. 69510 (a-h))

Most Commission members are appointed to four-year terms, unless they are filling a vacant, unexpired term. In that case, they complete the remainder of the unexpired term. Student members serve two-year terms. (C.E.C. 69511 (a))

ScholarShare Investment Board- One member of the Commission is appointed by the Governor to serve on the investment board of the Golden State ScholarShare Trust. ScholarShare is California's federal and state tax-free 529 college savings program administered by the State Treasurer's Office.

Commission Meetings, Correspondence- Commission meetings are usually held six times annually and the meetings are open to the public. (C.E.C. 69513, 69513.1 and 69513.5)

 Letters and informational materials addressed to Commission members may be sent to the address in Chapter 12.

Executive Director

The Executive Director is the Commission's chief executive officer and is appointed by and serves at the pleasure of the Commission. The Commission may delegate authority to the Executive Director to sign contracts and carry out the policies and regulatory directions of the Commission and

conduct the day-to-day business of the Commission. The Executive Director and Commission staff welcome public participation in all student financial aid matters.

Grant Advisory Committee


The Grant Advisory Committee advises the Commission on program funding and policy issues. All major proposed or planned program changes are brought to this committee for review and advice. In addition, the committee typically reviews and comments on reports to the Legislature. Technical and operational issues are directed to standing or ad hoc committees that work with Commission staff.

The Committee consists of 20 members:

- ▶ ten school representatives: two from each segment*;
- ▶ five students: one from each segment;
- ▶ a California Association of Student Financial Aid Administrators (CASFAA) representative;
- ▶ a representative of the California Postsecondary Education Commission; and
- ▶ three K-12 school representatives, one of whom must be a high school counselor.

*These segments include the University of California, the California State University, the California Community Colleges, private nonprofit postsecondary education institutions, and private for-profit postsecondary education institutions.

The Commission makes Committee appointments based on recommendations and nominations received from each group listed. Committee members meet up to six times a year. As with Commission meetings, Grant Advisory Committee meetings are open to the public. Agenda items are typically presented as action items at subsequent meetings. The Grant Advisory Committee was created by procedures of the Commission and is not mandated by state law.

 Letters and Informational materials addressed to any advisory committee members may be sent to the address shown in Chapter 12.



Loan Advisory Council

Reviews the activities and policies of the Federal Family Education Loan Program and advises the Commission of its findings and recommendations.

Loan Advisory Council Representation- The Council consists of 17 members, all appointed by the Commission. They are:

- ▶ Four representatives from the lending community participating in the Federal Family Education Loan Programs
- ▶ Five school representatives, one from each of the five postsecondary segments
- ▶ Five student representatives, one from each of the segments listed above
- ▶ One representative from GASFAA
- ▶ One representative from a secondary market participating in the Federal Family Education Loan Programs
- ▶ One representative from the California Lenders for Education (CLFE)

In addition to the members appointed to the Loan Advisory Council by the Commission, the United States Education Department may appoint one nonvoting representative who serves as liaison between the Department and the Council.



Cal-SOAP Advisory Committee

Reviews the activities and policies of the Cal-SOAP Program and recommends to the Commission policies and programs to increase the participation rates and success of students who enter a postsecondary institution, and who, because of their economic and/or academic circumstances, are unlikely to pursue college opportunities without academic, financial, and advisement assistance.

Cal-SOAP Advisory Committee

Representation- The Committee consists of members who represent:

- ▶ The Student Aid Commission
- ▶ Independent California Colleges and Universities
- ▶ California Department of Education
- ▶ California Postsecondary Education Commission
- ▶ California Community Colleges
- ▶ California Department of Education
- ▶ California Postsecondary Education Commission Student
- ▶ Senate Rules Committee
- ▶ California State University
- ▶ California Postsecondary Education Commission Student
- ▶ Assembly Speaker
- ▶ University of California
- ▶ Commission Member

2 Institutional Eligibility

A school's eligibility to participate in the Cal Grant programs is approved for the specific locations included in the IPA and does not automatically carry over to branch campuses or other off-site classroom locations.

2.1 Overview

To be eligible to release Cal Grant funds to participating students, a school location must be providing instruction in California, complete a Cal Grant *Institutional Participation Agreement* (IPA), and be:

- ▶ a public postsecondary educational institution; or
- ▶ approved by the U.S. Department of Education (USED); participate in and administer the Federal Pell Grant program; and participate in at least two of the three federal campus-based student aid programs; or
- ▶ a nonprofit institution accredited by the Western Association of Schools and Colleges headquartered and operating in California with 10 percent of the school's operating budget expended for the purpose of institutional grant aid, as demonstrated in an audited financial statement.

The school must also demonstrate the ability to administer the Cal Grant funds and must meet such other standards as are adopted by regulation by the Commission in consultation with the State Department of Finance.

For the second item above, participation in the Federal Pell Grant program and in campus-based programs means the school has applied for and has been allocated program funds, and is spending those funds for the applicable fiscal years. The campus-based programs include Federal Work-Study, Federal Perkins Loans, and the Federal Supplemental Educational Opportunity Grant program (FSEOG). [C.E.C. 69432.7 (f)] Participating schools must sign a Cal Grant IPA listing all branch campuses that will participate. (See Appendix C.)



Institution Location

A school's eligibility to participate in the Cal Grant programs is approved for the specific locations included in the IPA and does not automatically carry over to branch campuses or other off-site classroom locations. In the event a school offers instruction at another location, or if the school opens another campus, the school must contact the California Student Aid Commission (Commission) to determine how this may affect Cal Grant participation for the new location(s). Although the extension of Cal Grant eligibility for the new location may not be complex, institutions must not assume that in all cases eligibility to a new campus will be established. Cal Grant participant eligibility is not automatic at branch and other off-site classroom locations.

California Campus?

Institutions that have administrative facilities outside of the state may still have an eligible California campus or site. The actual educational facilities and the personnel who determine eligibility and disbursement must be located on the California campus. Common ownership of several campuses is not a consideration when determining whether a campus can be considered a California school. It is acceptable for some administrative facilities to be located outside of the state, but local campus administrative capability must be demonstrated.

Schools that wish to add a campus or branch for Cal Grant eligibility must contact the Grant Operations Branch of the Grant Services Division. Depending on the status of the campus, another IPA may be required. Schools should contact the Commission early regarding new

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campus branches to allow time to establish the new location's program participation.

A qualifying institution, or a specific site of an otherwise qualifying institution, shall be deemed disqualified if it no longer possesses all of the requirements for a qualifying institution. Branch campuses are not Cal Grant-eligible unless they meet all of the requirements listed above. An institution that is disqualified pursuant to Part 600 of Title 34, Code of Federal Regulations, shall not be considered a "qualified institution." A disqualified institution may re-establish eligibility by complying with C.E.C. section 69432.7(l).

- ▶ audited financial statements (for at least the two most recently completed fiscal years)
- ▶ an audited balance sheet showing the financial condition of the institution at the time of application for participation
- ▶ the school's final authorization notice of funding for allocation of the federal campus-based student aid programs
- ▶ a statement of account from the USED or a general ledger showing that funds are being expended on federal campus-based student aid programs
- ▶ the institution's current catalog or resource document describing the course lengths of the institution's program(s).

2.2 Documenting Institutional Eligibility

To initiate institutional participation in the Cal Grant programs, a school official must contact the Grant Operations Branch of the Commission, complete, then sign and submit a Cal Grant IPA. This document specifies the requirements for institutional participation in the Cal Grant programs. The IPA is periodically revised to encompass regulatory, policy and processing changes to the Cal Grant programs.

To document eligibility, the Commission reviews institution data from the Postsecondary Education Participants System (PEPS), along with information provided by the school. The following outlines the items that are reviewed from PEPS data, a copy of:

- ▶ the Detailed School Report from the USED
- ▶ the school's Eligibility & Certification Approval from the USED
- ▶ the institution's state legal accreditation authorization

Sent by the school:

- ▶ the school's existing disbursement and institutional refund policies, as outlined in Chapter 9

In addition, schools must agree to maintain documentation of the following policies and procedures. These documents should be readily available upon request by Commission staff.

Questions? Institution staff with questions regarding institutional eligibility should contact the Grant Services Division at (916) 526-7985.

2.3 Institutional Participation Requirements

Cal Grant Program Course Requirements

The length of a school's educational programs determines in which Cal Grant programs the school can participate. If a school does not offer programs of sufficient length or degree goal to allow student participation in any of the Cal Grant programs, this information must be provided to the Commission. Accurate notification to the Commission can prevent Cal Grant participants from mistakenly believing they receive benefits at the school. Such notification will also prevent schools from releasing funds to ineligible students that would eventually require payback by the school. For Cal Grants, schools must offer programs with course lengths as follows:

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Cal Grant A- The school must be a degree-granting institution that offers an instructional program that is not less than two academic years in length. [C.E.C. 69434 (a)] An instructional program of not less than two academic years means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program. [C.E.C. 69432.7 (j)]

Cal Grant B- The school must offer an instructional program of not less than one academic year in length. [C.E.C. 69435 (a)(1)] An instructional program of not less than one academic year means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program. [C.E.C. 69432.7 (i)]

Cal Grant C- The school must offer a technical/vocational course of study of four months or longer in length. Cal Grant C recipients must be enrolled in and pursuing an eligible technical/vocational program. [C.E.C. 69439 (a)]

Transfer Entitlement- To accept Cal Grant Transfer Entitlement participants, a school must offer baccalaureate degree programs. [C.E.C. 69436 (b)]

Cal Grant TCP Benefits- A year of Cal Grant eligibility is available to renewing Cal Grant participants who, upon obtaining a bachelor's degree, continue, within 15 months, into an approved Teaching Credential Program (TCP). [C.E.C. 69433.6 (c, d)] To be eligible to disburse Cal Grant TCP benefits, schools must offer a

professional teacher preparation program(s) approved by the California Commission on Teacher Credentialing. [C.E.C. 69433.6 (c)(1)] The Commission's Grant Services Division maintains a list of eligible schools offering approved programs.

Fifth-Year Benefits for a Mandatory Five-Year Program- To be eligible to pay Cal Grant Fifth-Year benefits, a school must have a mandatory five-year program that requires all students in that major to complete more than the equivalent of four years of study to acquire their bachelor's degree.

Each year, schools must designate each of their mandatory five-year programs on the *College Cost Estimate Form*. The *College Cost Estimate Form* for the next award year is sent to schools in October. To add a program between College Cost Estimate submissions, a school must submit a written request to the Commission for approval of the school's mandatory five-year program. The campus Registrar or head of the school Academic Affairs Office must sign the request before Cal Grant Fifth-Year benefits can be approved. The Commission's Grant Services Division maintains a list of schools with approved mandatory five-year programs.



Institutional Administrative Capability

To participate in the Cal Grant programs, a school must agree to maintain certain standards of administrative capability and financial responsibility in accordance with state law and federal regulations. Administrative capability includes the assignment of sufficient number of capable individuals to administer Commission programs in coordination with other student aid programs. The Financial Aid Office must communicate with other school

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administrative areas, such as the accounting office and the campus Registrar, on matters that affect a student's eligibility.

The institution must also implement and retain written policies and procedures for managing the Cal Grant programs. These include, but are not limited to, policies and procedures covering:

- ▶ application verification
- ▶ award packaging
- ▶ Cal Grant funds disbursement
- ▶ Satisfactory Academic Progress
- ▶ overaward resolutions
- ▶ citizenship
- ▶ Professional Judgment
- ▶ refund and repayment

To participate in the Cal Grant programs, an institution must have demonstrated to the Commission that it is capable of adequately administering the programs under each of the standards established in this chapter.

The Commission considers an institution to have sufficient administrative capability if the institution:

- ▶ administers the Cal Grant programs with adequate checks and balances in its system of internal controls
- ▶ maintains an accounting system which conforms to generally accepted accounting principles/practices and shall include, but not be limited to, cash receipts and disbursement journals, bank reconciliations, evidence of receipt or credit of funds to recipients and all other accounting records necessary to account for all transactions
- ▶ divides the functions of authorizing payments and disbursing or delivering funds so that no one office has responsibility for both functions with respect to any particular student provided aid under the programs. For example, the

functions of authorizing payments and disbursing or delivering funds must be divided so that for any particular student who receives assistance through the programs, the two functions are carried out by at least two organizationally independent individuals.

- ▶ maintains documentation that includes the division of functions of individuals for authorizing payment and disbursing funds (separation of duties)

Financial responsibility includes the institution meeting all of its financial obligations, and complying with the fiscal provisions set forth in the IPA, the *Cal Grant Programs Manual*, all Commission *Policy Bulletins*, *Operations Memos* and *Special Alerts*, the California Education Code (C.E.C.) and the California Code of Regulations (C.C.R.).

Third Party Service- Institutions that choose to use a third party servicer to administer their Cal Grant program funds must be aware that the educational institution, rather than the servicer, will be held accountable for any compliance issues that may arise.

Clear Audit Trail- The institution's fiscal records should provide a clear audit trail of the status of Cal Grant funds from the time they are received by the school from the State Controller's Office (SCO) through the time they are used to pay students' eligible charges, delivered to the student in the case of Access or Books and Supplies payments, or refunded back to the Commission.

Each institution must maintain a detailed accounting of all Cal Grant funds it receives. The records for the bank account in which the funds are held must show that the institution did not use funds received prior to their delivery to the students (e.g., credited to their account).

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If program funds were delivered by check, there should also be records of all check negotiations. This is required to show that funds were delivered to the student and to assure that checks that are not cashed (and hence not used by the student) are correctly credited back to the student's record.

Bank Account Records- If Cal Grant funds are received and deposited in an account and combined with funds not from the Cal Grant programs, there must be a separate record to show the status of Cal Grant funds in that account at all times. Clear records will dispel any potential conflicts.

\$\$ Bank Account Interest- Cal Grant funds may be maintained in an interest-bearing or non-interest-bearing account. However, if the funds are in an interest-bearing account, **all interest** earned on those funds must be returned to the Commission.

There should also be a correlation between the different fiscal records at the institution. For example, if school ledgers show \$10,000 was received via EFT or check from the SCO, and the ledger shows disbursements to 20 students, fiscal records (e.g., vouchers or ledgers) should reflect either payments against those students' tuition, or checks issued to students. There is no specific requirement for an individual student account statement, but a school must maintain some system for evaluating students' accounts to determine when funds received have exceeded eligible costs for the applicable periods.

Records Must Identify Each Year- The fiscal records must reconcile with specific year advances from the SCO. Fiscal records must identify not only the program, but also the award

year to which the funds are being applied. For example, if the records show Cal Grant funds were disbursed to a student on August 24, records must reflect whether those funds were for the current or prior award year. This determination is critical in ensuring that funds are reported on the appropriate year's roster.

Administrative Action- If an institution does not comply with any one of the requirements in the above references, the Commission may take several actions: these may include limitation, suspension, or termination. Such actions include the right to suspend Cal Grant disbursements to the school until the matter is resolved. In the event of an administrative action, the Executive Director may opt to release state financial aid funds to students at the school to alleviate any financial hardships. (C.E.C. 69509 (a)) Action can also be taken if an institution does not respond in a timely manner to a Commission grant compliance review finding, is delinquent in the payment of Cal Grant program invoices or is inadequately monitoring Cal Grant program procedures and recipients on the campus. More information on Commission enforcement actions and program compliance reviews is included in Chapter 11.

Designation of Funds

Participating Cal Grant schools must agree to maintain all Commission grant funds in a designated account identified as the property of the State either by a ledger account or a bank account. Institutions may deposit funds, federal and state, into one bank account, but in such case the funds must be identified using subsidiary ledgers in order to keep state funds distinguished from all other funds. All activity (deposits and expenditures) of Commission

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grant funds must be supported by appropriate accounting records in accordance with generally accepted accounting principles and practices.

If the institution establishes a separate bank account for Cal Grant funds, there must be a clear indication in the bank account's name that these are Cal Grant funds, clear and distinguishable, not to be confused with any other financial aid funds. **All interest** earned on these accounts must be returned to the Commission on behalf of the State, regardless of any agreement between the bank and the institution relative to bank charges or co-mingling of funds.



Three Years of Records Retention

A participating Cal Grant institution agrees to retain records (i.e., paper, tape, microfiche, back-up data, electronic media, WebGrants on-line) as are necessary to document fully the accuracy of the grant payments reported and the right of the institution to receive or retain payments made by the Commission for a period of three years following the last day of the academic period for which the grant was intended. As an example, records demonstrating participant eligibility for the Spring 2002-03 term ending June 2, 2003, must be retained at least until June 2, 2006.

Schools must maintain complete and accurate program and fiscal records. These are essential in demonstrating the school's eligibility to participate in the Cal Grant Programs and they provide a clear "audit trail" for Cal Grant Program expenditures. Records must be kept to demonstrate proper administration of Cal Grant Program funds by the school, that each student was eligible for the funds received, and that the funds were disbursed in accordance with program regulations.

Examples of records to retain include:

- ▶ the ISIR used to determine financial eligibility
- ▶ student and/or parent financial records (i.e., 1040's, bank statements, asset records, etc.)
- ▶ situational documentation describing medical conditions, loss of employment, exceptional family expenses
- ▶ Cal Grant payment rosters
- ▶ any records for each Cal Grant recipient that clearly reflect the student was eligible for the funds received, and the funds were disbursed in accordance with program regulations.

2.4 College Cost Estimates

The *College Cost Estimate Form* is completed by Cal Grant participating schools. The Commission uses it to determine the student's cost of attending a particular school and/or program. The form allows the school to provide cost estimates for undergraduate and vocational/technical and teaching credential programs. This information is important since the Commission uses it to determine the financial need of new applicants and the award amounts for new and renewal recipients attending the school. Any on-campus housing cost at an institution is also included. The form is distributed to Financial Aid Offices at participating schools in October and should be returned to the Commission by the deadline in December. The December deadline is required because the next Cal Grant awarding period begins in January.

Schools must retain a copy of each *College Cost Estimate Form* that are submitted to the Commission. Full instructions are included on the reverse of the form. School cost estimates should include tuition charges for standard full-time course work for the entire academic year, based on undergraduate, vocational/technical, or teaching credential study. Fees that are charged to all students may be included.

Tips for completing the College Cost Estimate

- ✓ Complete a separate College Cost Estimate form for each full-time course or different cost.
- ✓ List program costs only on a 9-month basis. The Commission will make adjustments if the school is set up for year-round payment.
- ✓ If all programs offered by the school are of equal cost, only one College Cost Estimate form should be submitted.
- ✓ List any mandatory five-year undergraduate programs that require all students to complete more than the equivalent of four years of study to acquire their bachelor's degrees.

The College Cost Estimate data is needed in December. At that time, Commission staff creates the system tables used to offer Cal Grant Entitlement awards beginning in early January. If a school does not return the College Cost Estimate information, the Commission will use information submitted for the previous year to evaluate new Cal Grant applicants. If, during a program review, the Commission determines that the school was aware of an unreported increase that would have meant more Cal Grant funds for their students, the school will be cited for the reason "Cal Grant eligibility not maximized."

Due to budget limitations, the Commission cannot guarantee that cost increases reported after December will be recognized. However, the Commission will make every effort to make adjustments within these limitations. Cost increases reported after July, other than those legislatively mandated, will not be recognized under any circumstances.

2.5 SEARS Survey

The Student Expenses and Resources Survey (SEARS) is conducted every three years to provide data to assess students' expenses and resources while attending college. The survey

directly polls actual students on the actual costs and expenditures of California college students. SEARS data is used to construct the California Student Aid Commission's Nine-month Student Expense Budgets that are released to California colleges each year. The data is also used directly by the Commission to use as college cost information in the selection of Cal Grant recipients. Between each SEARS survey, budgets are updated to include a cost of living increase.

2.6 Change of School Ownership or Participation Requirements

Change of Ownership

A change in ownership and control occurs when a person or company (partnership or corporation) obtains new authority to control an institution's actions, whether the institution is a proprietorship, partnership, limited liability company, or corporation. The most common example of this change in controlling interest is when an institution is sold to a new owner.

The Commission's change of ownership policy is similar to the process used by the Title IV federal assistance programs, such as Pell, and the Federal Student Loan Programs. The Cal Grant Institutional Participation Agreement (IPA), singled by the previous owner expires on the date the change takes place, which immediately terminates the institution's existing Cal Grant participation. However, as long as Title IV eligibility is reconfirmed during the same award year, retroactive payments can be made to eligible students, if the following apply:

- ▶ the school continues to demonstrate administrative capability.
- ▶ the Commission is notified by the previous owner of the change within 10 days of the date it occurs. Concurrently, the new owner must notify the institution's accrediting agency and provide the Commission with proof the institution's accreditation continued under the new ownership or control.

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- ▶ a new IPA must be submitted and approved by the Commission
- ▶ if applicable, the new owner(s) also should notify the appropriate state agency that licensed or approved the school. One such agency, for example, is the Department of Consumer Affairs' Bureau for Private Postsecondary and Vocational Education (BPPVE).
- ▶ the school's audited financial statements for at least the two most recently completed fiscal years, *and*
- ▶ an audited balance sheet showing the financial condition of the institution at the time of the change.

The new owner will need this information to receive approval from the USED to participate in the federal financial aid programs.

Responsibilities of the Previous Owner(s)

Before the change in ownership or control takes place, the previous owner should ensure that all Cal Grant payments due to students for the current payment period are distributed, and that all records are current and in compliance with the C.E.C., the California Code of Regulations and Commission policies. If the school requires additional funding to pay eligible students for the current payment period, it should request and disburse them prior to the ownership change.

The institution loses its approval to participate in the Cal Grant program on the date the change in ownership or shift in control takes place. An institution may use Cal Grant funds it has received to satisfy any unpaid commitments made to students for the current term. An institution may not make new commitments to students, nor receive additional Cal Grant funds from the Commission, until an IPA has been signed by the institution and executed by the Commission.

Responsibilities of the New Owner(s)

As early as possible prior to the change of ownership, the new owner should request that the former owner provide copies of:

- ▶ the school's existing USED Eligibility and Certification Approval Report (EOAR)
- ▶ the school's refund policy
- ▶ the school's default management plan
- ▶ the results of prior program reviews and compliance audits

To participate in the Cal Grant programs, institutions must qualify following the guidelines explained in Section 2.2. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit:

- ▶ completed audited financial statements of the acquiring entity for the last two consecutive fiscal years
- ▶ proof that its accreditation is continued under the new ownership or control, *and*
- ▶ a photocopy of its State legal authorization under the new ownership
- ▶ If the new owner possesses other institutional interests, a complete audited financial statement of those interests must be provided for the last two consecutive fiscal years.

New School, New IPA- The new owner may not award Cal Grant Program funds until approval is received through an IPA signed by the Commission. If the new owner(s) acquired the institution, or if the school is the result of a merger of two or more former institutions, the new owner is liable for any debts from the former owner's Cal Grant Program administration. The new owner accepts liability for any Cal Grant funds that were provided to the institution, but were improperly disbursed before the date the change in ownership or shift of control became effective. The new owner must also abide by the refund policy for students

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enrolled before the date the change in ownership or control became effective and must honor all student enrollment contracts signed before the date of the change.

Before the date of purchase, it is recommended that the new owner request that all students receive their Cal Grant Program award payments, all Cal Grant Program accounts have been closed out, and all related reports and payment transactions have been properly filed. An institution may not make new commitments to students nor receive additional Cal Grant funds from the Commission until an IPA has been signed by the institution and executed by the Commission.

New School, New Accounts- At the time of ownership change, the school bank accounts from which Cal Grant funds were disbursed will probably change, or the signatories to those accounts may change. As a step to reduce school liability, the school should verify the status of any Cal Grant checks released to students that have not been reported as cashed. Cal Grant checks that are disbursed, but uncashed will still be reflected in the balance of the school's account. The checks should be cancelled and reissued or the funds should be returned to the Commission. Change of ownership does not absolve the owners from the responsibility to assure that program funds are released to eligible participants.

Commission compliance staff will take action in the event a school does not verify acceptance of funds, return any unclaimed funds to the Commission or if the school has no way to verify acceptance.

Closure of a School or School Location

In the event of the closure of a school, the school ownership must notify the California Student Aid Commission within 10 days of the

closure. This is required even if only one branch of a school closes. Cal Grant program awards are made based on the student's eligibility at an eligible school. Therefore, a participant's Cal Grant eligibility may not automatically transfer to another school even in the same school chain depending on the circumstances of the original school's closure and that campus' relationship to other schools in the chain.

If the Commission does not receive notification of school closure, the Commission will attempt to determine the status of the school, its assets and any undisbursed Cal Grant program funds. The Commission will determine from school records and from interviews with students about the disposition of grant funds already disbursed to program participants. Determination of whether the participant will be charged program eligibility for the term, or for the portion of the program for which disbursement was made will be made on an individual basis.

Change in School Status

In the event of an institutional ownership change, a change in accreditation, a change in location, or other conditions, a participating Cal Grant school may no longer meet the institutional eligibility requirements. Should changes such as these occur, the campus must notify the Commission of its new status. Other situations that would require notification to the Commission include:

- ▶ ceasing participation in the Pell Grant program or ceasing to participate in at least two of the three federal campus-based aid programs
- ▶ ceasing to comply with the 10 percent rule
- ▶ loss of accreditation or any change in accreditation that affects program participation
- ▶ adding or deleting campuses
- ▶ changes in personnel responsible for Cal Grant administration.

Notification of the above situations must be made within 10 days of their occurrence.

Chapter 2, Institutional Eligibility

2.7 Consortium Agreements

A consortium agreement allows an institution to enter into a contractual agreement with another institution to provide a portion of a student's program of study. The agreement also specifies which institution will have the responsibility of reporting and verifying enrollment and administering financial aid. A consortium agreement may exist between a school that is eligible to administer Cal Grant funds and one that is not. If a student is enrolled in a contracted program of study and attends the eligible school, and that school has the responsibility of verifying enrollment and administering aid, the student is eligible to receive the Cal Grant funds. However, if the school that is not eligible to administer Cal Grants has the responsibility of verifying enrollment and administering aid, the student is not eligible to receive the Cal Grant funds.

For Cal Grant payment purposes, a concurrently enrolled student's attendance status (full-time, three quarter-time, half-time) can be determined based on the total units at both schools if a consortium agreement exists between the schools. If no consortium exists, concurrent enrollment cannot be considered and the participant can be paid based only on one or the other school's unit total.

Consortium or contractual agreements between schools are authorized under federal regulations contained in 34 CFR (Code of Federal Regulations) Section 600.9. For more information on the specific requirements of such agreements, refer to the regulation or the *Student Financial Aid (SFA) Handbook* published by the U.S. Department of Education. The *SFA Handbook* is available on-line at the USED *Information for Financial Aid Professionals* Web site at www.ifap.ed.gov.

2.8 Cal Grants for Attendance Outside California

If a consortium agreement exists, students may be paid Cal Grant benefits to attend colleges outside of California. For example, a student who is taking courses at the University of Chicago, if she/he is enrolled through a program of the University of California. Also, students attending an eligible education abroad program may receive Cal Grant A, B or C benefits. To be eligible to receive grant benefits for attendance outside of California, the student must meet the following requirements:

- ▶ complete the eligibility requirements as described for Cal Grant A, B, or C; *and*
- ▶ be considered a regularly enrolled student enrolled at least half time at an eligible California school attending through a formal consortium, reciprocal education agreement or in an accredited overseas program

In order for a student to receive Cal Grant benefits from her/his home campus, the home California campus must make the determination of eligibility for financial aid and must also handle the financial aid disbursement. It is important that students be aware of these conditions and not assume that a Cal Grant can be used for any out-of-state or education-abroad program without checking with their home campus Financial Aid Office. Unless all conditions are met for out of California attendance, no Cal Grant disbursements can be made.

The Commission does not automatically increase a student's budget to reflect additional expenses resulting from out-of-state or overseas attendance. However, the school may use professional judgment to adjust the student's budget if it determines it to be appropriate. The school should notify the Commission of adjustments, using the *Grant Record Change Form for Schools* (G-21). (See Appendix A)

2.9 Distance Learning Programs and Cal Grants

Cal Grant program participants may receive benefits through distance learning programs when *all* of the following are true:

- ▶ the campus providing the education is located in California
- ▶ the student is a California resident
- ▶ all other Cal Grant program requirements are met

The ISIR and Cal Grant GPA verification information the Commission receives does not state whether a student is in a distance learning situation. As with any Cal Grant participants, each school will be responsible for verifying student eligibility and whether any distance learning participant meets Cal Grant residency requirements.

Federal Guidelines- In addition to the above, the Commission's requirements mirror those established for the Federal Student Assistance (FSA) programs. Schools should follow FSA guidelines unless otherwise stated.

The federal guidelines, including specific distance learning/correspondence study student definitions, are given in 34 CFR 600.2 and in 34 CFR 600.7.

2.10 WebGrants Participation

An *Information Security and Confidentiality Agreement*, and the *System Administrator's Access Request Form* must be filled out at the school, signed by an Authorized Official and Security Administrator, and returned to the Commission to add a System Administrator.

The Commission recommends designating at least two Security Administrators so a backup is

always available. Please note that both forms must be completed, signed, and returned to the Commission to designate a new Security Administrator. The *System Administrator's Access Request Form* can also be used to delete or change a System Administrator. These forms are to be forwarded to the Commission for processing. Schools will not have the ability to add, change electronically, or deactivate their Security Administrator. The Commission reserves this right.

The System Administrators will use the *User Access Request Form* to add, change, or deactivate user IDs and passwords at the school. The Commission handled this function in the past, but that authority has been relinquished to each school's System Administrator. The *User Access Request Forms* remain on file at the school.

3 Program Descriptions and Eligibility

Each Commission program has specific eligibility requirements, award amounts and selection requirements.

The Commission administers the Cal Grant and other financial aid programs. Each program has specific eligibility requirements, award amounts, and selection requirements. The following is a list of Cal Grant award types:

- ▶ Cal Grant A Entitlement
- ▶ Cal Grant A Transfer Entitlement
- ▶ Cal Grant A Competitive
- ▶ Cal Grant B Entitlement
- ▶ Cal Grant B Transfer Entitlement
- ▶ Cal Grant B Competitive
- ▶ Cal Grant C
- ▶ Cal Grant T- *not currently funded*

Other Commission administered programs include:

- ▶ Assumption Program of Loans for Education (APLE)
- ▶ Child Development Teacher and Supervisor Grant Program
- ▶ Law Enforcement Personnel Dependents Grants Program (LEPD)
- ▶ Robert C. Byrd Honors Scholarship Program
- ▶ Graduate Assumption Program of Loans for Education (Graduate APLE)- *not currently funded*
- ▶ California State Work-Study- *not currently funded*

3.1 General Cal Grant Eligibility

To be eligible for and receive payment for any Cal Grant award, a student must meet the following requirements:

- Be a U.S. citizen or an eligible noncitizen
- Be a California resident
- Attend a Cal Grant participating California college or university
- Demonstrate financial need at his or her college
- Have family income and assets below the ceilings

- Have met U.S. Selective Service requirements
- Be in a program leading to an undergraduate degree, certificate or first professional degree
- Not have a bachelor's or professional degree before receiving a Cal Grant (except for extended Cal Grant A or B awards, teaching credential programs or Cal Grant T)
- Have a valid Social Security number
- Maintain satisfactory academic progress
- Not owe a refund on any state or federal educational grant
- Not be in default on any student loan
- Not be incarcerated

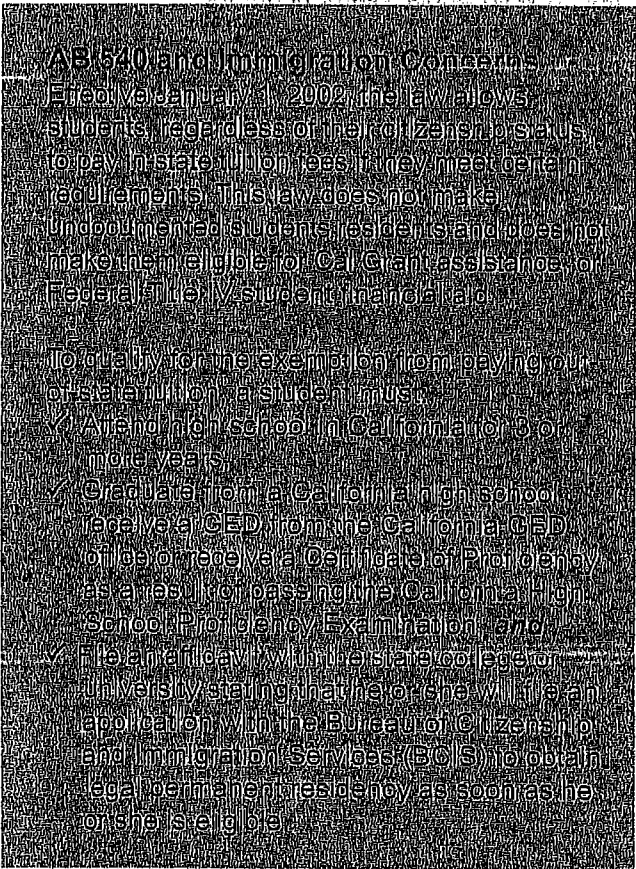
Initial eligibility for a Cal Grant award is based on information from the student's Free Application for Federal Student Aid (FAFSA). Schools are responsible for verifying that students who appear on the Grant Roster meet the above program requirements, as required by the school's Institutional Participation Agreement, Article IV A. Further information regarding each of the eligibility requirements is outlined below.

U.S. Citizen or Eligible Noncitizen

To be eligible for both federal and state aid, a student must be a U.S. citizen, or an eligible noncitizen. An eligible noncitizen is one of the following: a U.S. permanent resident who has an Alien Registration Receipt Card (I-151, I-551); a conditional permanent resident (I-551C) or a noncitizen with a Departure record (I-94) from the Bureau of Citizenship and Immigration with one of the following designations: "Refugee"; "Asylum Granted"; "Indefinite Parole," "Humanitarian Parole"; or "Cuban-Haitian Entrant." Other eligible noncitizens include U.S. nationals who are natives of American Samoa and Swain's Island.

Chapter 3, Program Descriptions and Eligibility

Those with one of the following documents are not eligible for federal or state aid: an F-1, F-2, or M-1 student visa, a J-1 or J-2 exchange visitor visa, a G series visa (pertaining to international organizations), an H series or L series visa (allowing temporary employment in the U.S.), a "Notice to Apply for Permanent Residence" (I-171 or I-464), or an I-94 stamped "Temporary Protected Status."



California Residency for Cal Grant Eligibility

California residency for unmarried students who are not 18 years of age by the application deadline cycle for which they are applying, is based on the residency status of a parent or non-parent adult responsible for their direct care and control. To qualify as a non-parent

adult, he or she must have had continuous direct care and control of the student for at least two years prior to the application cycle deadline for which they are applying.

Unmarried students under 18 are legal California residents if:

- ✓ a parent is a legal California resident at the application deadline for which the student is applying, *or*
- ✓ the student has lived for two years with a responsible non-parent adult and that adult is a legal California resident at the application cycle deadline for which he/she is applying

For example, students whose parents are living overseas are considered California residents if they are minors and have been living under the direct care and control of a California resident for at least two years as of the application cycle deadline for which they are applying, or their parents have maintained their California residency during their absence from the state.

All married students, regardless of their age, and all unmarried students 18 or older must establish their own residency. If they will be 18 on or before the application cycle deadline for which they are applying, they must be a legal California resident at the application deadline for which they are applying. They also must be in the United States legally and be able to establish U.S. residency based on their status with the Bureau of Citizenship and Immigration Services.

Cal Grant Participating California College or University

Students must attend a California college that has a valid Institutional Participation Agreement with the Commission. The requirements for school participation in the Cal Grant program are described in Chapter 2.

Chapter 3, Program Descriptions and Eligibility

Demonstrate Financial Need

To be eligible for a Cal Grant, a student must have sufficient financial need for the award. The calculation of a student's financial need is described in Chapter 5 of this manual. The minimum need requirement is a separate eligibility criterion from the income and asset ceiling requirements.

For a new Cal Grant A or Cal Grant C award, the minimum financial need required equals the maximum award amount, at the student's first school choice, plus \$1,500.

At all schools, the minimum financial need required for Cal Grant B selection is \$700.

Income and Asset Ceilings

Income and asset ceilings are set by the Commission in accordance with the provisions of C.E.C. 69432.7 (k) and are adjusted annually. The current income and asset ceilings are included in Appendix XX.

Annual adjustments to the income and asset ceilings are based on the percentage change in the cost of living as defined by the California Constitution. The relevant section reads:

SEC. 8. (e) (1) "Change in the cost of living" for the state, a school district, or a community college district means the percentage change in California per capita personal income from the preceding year."

The California Department of Finance provides the data to make this assessment. Although historically per capita income rises nearly every year, use of the method described above to adjust income and asset ceilings will occasionally lead to decreases in the ceilings.

Income and asset ceilings for the upcoming year are typically approved by the Commission each November. The financial aid community is informed of the adjustments through a Grant Operations Memo.

Selective Service Requirements

To be eligible to receive a Cal Grant award, a student must meet United States Selective Service registration requirements. This coincides with federal Title IV requirements. Therefore, if a student is or would be Title IV eligible based on his/her Selective Service status, then this student also meets Cal Grant requirements. Schools would also be able to use professional judgment in Selective Service matters just as for Title IV eligibility.

Participate in an Eligible Program

A student must be enrolled in a program leading to an undergraduate degree, certificate or first professional degree. Specific course length requirements vary depending on the type of grant and are explained later in this chapter.

Baccalaureate Degree Restriction

As indicated above, a student must have not earned a baccalaureate degree (B.A. or B.S), or the equivalent to receive a Cal Grant A, B or C. This is consistent with the way Federal Pell Grant recipients are handled. Students who have obtained professional degrees are ineligible for Cal Grant undergraduate benefits even if they have not earned a baccalaureate degree. Examples of professional degrees include:

- ✓ Doctor of Pharmacy (Pharm.D.)
- ✓ Doctor of Chiropractic (D.C.)
- ✓ Juris Doctorate (J.D.)

Chapter 3, Program Descriptions and Eligibility

Students that receive a master's level degree, such as a Master of Architecture (M.Arch) degree, without receiving a bachelor's degree are also ineligible.

Students who have earned a degree from an unaccredited or foreign school are ineligible for a Cal Grant award, regardless of whether or not the baccalaureate or professional degree is accepted or recognized by the school at which the student is enrolled.

Valid Social Security Number

Students must have a valid Social Security number in order to complete the FAFSA. The Commission is unable to consider a student for a Cal Grant award without a valid FAFSA.

Satisfactory Academic Progress

The recipient must maintain satisfactory academic progress as defined by the school in accordance with federal financial aid standards. The policy set for federal financial aid must be used for the Cal Grant program. Therefore, if a recipient's federal financial aid is suspended for a term because the recipient is not making satisfactory academic progress, state financial aid must also be suspended. Students failing to meet the satisfactory academic progress standards for more than two consecutive semesters or three consecutive quarters will be withdrawn from the Cal Grant program.

Loan Default/Owe a Refund

Each school is responsible for verifying that a grant recipient is not in default on any Title IV educational loan and that no refunds are owed on a federal or state grant.

Incarcerated Students

Students who are currently incarcerated are not eligible for Cal Grant benefits. These students will be withdrawn from the program when the Commission is notified of their incarceration.

3.2 Cal Grant A

Cal Grant A benefits cover up to full systemwide fees at the University of California and the California State University, and provide for tuition and fees at independent colleges and some occupational and career colleges in California. Award amounts are determined through the state budget process and may change annually.

Cal Grant A awards are for students enrolled in a program of instruction of not less than two academic years that leads to an associate or baccalaureate degree requiring 48 semester units or that results in eligibility for transfer from a community college to a baccalaureate degree program.

There are three Cal Grant A awards: Entitlement, Transfer Entitlement and Competitive.

Cal Grant A Entitlement Award

Every graduating high school senior who has at least a 3.0 high school GPA, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year that he/she graduates or the following year is guaranteed a Cal Grant A Entitlement award.

Cal Grant A California Community College Transfer Entitlement Award

High school seniors who graduate after June 30, 2000, attend a California Community College, and then transfer to a qualifying baccalaureate degree-granting institution may be eligible for a California Community College Transfer Entitlement Cal Grant A. Eligible students must have at least a 2.4 community college GPA (of at least 24 semester units, or the equivalent, of degree credit), meet the financial and eligibility requirements, be under age 24 at the time of transfer, and apply by March 2.

Chapter 3, Program Descriptions and Eligibility

Cal Grant A Competitive Award

Other students who meet all the Cal Grant eligibility requirements and who have at least a 3.0 GPA may compete for a Cal Grant A Competitive award. Selection is based on a composite score that takes into consideration family income, parents' educational level, GPA, time out of high school, high school performance standards and other factors, such as whether the student comes from a single-parent household or is a former foster youth.

Cal Grant A Reserve

Students who receive a Cal Grant A award and choose to attend a California Community College will have the awards reserved for up to three years until they transfer to a four-year tuition/fee charging college. To reserve the award for the third year, students must make their requests in writing.

Students who is a California Community College on the FAFSA as the first California college will automatically have the Cal Grant held in reserve. A school change to a tuition-charging institution at any time will remove the reserve status. Likewise, a school change to a California Community College will automatically place the student's award in reserve.

Students must be certified as financially eligible for a Cal Grant at a tuition-charging institution at the time they transfer and have remaining Cal Grant eligibility. They must also have financial need at the college. Students are advised to notify their school that they have a reserve grant.

renewed or awarded beyond the freshman year, the grant covers tuition and fees. The tuition and fee award amounts are the same as those for Cal Grant A. Award amounts are determined through the state budget process and may change annually.

A very limited number of new recipients may receive a Cal Grant B for tuition and fees, in addition to an access grant, for their first year. These students have exceptional financial need and have been determined to be among the most disadvantaged.

Coursework must be for at least one academic year, and students must be enrolled at least half time.

There are three Cal Grant B awards: Entitlement, Transfer Entitlement and Competitive.

Cal Grant B Entitlement Award

Every graduating high school senior who has at least a 2.0 high school GPA, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year that he/she graduates or the following year is guaranteed a Cal Grant B Entitlement award.

Cal Grant B California Community College Transfer Entitlement Award

High school seniors who graduate after June 30, 2000, attend a California Community College and then transfer to a qualifying baccalaureate-degree granting institution may be eligible for a California Community College Transfer Entitlement Cal Grant B. Eligible students must have at least a 2.4 community college GPA (of at least 24 semester units, or the equivalent, of degree credit), meet the financial and eligibility requirements, be under age 24 at the time of transfer and apply by March 2.

3.3 Cal Grant B

Cal Grant B is for students from disadvantaged or low-income families.

The award for most first-year students covers living expenses, books, supplies and transportation, but not tuition and fees. When

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Cal Grant B Competitive Award

Other students who meet all the Cal Grant eligibility requirements and who have at least a 2.0 GPA may compete for a Cal Grant B Competitive award. Selection is based on a composite score that takes into consideration family income, parents' educational level, GPA, time out of high school, high school performance standards and other factors, such as whether the student comes from a single-parent household or is a former foster youth.

3.4 Cal Grant C

Cal Grant C helps vocationally oriented students acquire marketable job skills within a short time. Training must lead to a recognized occupational goal—diploma, associate degree, license qualification or certificate—which indicates at least an entry-level job skill. Students must be enrolled at least half-time in a course of study at least four months in length. Funding is available for up to two years, depending on the length of the program, as long as academic progress is satisfactory.

Cal Grant C recipients may attend occupational, career, or technical training courses at any California Community College. In addition, the awards may be used for nursing and allied health programs at a hospital school, selected courses at several independent colleges and specialized courses at eligible proprietary colleges.

Cal Grant C is not for students seeking a broad general education background, and may not be used for a four-year degree program, graduate study, course prerequisites or general education.

All applicants who did not receive a Cal Grant A or B award and who are eligible at the first Cal Grant C-eligible school listed on their FAFSA will be sent a Cal Grant C Supplement form as part of the competition. The Supplement must be completed by the student, endorsed by the

appropriate school representative or the student's employer and returned to the Commission by the May 15 deadline if the student wishes to remain in the competition.

Supplements are scored with an emphasis on educational background, vocational or occupational experience and aptitude. Additional points come from vocational or educational endorsements and grades. A counselor's review of the completed Supplement is recommended.

3.5 Cal Grants for approved, mandatory five-year undergraduate programs

Students enrolled in a Commission approved, mandatory five-year undergraduate program are eligible to renew their Cal Grant A or B benefits for an additional year, provided they meet the application requirements and demonstrate financial need. A mandatory five-year undergraduate program is one for which attendance beyond four years is required to meet the program's degree requirements. Since students can enter the Cal Grant program as a first through fourth year student, the participant may only be in their second or third year as a Cal Grant program participant. The name fifth year only refers to the application of the additional benefits for Cal Grant recipients enrolled in mandatory five-year programs.

The student's course of study must require every participant in that major to complete more than four years of study for graduation. Students must submit a *Request for Cal Grant Fifth-Year Benefits Form (G-42)*. The Commission's Grant Services Division maintains a list of schools with approved mandatory five-year programs. This list is also printed on the reverse of each G-42.

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3.6 Cal Grant A and B awards for use in Teaching Credential Programs

Students enrolled in a qualified teaching credential program may be eligible to renew their Cal Grant A or B award for an additional year after receiving their bachelor's degree. Teaching Credential Program (TCP) participants must continue to meet Cal Grant A or B program requirements and demonstrate financial need. This is a benefit extension to an existing Cal Grant program award. Students must submit a *Request for Cal Grant Teaching Credential Program Benefits Form (G-44)*.

Cal Grant A and B recipients are eligible to be paid Cal Grant TCP benefits for use in a teaching credential program if they:

- have received a Bachelor's degree
- are accepted and enrolled in a professional teacher preparation program at a California Commission on Teacher Credentialing approved institution within 15 months of the end of the term for which the recipient last received a Cal Grant payment
- have not received or submitted an application for an Initial Teaching Credential, such as a Preliminary or Clear Credential
- maintain financial need for Cal Grant renewal

The Commission's Grant Services Division maintains the list of schools with approved teaching credential programs. This list is also printed on the reverse of each G-44.

3.7 Cal Grant T

No funding has been received for new Cal Grant T awards since the 2002-03 budget year; however the program still exists in state statute. There are still some students that were awarded prior to 2003-04 that remain eligible for payment.

Cal Grant T awards help cover one year of tuition and fees at a teaching credential program in California in exchange for teaching service. Recipients must commit to teach at a low-performing K-12 school for one year for each \$2,000 they receive. The grant awards will become loans if the service requirement is not met.

To receive benefits, students must have a bachelor's degree and attend a teaching credential program at a school approved by the California Commission on Teacher Credentialing.

Students are selected based on their GPA and financial need. In addition, they must sign a declaration in which they agree to provide teaching service at a low-performing K-12 school in California.

Students who received extended Cal Grant A or B benefits to attend a teaching credential program or who are currently eligible for extended benefits are not eligible for a Cal Grant T award, nor are those who have applied for or who hold a preliminary teaching or clear credential.

Cal Grant T applications are distributed to all postsecondary institutions in California each year in Spring. The application deadline is June 1.

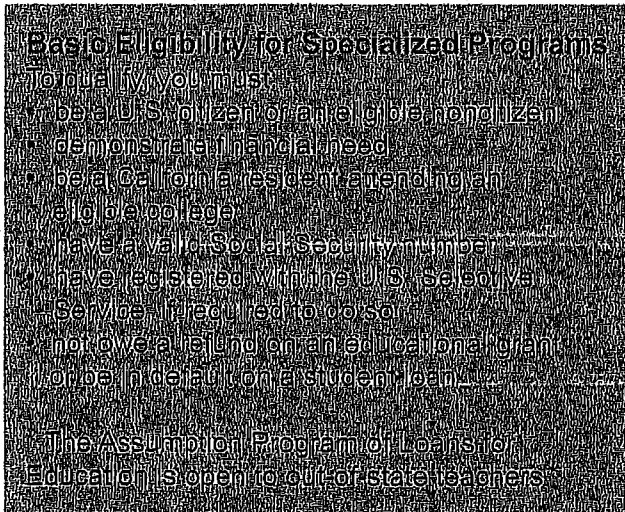
3.8 Specialized Programs

In addition to the Cal Grant programs, the California Student Aid Commission offers the following specialized programs:

- Assumption Program of Loans for Education
- Child Development Teacher and Supervisor Grant Program
- Law Enforcement Personnel Dependents Grant Program
- Robert C. Byrd Honors Scholarship Program

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- Graduate Assumption Program of Loans for Education (Graduate APLE)
- California State Work Study



Assumption Program of Loans for Education (APLE)

The Assumption Program of Loans for Education, or APLE, is designed to encourage outstanding students to become teachers and serve in critical teacher shortage areas in California public K-12 schools. Participants may receive up to \$11,000 in loan assumption benefits.

Applicants must have completed at least 60 units, have received, or have been approved to receive, educational loans to obtain a baccalaureate degree or an initial teaching credential, have not completed the coursework necessary to obtain an initial (preliminary or clear) credential and are enrolled at least half-time each term. APLE Coordinators at participating institutions, District Intern programs and County Offices of Education (for the out-of-state teachers) submit selected applications to the Commission.

APLE participants must sign an agreement and provide four consecutive years of full-time teaching service in a California public school in one of the designated subject matter areas or in a designated school (low-income, low-performing, school serving rural areas, school with high percentage of emergency permit teachers, or state special school). The list of eligible schools is provided by the Superintendent of Public Instruction each year and is available on the Commission's Web site at www.csac.ca.gov in March.

Applications are available in early Spring at participating institutions and District Intern Programs with teaching credential programs approved by the Commission on Teacher Credentialing. The institutions develop their own selection criteria (academic ability & recommendations) and procedures. Selected applications must be submitted to the California Student Aid Commission by June 30.

Out-of-state teachers may apply for the APLE program through the education or superintendent's office of the California county in which they will teach.

Based on the June 30 outstanding educational loan balances, loan assumption payments are made directly to the lender. The program assumes \$2,000 after completion of the first full academic year of eligible full-time teaching service and up to \$3,000 for each of the second, third and fourth consecutive year of teaching service. Participants who teach math, science or special education in the lowest performing schools may receive an additional \$8,000 in benefits.

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Child Development Teacher and Supervisor Grant Program

Each year outstanding college students who are pursuing child development permits at the teacher, site supervisor or program director level receive these grants to help with their college costs. Students at two-year colleges may receive \$1,000 per academic year for up to two years; those attending four-year colleges may receive \$2,000 per academic year for up to two years. The maximum benefit is \$6,000.

In return, participants must work full-time at an eligible California children's center for one year for each year they receive grant funds. To be eligible, students must attend a California Community College or public or independent four-year college at least half time and take courses leading to a child development permit.

To apply, students must file a FAFSA and complete a *Child Development Teacher and Supervisor Program* application. The application deadline is June 1. Colleges must recommend applicants and may nominate as many as they wish. The Commission selects participants based on financial need and academic achievement and notifies all applicants of their status in August. This program is federally funded and subject to the availability of federal resources each year.

Law Enforcement Personnel Dependents Grant

Grants are available for dependents and spouses of California law enforcement officers who were killed or totally (100%) disabled in the line of duty. Law Enforcement Personnel Dependents (LEPD) Grants are need-based and may be used to attend any California postsecondary school accredited by the Western Association of Schools and Colleges.

Grants range from \$100 to \$11,259 a year, for up to four years. Students who receive an LEPD award may also receive a Cal Grant or any other grant or college fee waiver if they are eligible. Awards for students with Cal Grants will match the amount of their Cal Grant award.

Eligible law enforcement officers include peace officers (highway patrol, marshals, sheriffs, police officers), employees of the California Department of Corrections and the California Youth Authority, and permanent full-time firefighters employed by counties, cities, districts and other state political subdivisions.

To apply, students must file the FAFSA and an LEPD application (with applicable documents). Applications are available from the Commission or may be downloaded from the Commission's website. Applications are accepted throughout the school year.

Robert C. Byrd Honors Scholarship

Robert C. Byrd Honors Scholarships recognize exceptional high school students who show promise of continued academic excellence in college. They are renewable for up to four years of postsecondary study at any accredited U.S. college. The scholarship award amount is \$1,500. This program is federally funded and subject to annual funding review by Congress.

The Commission sends applications to public and private high schools each year in February. Participating schools screen applications and may nominate up to two students. Deadlines may vary at each school, but all nominations must be postmarked to the Commission by May 4. The Commission reviews all nominations, ranks and selects participants and notifies the nominees of their status in June. This scholarship is merit-based so the FAFSA is not required.

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Graduate Assumption Program of Loans for Education (Graduate APLE)

No funding has been received for new Graduate APLE awards since the 2002-03 budget year; however the program still exists in state statute. There are still some students that were awarded prior to 2003-04 that remain eligible for loan assumption benefits.

The Graduate APLE program is designed to encourage students to complete their graduate education and serve as faculty at one or more colleges in California. Once participants have obtained their graduate degree and completed their first year of teaching service, they will receive up to \$2,000 a year in loan assumption benefits for up to three years of full-time teaching service at accredited colleges or universities in California.

To be eligible, students must have received, or be approved to receive, a student loan to meet the costs of their graduate study, or have received a loan for their undergraduate studies.

Applications are provided to college financial aid offices by the Commission. Once section of the application must be completed by a faculty member, who then must submit the application to the Commission by the June 30 postmark deadline. Applications received after the deadline will be evaluated on a first-come, first-served basis. Selection is based on financial need and academic achievement.

California State-Work Study

No funding has been received for the State Work-Study program since the 2002-03 budget year; however the program still exists in state statute.

California's Work-Study Program offers eligible students enrolled at selected public institutions the opportunity to earn money to help pay for their education while gaining valuable work experience.

Schools are selected for participation based on a competitive Request for Proposal (RFP) process.

4 The Cal Grant Application Process

Receipt by the Commission of both the FAFSA record and the GPA constitutes a complete Cal Grant application.

4.1 Applying for a Cal Grant

A student applies for a Cal Grant by submitting both a Free Application for Federal Student Aid (FAFSA) and a verified grade point average (GPA) on or before the statutory deadline. For most students, the deadline is March 2. The student mails, or electronically submits, the FAFSA to the U.S. Department of Education's (USED) central processor. The central processor sends FAFSA records for California students and students attending California schools to the Commission. The GPA is verified by the school and submitted by either the school or the student directly to the Commission. Receipt of both the FAFSA record and the GPA, by the Commission, constitutes a complete Cal Grant application.

Students with preliminary eligibility for a Cal Grant C award will receive a supplemental application that must also be completed in order for the student to be awarded a Cal Grant C. This process is discussed in Section 4.7.

For community college students applying for the September 2 deadline, the student's Social Security number must appear on a community college enrollment disk, in addition to submitting a FAFSA and a verified GPA. This process is discussed in Section 4.8.

4.2 Types of Grade Point Averages

The type of GPA submitted affects a student's eligibility for a Cal Grant Entitlement versus a Cal Grant Competitive award. It is important that schools understand the various types of GPAs and who can calculate them. The types of GPAs that can be submitted are outlined below.

High School Grade Point Averages

Consideration for a Cal Grant Entitlement award requires the submission of a high school GPA. High schools submitting GPAs must meet **at least one** of the following requirements. The school must:

- be accredited by the Western Association of Schools and Colleges (WASC), *or*
- be accredited by another regional accrediting association if the secondary school is not located in the WASC region, *or*
- have a University of California "a-g" subject area approved course list.

A WASC-accredited, or other regionally accredited, secondary school may include grades from a non-accredited institution if the grades count toward the accredited school's graduation requirements. Only those grades earned during the terms specified in Section 4.3

Type of GPA	Awards
High School	Entitlement or Competitive
College	Competitive
California Community College	Transfer Entitlement or Competitive
Reestablished	Competitive Only
Test Score	Entitlement or Competitive

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can be included in the GPA. Transfer grades cannot be accepted if they cannot be converted to a 4.00 GPA scale.

A postsecondary institution can calculate a high school GPA based upon official high school transcripts in its possession. By submitting the high school GPA, the institution certifies that the high school GPA was calculated as prescribed in Section 4.3. The college is also certifying that the high school where the GPA was earned is either:

- ♦ WASC accredited
- ♦ accredited by another regional accrediting association if the secondary school is not in the WASC region, or
- ♦ has a University of California "a-g" approved course list.

Regardless of who submits the high school GPA verification, the GPA must be identified as a high school GPA for a student to be considered for a Cal Grant Entitlement award.



More Information?

For more information on whether or not a specific high school is eligible to submit GPAs, the following sources may be helpful:

WASC accredited? Check the Accrediting Commission for Schools (ACS) Web site. ACS is a division of WASC and the Web site is at <http://www.acswasc.org/>. Information can be found under the "Members" link.

Regional Accrediting Association? The term "another regional accrediting association" refers to those accreditation agencies recognized as Regional Institutional Accrediting Agencies by the United States Department of Education. A list of those agencies can be found at http://www.ed.gov/admins/finaid/accred/accreditation_pg5.html#Regional%20Institutional

University of California "A - G" Policy? More information on the University of California "a-g" subject area requirements can be found on the Web site of the University of California's Office of the President at: <http://pathstat1.ucop.edu/ag/a-g/index.html>

California Community College Grade Point Averages

California Community College GPAs can be submitted by any California Community College or any college in possession of official California Community College transcripts. A GPA must be identified as a California Community College GPA for a student to be considered for a Transfer Entitlement award.

Reestablished Grade Point Averages

Reestablished GPAs can be submitted for students who wish to improve, or reestablish, their GPA by attending a California Community College. Only California Community Colleges may submit reestablished GPAs. Students for whom reestablished GPAs are submitted will only receive consideration for a Cal Grant B Competitive award.

Test Scores

Test scores can be submitted in lieu of a GPA in certain circumstances. The acceptable tests are the General Educational Development Test (GED), the American College Test (ACT) and the Scholastic Aptitude Test (SAT I). The Commission does not accept the SAT II subject tests or the California High School Proficiency Exam (CHSPE).

College Grade Point Averages

Any college may submit a GPA on behalf of a student for consideration for a Cal Grant Competitive award. A college GPA will not be considered for a Cal Grant Entitlement award.

4.3 Calculating Grade Point Averages

For Cal Grant purposes, GPAs must be calculated based on the requirements in the California Code of Regulations (CCR) Title 5, Division 4, Article 1, §30007.

High School Grade Point Averages

A high school GPA must be calculated on a 4.00 scale computed to two decimal places. Grades for coursework based on any scale other than a 4.00 maximum scale must be converted to a 4.00 equivalent prior to inclusion in the calculated GPA. If a grade cannot be converted to a 4.00 equivalent, it cannot be included as part of the Cal Grant GPA. The high school GPA must include all coursework for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year.

For high school graduates who apply after their senior year, their high school GPA includes senior year coursework. A student who will complete high school after her/his junior year will have a GPA calculated on all sophomore (grade 10) and any junior (grade 11) work completed as of the time of GPA certification. Although the school may technically consider this student a senior level student, all grades from coursework completed as of the time of GPA certification should be included.

Failed Coursework- GPAs shall only include the most recent grade for any course repeated by a student. Failed coursework must be included if it has not been repeated at the time of GPA certification.

Some Items Excluded- The GPA must not include grades from physical education, Reserve Officer Training Corps (ROTC) and remedial courses. Grades from the summer prior to the sophomore year are to be excluded from the GPA calculation for all students,

including those who have already advanced to sophomore (grade 10) status.

Remedial? The term "remedial" is not defined by statute. Therefore, high schools should apply the definitions used by their institution, applying these standards consistently for all GPAs calculated.

All GPA certifications, including high school GPAs submitted by colleges, must indicate that the GPA was calculated using high school grades. The high school GPA certification requirements must be met whether or not a postsecondary institution certifying the high school GPA accepts the high school units for admission purposes.

Definition of "Nontransferable Units" and "Courses Not Counted-" "Nontransferable units" and "courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree" are defined for postsecondary institutions as follows:

Baccalaureate Degree Granting Institutions- For purposes of computing a college grade point average by a postsecondary institution that grants baccalaureate degrees:

"nontransferable units" and "courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree" are those courses which do not earn credit for a baccalaureate degree from the reporting institution.

Associate Degree Granting Institutions- For purposes of computing a college grade point average by a postsecondary institution that grants associate degrees: "nontransferable units" and "courses not counted in the computation for admission to a California public institution of higher education that grants a

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baccalaureate degree" are those courses which do not earn credit for an associate degree at the reporting institution.

Institutions That Grant Neither Baccalaureate Nor Associate Degrees. For purposes of computing a college grade point average by a postsecondary institution that does not grant either a baccalaureate or an associate degree: "nontransferable units" are those units which are not used in satisfying requirements for earning a baccalaureate degree from a California public institution of higher education that grants such a degree. "Courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree" are any courses for which the earned grade is not used in the computation of a GPA in determining admission eligibility, whether or not units earned for the course are transferable to such an institution. In all instances, a GPA can be calculated from units earned at the school.

California Community College Grade Point Averages

For purposes of computing a community college grade point average, "nontransferable units" and "courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree" means all courses except "Associate Degree Credit Courses" as defined by Title 5, Chapter 6, Article 1, §55002(a) of the California Code of Regulations.

Reestablished Grade Point Averages

Applicants who cannot meet the high school GPA requirements for any reason, or who have not yet completed the required 24 units to use a college or community college GPA, may be able to submit a community college reestablished GPA. A reestablished GPA:

- ✓ is calculated on at least 16 units, but less than 24 units, of eligible coursework earned at a California Community College that meets the community college GPA requirements in this chapter
- ✓ may only be calculated and submitted by a California Community College
- ✓ may only include units actually earned at a California Community College
- ✓ will be used only for competitive Cal Grant B consideration

College Grade Point Averages

A college GPA must be calculated on a 4.00 scale using all college coursework completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree. "All college work completed" includes all coursework for which grades are known to the reporting official and accepted for credit at the school reporting the GPA, regardless of the grade received.

A college GPA may only be computed for students who have earned or received a minimum of 24 college semester units, or the equivalent, regardless of the grade received. 24 semester units is equivalent to 36 quarter units and 900 clock hours.

4.4 Submission of Grade Point Averages

Each year the Commission issues guidance through Grant Operations Memos regarding GPA submissions. The Commission usually begins accepting verified GPAs for the March 2 deadline at the beginning of November prior to the deadline (e.g., GPAs for the March 2, 2005, deadline can be submitted as early as November 1, 2004). Any GPA received for the March 2 deadline for a student that does not receive a Cal Grant award will also be

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considered for the September 2 competition. Schools may submit GPAs for the September 2 deadline beginning in mid-May.

The most efficient way to submit GPAs is through the Commission's GPA Collection System via WebGrants. The WebGrants' GPA function provides immediate feedback on the number of GPAs that have been accepted, it also identifies any errors in the school's upload file. Through the online GPA function, GPAs are certified electronically, thus eliminating the need to fax or mail a GPA Verification Form.

For access to WebGrants or the GPA functions, contact your campus system administrator. Verified GPAs may also be submitted on individual GPA Verification Forms. Submissions through e-mail are not allowed due to privacy and security issues.

What happens when the deadline falls on a Sunday or holiday?

The statutory Cal Grant filing deadlines are March 2 and September 2 of the award year. When either deadline day falls on a Sunday or holiday, GPAs and FAFSAs postmarked or filed electronically on the next business day are legally acceptable.

School Certification of Grade Point Averages

For every grade point average reported, the Commission requires a certification of the accuracy of the data. The certification is a statement that, to the best knowledge of the school official filing the report and under penalty of perjury, the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the Commission.

Timing of Grade Point Average Submissions

For high schools, the Commission recommends that GPA certifications be completed as early in the year as possible since the calculation is based on coursework that was completed in the previous academic year. Since college GPAs include all completed work, the Commission recommends that colleges choose one date to perform GPA extracts in order to provide consistent data for their students.

Any GPA received for the March 2 award selections that does not lead to an award offer is automatically included in the September 2 award selection. However, if additional terms have been completed, it is recommended that schools resubmit GPA files using the most up-to-date GPA data.

Late Institutional GPA Submissions

The Commission may accept, on a case-by-case basis, the submission of GPAs from institutions after the established deadline if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the GPAs by the reporting institutions by the established deadline. In such cases, any request to the Executive Director to accept GPAs after the established deadline shall be received by the Commission no later than twenty (20) days after the established deadline and the computed GPAs shall be included with the request.

The Commission will notify applicants who submit an incomplete application prior to the deadline and allow a grace period of ten (10) days for the applicant to file a corrected or completed GPA. A corrected or completed submission postmarked within the 10-day period shall be treated as received by the deadline.

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Multiple Grade Point Averages

Due to the exceptional nature of the reestablished GPA, some Cal Grant applicants may legitimately be in a situation where both a high school and reestablished GPA or college GPA could be submitted. This would occur for students who are still in the Entitlement two-year application "window," yet who have already earned enough college units to have a reestablished GPA or college GPA submitted.

Community colleges should be aware that in order to act in the best interests of a Cal Grant applicant it would be preferable, if both a high school GPA and a reestablished GPA could be submitted for the student, that the reestablished GPA should *not* be submitted if:

- ▶ the student is within the two year "window" for Entitlement consideration, has a high school GPA high enough for Entitlement purposes and meets the other Entitlement selection criteria
- ▶ the reestablished GPA is below 2.00 which therefore would disqualify the applicant from Cal Grant B, or
- ▶ the student's course of study length is less than one year and would therefore disqualify the applicant from Cal Grant B consideration

4.5 Submitting Test Scores

Test scores can be submitted in lieu of a GPA in any of the following circumstances:

- ▶ the applicant does not have a GPA
- ▶ the applicant's GPA was earned at a high school that does not meet the secondary school GPA submission requirements
- ▶ the applicant's GPA was earned at a foreign school or the foreign school does not meet the institutional GPA submission requirements
- ▶ the applicant's GPA is more than 5 years old as of the March 2 or September 2 filing date (optional)

If test scores will be submitted in lieu of a verified GPA, students must take the test in sufficient time to meet the appropriate postmark deadline required for program submission. When submitting test scores, students should attach a properly completed GPA Verification Form to the test results (excluding the GPA certification). This will ensure that students are fully considered in all award selection categories.

To submit SAT, ACT or GED test results, applicants should complete the *Student Aid Commission Grade Point Average Verification Form* (except for the GPA certification) and then attach a copy of their test scores to the form.

4.6 Completion of the Free Application for Federal Student Aid (FAFSA)

The Free Application for Federal Student Aid, or FAFSA, is available online at www.fafsa.ed.gov and on paper, in both English and Spanish. In addition to income—taxable and nontaxable—the FAFSA takes into consideration the current net value of savings, stocks, mutual funds, college savings plans, real estate investments and trusts when calculating a student's expected family contribution.

The information provided on the FAFSA is used to determine a student's eligibility for a Cal Grant, as well as other Federal and State aid. Specifically, income and asset information, Expected Family Contribution (EFC), dependency status, and school choice are factors in the Cal Grant selection process. In addition, responses to the Parent's Education Level and Orphan/Ward of the Court questions are included as part of the Cal Grant Competitive scoring. More information regarding the selection process is discussed in Chapter 5.

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Only one FAFSA needs to be submitted for each school year, and photocopies or faxes of the form are not accepted.

Each year the Commission produces a variety of information designed to assist students and parents with the completion of the FAFSA.

Students and financial aid administrators should be aware that the awarding of a Cal Grant might be delayed or forfeited if FAFSA applications or GPA verification forms are completed incorrectly or if required information is not provided. Students who become aware of an error or omission on their FAFSA should send corrections directly to the processor by the application cycle deadline. The use of a PIN code to submit corrections online can speed this process considerably.

Timely Filing

Applicants must complete a FAFSA, either online or paper, and submit it between January 1 and March 2 in order to be considered for a Cal Grant A, B or C during the March 2nd Entitlement and Competitive Cycles. There is also a second round of Cal Grant competitive awards (C2) with a September 2 deadline for students attending a California Community College. Applicants must also have their GPA certified by a school and submitted by the deadline. March 2 is the absolute postmark deadline to file for any new Cal Grant award. Students are encouraged to obtain a US Postal Service Certificate of Mailing as proof of filing by the deadline date. Any FAFSA dated or mailed prior to January 1 will be returned to the applicant.

FAFSA on the Web

The easiest and fastest way to apply for federal and state student aid is by using *FAFSA on the Web* at www.fafsa.ed.gov. The site is available in both English and Spanish. Students can apply 24 hours a day, seven days a week starting January 1.

FAFSA on the Web uses skip logic, so students are asked only those questions that apply to them. Built-in prompts and on-the-spot corrections mean significantly fewer errors. There is also online help for each question. *FAFSA on the Web* has a feature that lets students exchange live messages with a customer service representative. The FAFSA can be saved for up to 45 days after each time the application is opened, so it does not need to be completed in one sitting. In addition, the FAFSA will be transmitted to the federal processor within seconds, and students could receive their SAR within 72 hours, if they provide their email address. To learn more, go to www.fafsa.ed.gov or call 800.4FED.AID.

4.7 Cal Grant C Supplement

Each year after the March 2 competitive cycle has been completed, the Commission reviews applicants who were not awarded to determine potential eligibility for Cal Grant C. The Commission mails a Cal Grant C Supplement to these applicants. The supplement requires:

- ✓ Information about the student's educational plans
- ✓ Information about the student's education and work experience, *and*
- ✓ A recommendation from a professional person who knows the student and can comment about the student's interest and/or achievement in the occupational or technical area for which they plan to pursue

At the same time the supplements are mailed, the student is placed on a list that will be made available via WebGrants to the first eligible school listed on the student's FAFSA. Schools are encouraged to contact these applicants to help them understand the importance of completing and returning the supplement to the Commission.

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The supplemental application must be returned to the Commission for the student to compete for a Cal Grant C award. The deadline is May 15.

4.8 Enrollment Disk for September Deadline – Community Colleges

To receive consideration for a September 2 Community College Cal Grant A or B, the student must submit a FAFSA and GPA Verification using the same processes as for the March 2 deadline. In addition, the student must be enrolled at a California Community College.

Only Confirmed Community College Students-

The major difference between the September 2 and March 2 competitive selection pools is the requirement that only confirmed community college students can participate in the September 2 award selection. The Commission requires that community colleges submit attendance data to allow the selection of only those students actually in attendance at a community college. Each year, a Commission Operations Memo will provide the information that community colleges will use to release attendance data, including the attendance data submission deadline. That deadline will be approximately September 9 each year.

Data for All Students- When preparing the attendance census, data for *all* students in attendance should be submitted. Even though half-time attendance is required for Cal Grant payment eligibility, no filtering based on the number of units a student is enrolled in should be done when preparing attendance data.

Show Each CCC Separately- In some cases, a community college district may choose to report fall enrollment information for all colleges in the district. If the district does plan to report enrollment data from multiple colleges, separate files should be created.

5 Cal Grant Award Selection Process

5.1 Overview

Each January, the Commission begins receiving ISIR records from the FAFSA Central Processor. ISIRs for the Commission are placed in a "mailbox" set up by the USED. The Commission's mailbox is populated with all ISIRs generated from FAFSAs that matched at least one of the following profiles:

- ✓ Completed by a California resident
- ✓ California school listed in FAFSA Step Six

Once the Commission begins receiving ISIR records, the annual Entitlement award processes begin. ISIR records are reviewed, matched with GPA records and then processed for Cal Grant Entitlement eligibility. The Cal Grant Entitlement Program selection process runs weekly throughout the year. Previously unawarded Entitlement applicants are re-evaluated each time updated information is received, provided that the initial application data were submitted by the March 2 deadline.

Applications for Cal Grant Competitive applicants are held and processed all at one time. The date for the Competitive run is based on information received from the Central Processor that applications postmarked by the March 2 deadline have been processed through their system. The Commission uses the most recent ISIR record on file when the competition is run.

5.2 Cal Grant A & B Selection Process

There are six basic steps to the Commission's selection process. Applications are first checked for potential eligibility for a Cal Grant High School Entitlement award.

Step 1: Filter

All ISIR records are first reviewed for a matching high school GPA within the correct graduation date range for a high school Entitlement award. If no graduation date is listed, an age proxy is used to determine potential Entitlement eligibility. Applications meeting the filter criteria are also checked for a valid Social Security number and to determine if an Expected Family Contribution (EFC) has been calculated.

Applications not meeting the criteria for the high school Entitlement are then checked for a matching CCC GPA within the correct graduation date range for a Transfer Entitlement award. If no graduation date is listed, an age proxy is used to determine potential Entitlement eligibility. The date of birth is also checked to exclude applicants over 24 years of age. Applications are also reviewed to see if the applicant has listed at least one baccalaureate degree-granting institution. Applications meeting the filter criteria are checked for a valid Social Security number and to determine if an EFC has been calculated.

Applications that were not already processed through either the High School Entitlement process or the Transfer Entitlement process are held until the Competitive Cal Grant process is run. When the Competitive process runs, applications are first screened to determine if an EFC has been calculated. Applications without an EFC or a valid Social Security number are not processed further.

Student notifications: Blank EFC letters (Entitlement applicants only)

School access: None, students do not yet appear on WebGrants

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Social Security Number Edits

All the grant applications are edited for a valid SSN through a range check of the three sections of the Social Security number. The edit requires that the first three digits meet the following range criteria:

- ✓ Greater than or equal to 001 and less than or equal to 687, or
- ✓ Greater than or equal to 689 and less than or equal to 699, or
- ✓ Greater than or equal to 700 and less than or equal to 728.

The edit also requires that the middle two digits be greater than 00 and that the last four digits be greater than 0000.

Step 2: Validation

The ISIR records are next matched with the Commission's database to determine if the name, date of birth and Social Security number match existing records. The database is also checked to see if the student has an existing Cal Grant award. New student records are added to the database. Those with mismatched data or those who were previously awarded, are held for manual review; however, only Entitlement-eligible students are given the opportunity to correct their application data.

Student notifications: None

School access: None, students do not yet appear on WebGrants

Step 3: Match GPA/Test score

The system next looks for a GPA or test score for the applicant, and the database record is updated with the specific GPA or test score data. If multiple GPA records are found for a student, the highest appropriate GPA is used. (See Chapter 4 for more information.) Test scores are converted to a GPA equivalent. In order to provide a general idea of the

conversion, the following chart summarizes the test score equivalents for a 2.0 and a 3.0 GPA.

Student notifications: None

School access: None, students do not yet appear on WebGrants

Minimum Required Test Scores

	2.0 Equivalent	3.0 Equivalent
SAT Composite	654	968
ACT	26	26
GED	48	68

Step 4: Non-financial Edits

Common Edits- The application is first reviewed for overall Cal Grant eligibility. These are called common edits as described in Chapter 3. The following fields are checked:

- ✓ California residency
- ✓ California residency at time of HS graduation (Entitlement applicants only)
- ✓ Eligible California School listed
- ✓ No bachelor's degree received
- ✓ Education level < 5
- ✓ Remaining Cal Grant eligibility

All students are subject to these edits.

Program Edits- Next, the specific program eligibility is checked. These are called program edits. The following factors are reviewed:

- ✓ Eligible school (for specific program)
- ✓ GPA (2.0 for Cal Grant B and 3.0 for Cal Grant A) (2.40 for transfer Entitlement A&B)
- ✓ Degree objective (for Cal Grant C)
- ✓ Remaining eligibility by program

Student notifications:

Entitlement: "Application on-hold" letter and correction form

Competitive: "Application disqualification" letter sent

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School access: Schools can view the reason(s) why an application rejected due to the common edits on the WebGrants Student Award Summary screen in the "C/E Reason" column. Program edit disqualifications can be viewed on the same screen in the "P/E Reason" column. The Award Status column will display either "C/E DISQ" or "P/E DISQ." Further detail can be viewed in the Student Award Detail screen.

Step 5: Financial Edits

Applications passing all the non-financial edits are then reviewed to determine if the applicant meets the financial eligibility requirements. There are four financial edits: income, assets, financial need and minimum need.

Income Ceilings- The application is checked to ensure that the applicant does not exceed the income ceilings.

Dependent students: The parent's total income, as calculated by the federal processor, is checked against the maximum amount for Cal Grant A and Cal Grant B based on family size.

Independent students: The student's total income, plus those of their spouse (if applicable), as calculated by the federal processor, is checked against the maximum amount for Cal Grant A and Cal Grant B based on family size.

Asset Ceilings- The application data is checked to ensure that the applicant does not exceed the asset ceilings. The parent's net worth, as calculated by the federal processor, is checked against the maximum amount for dependent students. For independent students, the student's net worth, plus that of their spouse (if applicable), is reviewed.

Financial Need- The financial need amount is then checked using the cost of attendance reported by the first eligible California school

listed on the applicant's ISIR. The calculation method uses the following formula:

$$\begin{aligned} & \text{Cost of Attendance} \\ & - \text{EFC} \\ & - \text{Veteran's Benefits} \\ & \hline & = \text{Need} \end{aligned}$$

If the result of the calculation is zero or less, then the application will fail with a reason code, "No Financial Need."

Minimum Need Not Met- Using the formula above for calculating need, Cal Grant A and C applicants must have financial need equal to or greater than the maximum Cal Grant tuition award at the school listed first on their ISIR, plus \$1,500. For Cal Grant B selection, an applicant must show at least \$700 in need to pass this edit.

Student notifications:

Entitlement: "Application disqualification" letter and correction form

Competitive: "Application disqualification" letter sent

School access: Schools can view the reason(s) why an application rejected due to the financial edits on the WebGrants Student Award Summary screen in the column "P/E Reason." The Award Status column will display "FIN INEL" and the "P/E Reason" column will display the reason(s) the application failed. Further detail can be obtained from the Student Award Detail screen.

Step 6: Scoring and Selection

Students who are eligible for a Cal Grant A or B Competitive award based on successfully passing all of the non-financial and financial edits are then scored based on criteria set by the Student Aid Commission. California statute directs the Commission to establish selection criteria for Cal Grant Competitive A and B awards that give special consideration to

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disadvantaged students; taking into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper a student's access to, and ability to persist in, postsecondary education programs. These criteria are reviewed annually and updated as needed. See chart below.

Scoring Categories

Category	Maximum Points
Grade Point Average (GPA)	70
Parents' Educational Level	18
Access Equalizer	18
Family Income & Household Size	76
Applicants can receive points in one or the following categories:	
Single Parent Household	18
Married/Single Independent Student	18
Award of the court, Unmarried with no dependents	22
Maximum Total Points	200
A ward of the court, Unmarried with no dependents can receive only up to a maximum of 22 points in this category. As a result, no applicant can score higher than 200 points.	

Top 2% Students- The scoring process described above is used for Cal Grant B Entitlement recipients to select the top 2%. Those students scoring in the top 2% are eligible for a tuition and fee award, in addition to the access award, during their freshman year. This process is run in June after the majority of Entitlement recipients have been selected.

GPA- The GPA score is obtained using the GPA verified by school officials. Points range uniformly from 0 to 70, depending on the verified GPA.

Parents' Educational Level - For each parent, an applicant receives:

- 0 points for any college educated parent,
- 5 points for each high school educated parent,
- 9 points for a parent with middle school/junior high education, *or*
- 9 points for applicants indicating the parent educational level is other or unknown.

Access Equalizer- This process awards points to Competitive applicants who had a "disadvantaged high school experience." Points are assigned based on one of the following categories:

- Submitted a General Equivalency Development (GED) test score (18 points),
- Has a GPA verified by a California continuation high school (18 points),
- Attended a high school in the upper quartile based on number of participants in the federal Title I program (18 points), *or*
- Ranks in the lowest quartile for university-going rates and has at least 25% participation rate in the federal Title I free or reduced-price lunch program (18 points)
- If the student is a late or reentry student, the number of assigned Access Equalizer points will vary depending upon the educational level of the student and the number of years since the student has attended high school per the following chart.

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Late or Reentry Student Access Points

# of Years Out of High School	Educational Level				
	No.	1	2	3	4
2-3	9	6	3	0	0
4-5	12	9	6	0	0
6-7	15	12	9	3	0
8 or more	18	15	12	6	0

awarded receive a California Aid Report (CAR) and non-recipients receive a letter notifying them that their score was too low to receive a Cal Grant award.

School access: Schools can view an applicant's final award status on the Student Award Summary screen, the Student Award Detail screen and the California Aid Report screen. An applicant's score can also be viewed on the Student Award Detail screen. All three screens are located in the Student Info Main Menu on WebGrants.

Family Income/Household Size- Points are assigned uniformly from 30 to 76 depending on family income and size of household. Wards of the court who are unmarried and without dependents can only receive up to a maximum of 72 points in this category.

Student or Parent Household Status- Applicants can receive points in one of three categories:

- Dependent applicants: Receive 0 points if their parents are married or 18 points if their parents are single, separated, divorced or widowed.
- Independent applicants: Receive 18 points if unmarried with dependents. Independent applicants who are married and/or have no dependents received 0 points.
- Wards of the court: Applicants who are unmarried, without dependents and indicate they are or were orphans or wards of the court receive 22 points.

Once the applications are scored, the top 11,250 for each Competitive cycle are selected.

Student notifications: All applicants who go through the selection process with a complete application (FAFSA + GPA) receive a notification letter. Students who have been

No (Other) Scoring for Entitlement- There is no scoring process for Entitlement Award applicants (other than the top 2% of Cal Grant B Entitlement recipients, described previously). All applicants meeting the general eligibility and financial requirements receive an award. Eligible applicants are selected for either a Cal Grant A or B based on their GPA and income. Applicants eligible for both a Cal Grant A and a Cal Grant B Entitlement are awarded based on which award will be most beneficial at the school they are most likely to attend. Students may switch their program preference, with consent from their school's financial aid office, prior to the time they receive their first Cal Grant payment.

5.3 Student Notifications

Notification of New Recipients

The Commission uses the CAR to notify new recipients of their Cal Grant award. The CAR explains the student's award status at the first three eligible California schools the student listed on the Free Application for Federal Student Aid (FAFSA). If the student is a Competitive applicant and found ineligible for the first school reported, no other eligible California schools will be considered for eligibility.

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CAR Enclosures- Included with each CAR is a New Recipient Cal Grant Reference Manual and a New Cal Grant Recipient Change Form. The Recipient Change Form should be filled out and returned only if the student's current information, as shown on the CAR, is different from the Commission's records. Although the CAR lists up to three schools, the student will be included only on the Cal Grant roster for the first school listed on the CAR. Participants are instructed to report to the Commission if they attend any school other than the one listed first on their CAR.

Examples of CAR Use-As stated above, the CAR lists eligibility information for up to three schools in the same order listed on the FAFSA. Only those California schools at which the student has eligibility in at least one Cal Grant program are listed. The school and grant program for which a dollar amount is listed is the "auto accept" (or automatically accepted) award. If the student qualifies for more than one grant program at a given school, the "auto accept" grant is the grant the school or the Commission has determined would be the most advantageous to award to the student.

Second \$\$ amount on CAR? The recipient may be eligible for an award in a different grant program, as indicated by a second dollar amount or an appropriate reason code on the CAR. The student should review all the information provided on the CAR to determine if a change of school and/or grant program choice is needed.

Student attends second school listed. If the student decides to attend a school other than the first one listed on the CAR, the student should immediately return the *New Recipient Change Form* to report their actual school of attendance or have their school submit a school change through WebGrants.

Additional examples and a description of the codes used on the CAR are included in Appendix XX.

Notification of Non-Recipients

All applicants submitting complete applications for a Cal Grant, by the appropriate filing deadline, will receive notification of their grant status. As described above, there are various stages during the awarding process that generate correspondence.

Students who submit incomplete or late applications will not receive notification.

"Blank EFC" Letter- Applicants whose ISIR record could not be processed further because an Expected Family Contribution (EFC) was not calculated by the federal processor will receive a "Blank EFC" letter. These letters are only produced for applications being processed through the Entitlement cycle. Entitlement applicants should make corrections to their Student Aid Report (SAR). The Commission will continue to process the new ISIR records and will update the student's record when the EFC is received.

The reasons for a missing EFC usually include a failure to provide parents' income(s) or a failure to complete required sections of the FAFSA. The ISIR information from an incomplete (no EFC) ISIR cannot be viewed by Commission Customer Service staff. Therefore, applicants without an EFC, who require more information on their status, must contact the Federal Student Aid Information Center at (800) 433-3243 to determine why no EFC could be produced.

"Application on-hold" letter and correction form- Applicants not selected as recipients receive notification letters explaining the reason(s) they were not awarded. The letter

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lists the specific disqualification reason(s), and includes an *Entitlement Non-Recipient Fact Sheet* and an Application Correction Form (G-23).

"Application disqualification" letter- Ineligible Competitive award applicants with complete applications will receive a letter and a *Competitive Non-Recipient Fact Sheet*. No correction form is supplied to ineligible Competitive award applicants. Although the Commission will respond to any correspondence received from a student, parent or school, appeals for Competitive award applicants will be reviewed only for Commission procedural compliance. Information on student and institutional appeal procedures is described later in this chapter.

5.4 School Notifications

All new Cal Grant recipients will appear on the Cal Grant payment roster of the first school listed on the CAR. Rosters are generated beginning in January of the award year. Schools may process school changes for new recipients using WebGrants at any time after they are awarded.

Schools can view a student's award status and the CAR data using the Student Info screens on WebGrants. The CAR is retrieved by using the student's Social Security number and the year of the CAR. On WebGrants, the 2004-05 year will be entered as "2005." If the student has had more than one CAR issued, a new window will open allowing the selection of the desired CAR. Since the CAR represents the original award offer made to a student, it does not necessarily reflect the student's current Cal Grant status.

Schools wishing to check the status of a group of students who have been admitted to their

institution can upload a file of Social Security numbers through the Award Status Extract process and receive a report listing Cal Grant recipients.

5.5 Cal Grant C Selection Process

In addition to the basic Cal Grant program requirements, applicants are considered for a Cal Grant C award if *all* of the following are true:

- The applicant is not Cal Grant A or B eligible.
- The FAFSA indicates a Cal Grant C eligible school.
- The applicant indicates on the FAFSA that he or she will be working toward a vocational degree or certificate.
- The applicant shows financial need of at least the maximum Cal Grant C tuition payment payable for the school segment the student is attending, plus \$1,500, and is below program income and asset ceilings.

Student notifications: If all of the above are true, the applicant is mailed a *Cal Grant C Supplement* following Step 6 of the selection process described in the previous section. Cal Grant C recipients are selected according to a composite score based on responses to questions on the *Cal Grant C Supplement* plus the initial GPA information, if received. A GPA is not required, but may provide a higher score for the student. *Cal Grant C Supplements* are evaluated and scored based on a student's past performance, e.g., work history, experience, educational history, vocational/educational recommendation, and GPA (see below). The *Cal Grant C Supplement* must be completed and returned by the May 15 deadline to be included in the competition.

School access: Schools may view a list of Cal Grant applicants that listed their institution as

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the one they are most likely to attend using the Cal Grant C Supplement Recipient Report located on the Data Transfer Report Download screen on WebGrants. This report is generated once a year and is only available online.

Cal Grant C Scoring Criteria

Other than the GPA (if submitted), the Cal Grant C scoring factors are all taken from the *Cal Grant C Supplement*. Once submitted, no changes to the *Cal Grant C Supplement* information will be accepted.

Cal Grant C Scoring Criteria

Weighted Factors	Maximum Points
Work History	25
Educational History	25
Recommendation	35
GPA	15
Total	100

5.6 September 2 Competitive Selection Process

The selection of September 2 deadline Competitive awards is similar to the March 2 Competitive award process. Applicants who applied for, but did not receive, an award during the March 2 processes are automatically considered during the September selection process. The primary difference between the two Competitive processes is the initial filter. In addition to filing a FAFSA and a GPA by the September 2 deadline, the applicant must also appear on a California Community College enrollment file. The process for submitting an enrollment file is described in Chapter 4.8.

The filter checks that a FAFSA, GPA and Enrollment Verification were received. Any applications not meeting these criteria are not processed further.

The same scoring matrix is used and Competitive grants are awarded to those meeting the selected cutoff score.

5.7 Correction and Appeal Process ISIR Drawdown Process

Between January 1 and March 2, corrections made to the SAR, either on-line by the student or school or on the paper SAR, will be applied by the federal processor. Upon processing, another SAR version will be created and made available to the student, the schools listed on the SAR and the Commission. Early filing of the FAFSA allows the maximum time to submit any changes to SAR data.

After the March 2 or September 2 deadlines, ISIR corrections sent through the federal processor will still be accessible for Cal Grant purposes because the Commission is still drawing down the ISIRs and corrected ISIRs on a daily basis.

ISIR Data Corrections

After the competitive process runs, only corrections to ISIR data for Entitlement non-awarded applicants will be accepted. Schools can submit these changes via the *Grant Record Change Form for Schools* (G-21) or on-line through WebGrants. Schools should submit only those corrections that will lead to an award notification. In instances where the school cannot make this determination, assistance can be obtained from the Commission.

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Entitlement GPA Corrections

GPA corrections for Entitlement applicants should be made by the school that originally supplied the GPA. Properly certified Entitlement GPA corrections will be accepted after the filing deadline with a tentative final correction date of November 30 of the award year. GPA corrections should be made on school letterhead with the GPA and a statement that the GPA was calculated in accordance with the requirements of the Cal Grant program. Transcripts will not be accepted as means of correcting a Cal Grant GPA.

Competitive GPA Corrections- Once the award selection has been made, GPA corrections for Competitive applicants are not accepted. Should an unsuccessful March 2 Competitive applicant wish to submit a newly calculated GPA for the September 2 award competition, this is done in the same manner as any regularly submitted September 2 GPA and is not considered a correction.

Demographic Corrections

Once an applicant's record is loaded to the Commission's system, demographic changes such as name, address, phone number and Social Security number must be made directly to the Commission. Students can make these types of corrections on a *Grant Record Change Form for Students (G-10)* with appropriate documentation submitted for name and Social Security number changes. Schools can submit demographic changes using the WebGrants Demographics screen located under the Student Info menu.

Address changes for Entitlement recipients may be possible as early as January. Since Competitive award applications are not loaded to the system until shortly before the award

selection, it will not be possible to update address changes directly to GDS until after the award selection process is complete. The Commission will use the most recently processed ISIR so demographic changes should be made through the SAR correction process until the final drawdown occurs.

Appeals

A new or renewal applicant who was denied a Cal Grant, withdrawn from the program, or who believes that he or she received less than the maximum amount of award eligibility, may appeal his or her status to the Commission. Presentation of an appeal does not guarantee that an award offer will be made, but it will assure that a Commission analyst reviews the applicant's situation.

Funding is guaranteed for all eligible Cal Grant Entitlement applicants who meet the filing deadline. Appeals and data corrections are encouraged for students who met the filing deadlines, yet did not receive Entitlement award consideration. For Cal Grant Competitive award applicants, however, no guarantee of funding is made and it is unlikely, *even upon appeal*, that an award offer will be made due to the limited number of available awards.

Prior to sending an appeal, students are advised to carefully review the correspondence sent to them and to visit the Commission's Web site to obtain as much information as possible on the eligibility criteria for the Cal Grant program to determine if an appeal is appropriate.

All appeals should be made in writing and mailed to the Commission at the following address:



California Student Aid Commission
Grant Services Division
P.O. Box 419027
Rancho Cordova, CA 95741-9027

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The appeal letter should clearly state the reason for the appeal and should contain at least the following information:

- ✓ Student's complete name
- ✓ Student's Social Security number, or CSAC ID
- ✓ Student's complete address
- ✓ Student's phone number
- ✓ A photocopy of all Commission correspondence that relates to the student's appeal

Professional judgment at school- Information on special circumstances regarding the student's financial or family situations should be resolved by the financial aid office; the Commission has no authority to exercise professional judgment. Schools may send application corrections to the Commission if exercising their professional judgment following the correction process described above.

For reconsideration of an award due to the Commission's non-receipt of a form, a photocopy of the properly completed document and an authoritative proof of mailing dated by the due date should be included with the appeal letter.

Acceptable documentation includes:

- ✓ US Postal Service Certificate of Mailing (preferred)
- ✓ US Postal Service Certified Mail Receipt
- ✓ US Postal Service Registered Mail Receipt
- ✓ Federal Express, UPS or other private mailing service receipt showing the item was delivered to the correct address on time
- ✓ For *FAFSA on the Web* applicants, a printout of their "confirmation" page, along with the application confirmation number, can be used as proof of timely submission


A proof of mailing that displays any "mailed to" address other than the Federal Student Aid Programs- for FAFSA applications, or the

Commission- for a GPA certification, cannot be used to show proper mailing of the application. Although the mailing may be timely, the Commission will not accept responsibility for mail addressed incorrectly.

Appeals that are otherwise complete may be denied if the appeal was not received in a timely manner. The Commission cannot release funds for past year awards.

Commission Review of Appeal Letter

Commission Customer Services Branch staff will review the applicant's situation to determine whether the current status of their application is consistent with Commission procedures, policies and program regulations. Although, formal appeals cannot be accepted via e-mail, questions on the student's situation can be answered via e-mail at the Customer Service e-mail address: custsvcs@csac.ca.gov.

 A telephone inquiry to Commission Customer Service staff at (888) 224-7268 can also answer any questions.

The Commission will examine the following to determine the validity of each appeal letter:

- ✓ The documentation enclosed with the appeal letter (checking for completeness, validity, and timeliness of submitting the appeal letter)
- ✓ The student's record on the Grant Delivery System (GDS)
- ✓ The appropriate reference manuals, fact sheets, guidelines and other materials pertaining to the student's appeal (program regulations and Commission policies may also be examined)

6 Renewal of Cal Grant Awards

This chapter covers the process by which Cal Grants are renewed, including notifications to both students and schools and the role of the school in determining a student's eligibility for continued payment.

Each year in early July the Commission begins the renewal process. The Commission's process automatically renews all students who are active program participants (see below) and have remaining Cal Grant eligibility. It is the school's role to determine the student's actual payment eligibility.

6.1 Commission's Renewal Process

Cal Grant A and B

Cal Grant A and B awards are automatically renewed each year for students who satisfied a minimum number of terms and have at least 10 percent remaining program eligibility. (The Commission does not review a student's ISIR record or verify that an ISIR has been filed for the renewal year when determining renewal eligibility.)

"Satisfy a Term"- as defined by the Commission, means, for the minimum number of terms of the previous academic year, to have a Cal Grant payment reported, have a leave of absence applied for the term, or to have another payment type transaction reported, such as not making satisfactory academic progress.

Minimum Number of Terms

The following shows the minimum number of terms, for the previous academic year, that must be satisfied for renewal purposes:

Semester or Trimester	1 term
Quarter	2 terms

Cal Grant C

Cal Grant C awards are awarded for a specific program length and are not included in the renewal process. Awards are automatically carried over from year to year, provided there is remaining program eligibility. Students then receive a "continuing eligibility" letter.

Cal Grant T


From 1998-99 through 2002-03, Cal Grant T awards were made for the equivalent of one full-time academic year of attendance in an eligible program. Therefore, Cal Grant T recipients who were paid for one full-time year were not eligible to renew the grant. Cal Grant T recipients who attended part-time had eligibility remaining and were renewed for a subsequent year. The procedure for renewing a Cal Grant T participant with continuing program eligibility is the same as the procedure for Cal Grant A and B.

6.2 Notification to the Student

Eligible for Renewal

Following the Commission's internal renewal process, the Commission sends a renewal letter to eligible students informing them that their Cal Grant has been renewed. The notification explains that the Commission has determined that the student is eligible for renewal and that the school is responsible for determining their eligibility for payment. The letter advises students that they must complete and file a FAFSA for the upcoming year, if they have not already done so, and to check with their school to determine if any additional documentation is required. The letter does not contain any indication of a potential award amount. The letter also provides instructions on filling a leave of absence and activating a Cal Grant A CC Reserve Award.

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 A *Renewal Cal Grant Reference Manual*, and a *Recipient Change Form* are enclosed with each letter. Participants can use the *Recipient Change Form* to notify the Commission of changes in school attendance and/or demographic information for the upcoming school year. Students can also use the form to withdraw from the Cal Grant program.

Unable to Determine Renewal Letter

Students whose Cal Grants cannot be renewed due to unreported terms from the prior year are sent an "Unable to Determine" renewal eligibility letter by the Commission around August 1. The letter suggests the student request that their school notify the Commission of their payment eligibility status, or submit a leave of absence if the student was not enrolled. If a payment transaction or leave of absence remain unreported for the minimum number of terms, the student's award will be withdrawn. Several letters are sent to a student prior to withdrawal of a Cal Grant.

Ineligible for Renewal and Limited Remaining Eligibility

During this period, the Commission also sends a letter to recipients whose eligibility for grant benefits has expired and to those who will be expected to use up their eligibility by the end of the upcoming academic year, assuming full-time attendance. The letter also provides specific directions to renewal Cal Grant A and B recipients who plan to enroll in a mandatory five-year program or a teaching credential program, and instructs them regarding how to extend their benefits for an additional academic year.

6.3 Notification to Schools

Students Eligible for Renewal

As students are renewed, they are added to the *Cal Grant Roster* of the school that they most recently attended. This process starts in July and continues through December. Schools are notified via an *Operations Memo* when the renewal process has been completed.

Renewed With Outstanding Transactions

Beginning with the 2003-04 renewal process, schools may view or download a supplemental report, the *Renewed With Outstanding Transactions* report. This report lists all Cal Grant participants whose awards were renewed with an unsatisfied term for the prior year. The report serves to alert schools about any students who may have been eligible for additional payments in the prior year.

Unable to Determine Renewal Eligibility Report

Along with the *Renewed With Outstanding Transactions* report, a report is produced that lists all Cal Grant participants that were on their roster the prior year, for which the Commission was unable to determine renewal eligibility because the student did not meet the minimum term requirements.

The report serves to alert schools of those participants whose grants may be withdrawn unless their status is clarified. The students may have been eligible for payment, or perhaps no leave of absence was reported to the Commission. The report is mailed one month prior to sending the students their *Unable to Determine* letters. This allows the school time to correct any non-payment issues prior to students being notified.

Working the Reports

The Commission advises schools to review both the *Renewed with Outstanding Transactions Report* and the *Unable to Determine Report* and report any outstanding transactions as quickly as possible. This will enable students who should have received payments for the prior year to receive those payments, or file a leave of absence and become eligible for renewal.

Withdrawal Date

The Commission will withdraw the Cal Grant award as of December 31 for all students who appear on the *Unable to Determine* report with

less than the minimum number of terms satisfied for the prior year.

Student Examples/Actions To Be Taken

Below are some situations that may cause inclusion on the *Unable to Determine* and *Renewed with Outstanding Transactions* reports with suggested or required actions for the student, school and/or the Commission:

a. The student was not enrolled at all for the term in question:

Student – Report a leave of absence.

b. The school forgot to report a payment for one or more terms:

School – Report the missing term payment.

c. The student was enrolled at a school other than the one listed on Commission records:

Student – Request school change to school of attendance.

Roster school – Take no action

Actual school of attendance – Report payment if student is eligible.

d. The student was not enrolled for the term(s) in question and was unaware they had a Cal Grant, but is considering attending the next year:

Student – Take a leave of absence for the missing school term(s) and inform the Commission where s/he hopes to enroll for the next year. File a completed FAFSA.

e. The student never informed the school that s/he had a potential Cal Grant and the school has now "closed its books" for that year:

Student – Take a leave of absence for the missing school term(s) and inform the Commission where s/he will enroll for the next year.

f. The school requested verification documentation from the student; it was not received, so the school could not report payment:

Student – Take a leave of absence for the missing school term(s) and inform the Commission where s/he will enroll the next year.

Roster school – Report nothing if student did not submit required documentation.

g. The student was eligible for payment at a community college and no payment was reported. Student wants to save eligibility for future use:

Student – Request a Leave of Absence for the term(s) in question. (The student is only required to report one leave of absence if attending a semester-based school. The other term will be an automatic leave.)

6.4 School Determination of Renewal Eligibility

The school reporting payment makes the determination of a renewal participant's eligibility.

Once an ISIR for the next year is received, schools must review the student's:

- > general eligibility;
- > unmet financial need;
- > remaining program eligibility; and
- > major or academic program

Citizenship and Residency

Students must continue to meet United States citizenship and California residency requirements to retain eligibility for their Cal Grant award.

Satisfactory Academic Progress

Students must be making satisfactory academic progress before grant funds can be disbursed. Schools may use the *Grant Record Change Form for Schools (G-21)*, available through WebGrants, or report the appropriate adjustment reason code on the *Grant Roster* to notify the Commission of students who are *not* making satisfactory academic progress.

Minimum Financial Need

Students must have a minimum unmet financial need of at least \$100 to remain eligible for a Cal Grant payment. Minimum financial need is

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calculated as Cost of Attendance (COA), less the Expected Family Contribution (EFC), minus any Pell Grant amount. The income and asset ceilings used for the initial award do not apply to renewal recipients. For more detail on need calculations, see Chapter 6.

Proper Course of Study

Schools should verify students' remaining Cal Grant program eligibility as well as ensure that students are enrolled in a course of study consistent with the type of Cal Grant award they have.

School Notification to Students

Schools are required to notify renewal Cal Grant recipients of their status in the program. Financial aid offices must send the participant a letter, or other confirmation, to notify financially eligible renewal applicants of their Cal Grant eligibility, the amount of the award and any school-specific disbursement timelines and information. Schools must retain evidence of this notification.

Cal Grant participants who contact the Commission about their renewal financial aid eligibility will be referred to their campus financial aid office.

Qualifying for a Cal Grant and a Pell Grant Are Not the Same

Schools should be aware that although many of the application and eligibility determinations for the federal financial aid programs and the state Cal Grant program are the same or similar, there is no direct correlation between the federal Pell Grant and state Cal Grant eligibility.

A student can be eligible for a Cal Grant but not eligible for a Pell Grant.

It is important that students not disqualify themselves from Cal Grant and other financial aid program consideration based on selection criteria for other programs that do not apply to Cal Grant programs.

7 Program Administration

“New Cal Grant maximum annual award amounts may vary each year depending on the level of funding provided in the Annual State Budget.”

This chapter describes the types of awards available through the Cal Grant program. It also explains the maximum award amounts available, how students may use their Cal Grant eligibility and how schools may activate awards through WebGrants reports.

7.1 Award Types

Cal Grant A

Purpose – Cal Grant A is a tuition assistance program. Awards are for students enrolled in a program of instruction of not less than two academic years that leads to an associate or baccalaureate degree requiring 48 semester units or that results in eligibility for transfer from a community college to a baccalaureate degree program.

There are three Cal Grant A awards available to students: Entitlement, Transfer Entitlement and Competitive. Please refer to Chapter 3, "Program Descriptions and Eligibility" for more information regarding these awards and the Cal Grant A Reserve program.

Eligible Schools – University of California and the California State University, independent colleges and some occupational and career colleges are eligible schools for this program.

§§ Maximum Award Amount – The grant will pay tuition and fees up to the annual award amount for recipients attending tuition charging schools. Award amounts are determined through the state budget process and may change annually.

New Cal Grant maximum annual award amounts may vary each year depending on the level of

funding provided in the Annual State Budget. Annual award amounts will not exceed the maximum annual award amounts for each type of school. For example, if a student is attending a California State University (CSU), the maximum annual award would be \$2,520 (the maximum annual award amount for the 2005-06 academic year at a CSU). If the student is attending a UC, the maximum annual award amount would be \$6,141 (the maximum annual award amount for the 2005-06 academic year at a UC).

Tuition and Fees – Cal Grant A benefits cover up to full systemwide fees at the University of California and the California State University. It provides tuition and fees at independent colleges in California. Cal Grant A awards cannot be used to pay Community College fees. Students who are awarded a Cal Grant A and attend a California Community College will be placed in *Community College Reserve* status and will not receive payment until they transfer to a four-year college.

Cal Grant B

Purpose – Cal Grant B is also a tuition assistance program that has the added component of a living stipend, called "Access." This program is for students from disadvantaged or low-income families. Coursework must be for at least one academic year, and students must be enrolled at least half-time.

Eligible Schools – University of California and the California State University, California Community Colleges, independent colleges and some occupational and career colleges are eligible schools for this program.

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§§ Maximum Award Amount – The maximum award amount for the Cal Grant B program for most first-year students covers living expenses, books, supplies and transportation, but not tuition and fees is \$1,551. When renewed or awarded beyond the freshman year, the grant covers tuition and fees. The tuition and fee award amounts are the same as those for Cal Grant A. Award amounts are determined through the state budget process and may change annually.

New Cal Grant B recipients awarded through the Entitlement program or the March 2 competition process may transfer to a tuition charging school at any time during their first year of the Cal Grant program and are still eligible to receive the Access portion of the grant at the tuition charging school.

Student "Access" (living expenses, books & supplies) Payment Option – Schools are required to establish and publish a policy that informs students of their options regarding receipt of their Cal Grant B award and their subsequent ability at any time to rescind their existing instructions. Many schools ask students to authorize the school to apply a Cal Grant B Access payment to their tuition/fees or other school accounts. This practice is satisfactory; however, the terms and conditions must be provided in writing to all students. Students have the right to rescind the authorization at any time up to the date the fund transaction actually occurs.

If a student rescinds the authorization after the school has applied the Access payment to his or her tuition/fees or school account, the school would no longer apply the Access payment in the future but does not have to refund disbursement made prior to any rescission.

There are three Cal Grant B awards: Entitlement, Transfer Entitlement and Competitive. Please refer to Chapter 3, "Program Descriptions and Eligibility" for more information regarding the Cal Grant B program.

Cal Grant C

Purpose – Cal Grant C is a tuition assistance grant for vocational students and includes an additional amount for their books and supplies. Students must be enrolled at least half-time in a course of study at least four months in length. Funding is available for up to two years, depending on the length of the program; as long as the student's academic progress is satisfactory.

Eligible Schools – Cal Grant C recipients may attend occupational, career, or technical training course at any California Community College. In addition, the award may be used for nursing and allied health programs at a hospital school, selected courses at several independent colleges and specialized courses at eligible proprietary colleges.

§§ Maximum Award Amount – Students can receive up to \$576 for training-related costs, including required tools, special clothing, books, equipment and supplies.

Students who plan to attend a school other than a California Community College may also receive up to \$2,592 in tuition assistance.

Please refer to Chapter 3, "Program Descriptions and Eligibility" for more information regarding the Cal Grant C program.

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7.2 Payment Periods for Non-traditional based schools

The Commission recognizes that not all schools operate within the traditional payment period (i.e. quarter or semester terms). Since payment periods vary, schools should contact Cal Grant Operations Branch staff to determine the most appropriate maximum payment period for their students.

7.3 Using Eligibility in the Cal Grant Programs

The Cal Grant programs were designed to give students an opportunity to complete a postsecondary education through a vocational program, a community college program, or a four- or five-year degree program. Upon receipt of a Cal Grant award, students are assigned a level of eligibility based on their grade in college. The level of eligibility represents the total amount of time the student may receive payment in the Cal Grant programs. One hundred percent (100%) represents one year of full-time payment at a traditional term-based school (i.e. quarter or semester terms).

Level of Eligibility

- | | |
|--------------------|------|
| • Freshman (EL 1) | 400% |
| • Sophomore (EL 2) | 300% |
| • Junior (EL 3) | 200% |
| • Senior (EL 4) | 100% |

For example, a student who enters a Cal Grant program as a freshman will receive 400% eligibility. While eligibility usage is tied to attendance status, eligibility is used for each term the student receives payment and the amount of usage is determined by the type of term. For instance:

- If a student attends a semester or trimester term school, 50% of eligibility will be used for each full-term payment, or

- If a student attends a quarter term school, 33.33% of eligibility will be used for each full-time term payment.

Eligibility is also adjusted for part-time attendance. The following is a breakdown of eligibility based on term type:

Type of Term	Eligibility Used
• Semester or Trimester	
Full-time	50%
Three-quarter time	37.5%
Half-time	25%
• Quarter	
Full-time	33.33%
Three-quarter time	25%
Half-time	16.67%

Once a school reports a payment of a student and the Commission's WebGrants system accepts the payment, the system automatically reduces the student's eligibility according to the breakdown listed above.

7.4 Award Activation New Cal Grant Awards

A new recipient is a student who has been newly awarded a Cal Grant in the current year. New recipients' award amounts are determined by the type of school and the Cal Grant program awarded.

In January, the Commission begins making Cal Grant Entitlement awards. Schools may view the awards online through WebGrants. Schools may begin adding students to their roster by

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reporting school change (SC) transactions or reporting students who are not in attendance (NA) transactions through the WebGrants Cal Grant Roster screen. The school change, not attending and yes attending (YA) codes will be the only transactions available at this time.

As each successive Cal Grant award process is completed, new students will continue to be added to the roster. All records will appear with a message "Payment Transaction is in HALT PAY STATUS - No payments allowed" until such time as the Commission authorizes payments for the new fiscal year.

State Budget/Fall Advances - The Commission begins sending initial award notifications to students in January. However, schools may not begin processing Cal Grant payment transactions for initial and renewal awards until the Governor signs the State Budget Act and after the Commission has issued the fall fund advances. Fall advances are sent to schools in August and October. Schools can select which month (either August or October) is best for their administration of the Cal Grant program.

New Cal Grant recipients must activate their awards to remain eligible for payment. Either a payment or a leave of absence must be processed for the initial fall term.

On or After July 1 - New Cal Grant A and B recipients receive their first Cal Grant award payment in the fall term of the award year and not prior to July 1 of the award year. New Cal Grant C recipients may receive their Cal Grant C payments for summer term course work which begins on or after July 1.

For information regarding the selection process for new Cal Grant recipients, please refer to Chapter 5, "Cal Grant Award Selection Process."

Renewal Cal Grant Awards

A renewal recipient is a student who has been awarded a Cal Grant in a previous award year and has remaining eligibility. The first Cal Grant roster for renewing recipients will assume maximum eligibility based on need and remaining eligibility. After a school reports a renewal student's Cal Grant need and the Cal Grant roster is processed, any adjusted award amount and the amount a student may be paid for each term will appear on the school's next Cal Grant roster. It is not required to wait until the need amount is processed to report a payment to a renewal student.

Renewal students are notified by mail and are added to the Cal Grant roster the beginning of July. Schools may process school changes, at this time, for students who are transferring to their institution for fall term. Renewal students must have a minimum financial need of \$100 in order to receive payment in the Cal Grant program.

For information regarding the renewal process, please refer to Chapter 6, "Renewal of Cal Grant Award."

7.5 Report Activation

The Commission provides reports such as the *Unable to Determine* report, the *Automatic Leave* report and the *Unclaimed Awards* report to assist schools in determining which students have potential Cal Grant eligibility. These reports are available on WebGrants on the Data Transfer Report Download screen. Schools are not required to work these reports. However, these reports are produced to assist schools in locating students who may have payment eligibility. The "User Guide" and record layout information for these reports are available on WebGrants in the "Help Center."

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Unable to Determine Report

The "Unable to Determine" report is available to schools each year at the beginning of July. The report lists Cal Grant recipients whose awards cannot be renewed for the next academic year because the Cal Grant Roster has not been updated with the required number of terms from the prior academic year. The report is generated one month before recipients are contacted by the Commission. This allows schools time to review the report and determine which students require payment(s).

Minimum number of periods- The minimum number of payment periods that the Commission needs a transaction for is one semester for schools set up for semester payments and two quarters for schools set up for quarter payments. The types of transactions that will activate renewal consideration include any dollar amount of a Cal Grant payment or a leave of absence. If a payment or a leave of absence transaction is reported for the minimum number of payment periods, the award offer will be renewed, assuming the student has sufficient remaining program eligibility.

Students whose awards cannot be renewed due to unreported terms from the prior year are sent an "Unable to Determine" renewal eligibility letter in August. The letter instructs students who were enrolled in school to request that their school report their payment eligibility status to the Commission. For those students who were not enrolled in school, the student is instructed to submit a leave of absence to the Commission. If a payment transaction or leave of absence remains unreported for the minimum number of terms, the student's award will be withdrawn. Two "Unable to Determine" letters are sent to a student prior to withdrawal of a Cal Grant award.

Automatic Leave Report

The Automatic Leave report lists those students whose Cal Grant award was renewed for the next academic year, but has at least one payment period missing on the Cal Grant Roster transaction. A student attending a semester school who wishes to retain Cal Grant eligibility until attending a higher cost school, for instance, may be renewed by simply having one leave of absence reported for the year. The student will be considered to be on "automatic leave" for the other two terms of that award year. The Commission automatically calculates the student's eligibility for leave.

Unclaimed Awards Report

To assist schools in identifying Cal Grant recipients who may be enrolled at their institution, the Commission has developed the Unclaimed Awards Report.

An unclaimed award is any new or renewal awards for which no positive dollar amount has been reported and accepted by the Commission for a specific academic year. New Cal Grant recipients will appear on the report for any school that was listed on their ISIR (up to six eligible California institutions) or their current school of record. Renewal students will only appear on the report for their school of record.

This report is available on WebGrants and is produced quarterly beginning in October of the award year. The report is available on the Data Transfer Report Download screen in both a report and a data file format. Each time the report is run it will replace the previous report and data file. The dates on which this report is available appear on the WebGrants production calendar.

8 CAL GRANT PROGRAM PAYMENTS

The confirmation and verification of Cal Grant payment eligibility to students and the accurate reporting of that eligibility by schools to the Commission is an important step in the Cal Grant payment process. Accurate and on-time reporting of payment ensures that schools are delivered sufficient funds to pay their Cal Grant students.

8.1 Confirming Cal Grant Eligibility

Overview

Before releasing Cal Grant payments to students, schools must confirm that students meet the following eligibility criteria before students can receive their Cal Grant award.

Citizenship- Cal Grant recipients must meet the same federal citizenship guidelines used to determine federal Title IV eligibility. The federal citizenship guidelines can be found on the Free Application for Federal Student Aid (FAFSA) Web site at www.fafsa.ed.gov.

Residency- Cal Grant recipients must be legal California residents as determined by the school. Refer to Chapter 3, "Program Description and Eligibility" for more information regarding California residency requirements.

Loan Default or Grant Repayment- Cal Grant recipients cannot be in default on a student loan or owe a repayment on a state or federal financial aid grant. Schools must verify that students are not in default. Previously defaulted Cal Grant recipients who have re-established eligibility in the Family Federal Educational Loan (FFEL) or the Federal Direct Student Loan (FDSL) programs are eligible to receive Cal Grant payment.

Enrolled at least Half-time- In order to receive a Cal Grant payment, students must be enrolled at

least half-time. Attendance status is determined by the school.

Undergraduates- Cal Grant A, B, and C recipients must be undergraduates. Except for those continuing Cal Grant A and B recipients who have received their bachelor's degree and are now working on a California K-12 teaching credential.

Financial Eligibility- The Commission uses two formulas to determine financial need for Cal Grant participants. These two formulas are used to determine which new students will enter the program and which renewal students will remain in the program.

New Recipients

Eligibility for new recipients is initially determined by the Commission using the following formula:

$$\text{COA} - \text{EFC} - \text{Veteran's benefits} = \text{New Cal Grant need}$$

(Cost of Attendance minus Expected Family Contribution minus Veteran's benefits = New Cal Grant need)

This formula is used to select new participants into the program. This formula does not take into account other financial aid the student is receiving. It is possible that a student can be selected into the program using this formula based on FAFSA information, but not have any payment eligibility due to other aid received. This student may remain in the program but will not be paid.

Renewal Recipients

Schools must calculate and report renewal recipients' Cal Grant need. To remain in the program, renewal Cal Grant recipients must

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have a financial need of \$100 or more using the following formula:

COA – EFC – PELL = Cal Grant need

(Cost of Attendance minus Expected Family Contribution minus Pell Grant equals Cal Grant need)

This formula is used to determine which students will remain in the program. It is possible that a student can remain in the program based on the renewal need formula but not have any payment eligibility. Schools must consider other sources of financial aid the student is receiving.

Students who have enough need using the renewal formula, but not enough need when other aid is considered, will remain in the program but will not be paid.

Schools must report the maximum annual need amount for renewal students even if the student may only be attending the school for one term.

Schools may use the Commission's annually established Student Expense Budgets to confirm the financial need of renewal applicants or may use their own student expense budgets to determine renewal eligibility.

Cal Grant C renewal participants are automatically renewed and no reported financial need is required.

Verifying Eligibility for New Cal Grant Recipients

The Commission initially selects financially eligible Cal Grant applicants based on the information reported on the student's FAFSA. To be eligible for a Cal Grant A or C, new recipients who attend a public college must have a minimum financial need of the maximum annual award amount for their segment plus \$1,500. To be eligible for a Cal Grant B new recipients who

attend a public college must have a minimum financial need of \$700.

CSU, UC examples: For the 2005-06 academic year, recipients awarded at the CSU had to have a minimum financial need of \$2,520 plus \$1,500, or \$4,020. Recipients awarded at the UC had to have a minimum financial need of \$6,141 plus \$1,500, or \$7,641.

Recipients who are awarded at a private or independent college must have a minimum financial need of the Cal Grant annual maximum tuition amount for the program of study plus \$1,500, or the maximum annual segmental award amount, plus \$1,500, whichever is less. To be eligible for a Cal Grant B new recipients must have a minimum financial need of \$700.

Cal Grant Award Minimum Financial Need

New Cal Grant A recipients -

Maximum annual award amount + \$1,500

New Cal Grant B recipients - \$700

Renewal Cal Grant A & B recipients - \$100

Verifying New Transfer Entitlement (E2) Recipients

In order to receive a Transfer Entitlement award, an applicant must:

- have graduated from a California high school after June 30, 2000, or have received the equivalency of a high school graduation within the specified time frame; *High school equivalency* means students who successfully pass the General Educational Development Test (GED) or pass the California High School Proficiency Examination any time after June 30, 2000;
- be a California resident at the time they graduated from high school;
- have attended a California Community College prior to transferring to a qualifying four-year college;

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- have a verified community college grade point average (GPA) of at least 2.40 if the student's verified GPA did not include the high school graduation date; the student's date of birth is used as a proxy for the graduation date;
- be under 24 years old as of December 31 of the award year;
- meet all basic eligibility requirements;
- apply by March 2.

To receive payment (including a discretionary summer term payment) students must:

- attend a qualifying four-year college during the award year; *and*
- have a verified high school graduation date after June 30, 2000;
- be a California resident at the time they graduated from high school.

All students whose date of birth was used as a proxy for the graduation date will be identified on the payment Roster with a special identifier (asterisk) and payment transactions will not be accepted until the high school graduation has been confirmed.

Students selected into this program who cannot activate the award at a qualifying four-year college during the award year will have their award offer withdrawn.

"On Hold" flag- Schools are notified through WebGrants that verification of a student's graduation date is required through a Transfer Entitlement "On Hold" flag that appears next to the program code on the payment screen.

Transfer Entitlement applicants who are not selected as recipients receive notification which explains the reason(s) they were not awarded. The notification states the disqualifying reason(s), and includes an *Entitlement Non-Recipient Fact Sheet* and an *Application Correction Form* (G-23).

Students can "self certify" their high school graduation date by contacting the Commission. Upon this certification, the Commission will remove the "On Hold" flag. However, if schools have conflicting information regarding the student's graduation date, schools must notify the Commission through the *Grant Record Change Form for Schools* (G-21) or on the "Grant Record Change" screen on WebGrants.

Verifying Renewal Cal Grant Recipients

In order for recipients to renew their Cal Grant award at a semester or trimester term school, recipients must have at least one payment period satisfied through a payment or a leave of absence. For recipients to renew their Cal Grant award at a quarter payment term school, recipients must have at least two quarters satisfied by a payment or a leave of absence. Summer terms are not considered a term in this process.

Recipients who have not had their award renewed due to a missing term payment from prior year will appear on the "Unable to Determine Renewal Eligibility Report" as explained in "Chapter 7, Program Administration."

Change of Financial Need - If schools become aware of any change to a new or renewal recipient's financial need, and the change affects Cal Grant eligibility, the change must be reported to the Commission by completing a *Grant Record Change Form for Schools* (G-21) or through the "Grant Record Changes" screen on WebGrants

The Commission will recalculate the student's eligibility based on the new information and will notify the student of their eligibility or ineligibility.

Verifying Attendance Status

A recipient's attendance status must be verified prior to making a Cal Grant payment and must be determined at the time it is reported to the Commission. Students must be enrolled at least half-time to receive payment.

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When reporting payments for a term that has ended, schools must base the attendance on the number of units completed for the term.

- If a recipient registers but never attends class, the Commission will not pay tuition/fee payments and schools should not report the tuition/fee payment.
- If a recipient registers but never attends class and a payment has already been reported, schools should report an adjusted payment to correct the previously reported payment.
- If a recipient registers who receives Access or books and supplies funds and never attends classes it must be reported to the Commission as owing a payment.

Recipients who enroll and attend classes, but then withdraw or drop to less than half-time before receiving payment of Access or books and supplies may still receive this award based on the amount of educational expenses incurred up to the date of their withdrawal or ineligibility. However, if a school's refund policy requires the return of funds, the funds must be returned to the Commission.

Graduating Seniors

Seniors who are on their final term of a baccalaureate degree program and are attending less than half-time and still have remaining eligibility can be paid their full tuition charges up to the term maximum. No access will be paid.

For the tuition/fees payment adjustment, schools should use the adjustment reason code of "SR" for graduating seniors.

Cal Grant B Access would be prorated as usual based on the graduating senior's actual attendance status.

Report the Access payment adjustment reason code as follows:

- "ST" for graduating senior, $\frac{3}{4}$ time, or
- "SH" for graduating senior, $\frac{1}{2}$ time, or
- "SL" for graduating senior, less than half-

time and must be posted with a zero dollar amount

Verifying Program Eligibility

Payment of Cal Grant program benefits is limited to students enrolled as regular students in an eligible program. A regular student is a student who is enrolled in an eligible institution for the purpose of obtaining a degree or certificate offered by the school.

Students ineligible for Cal Grant payment are those student's taking courses before being officially admitted to a program, as well as students enrolled in secondary school (high school) diploma programs or in programs designed to help a student pass the GED.

College extension coursework cannot be paid a Cal Grant award.

At the time of payment, a school certifies that recipients are enrolled in an eligible program (course of study). This is determined by the degree objective of the recipient.

For example:

- Cal Grant A awards are paid only to recipients enrolled in an associate or baccalaureate degree programs.
- Cal Grant B awards are paid to recipients enrolled in certificate, associate or baccalaureate degree programs.
- Cal Grant C awards are paid only to recipients enrolled in vocational certificate or associate degree programs.

Documentation verifying that a recipient is enrolled in an eligible program is based on school documentation such as a recipient's lesson plan or formal declaration of their major.

Cal Grant C recipients may receive payment for classes that are outside their primary program if the school can certify that the recipient is in a vocational program. A recipient's signed lesson plan or a formal declaration of their major certifies that they are enrolled in a vocational program.

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Verifying Satisfactory Academic Progress

Schools must verify that the Satisfactory Academic Progress standards as established by their schools are met. Recipients who do not meet these standards are ineligible for Cal Grant payment and will not use eligibility during the terms they are ineligible for payment.

Refer to "Chapter 6, Renewal of Cal Grant Awards" for more information regarding Satisfactory Academic Progress.

Mandatory Five Year Program – Fifth Year Extension Cal Grant Recipients

Schools must verify that the mandatory five-year undergraduate program requirements as described in "Chapter 3, Program Descriptions and Eligibility" are met.

Teaching Credential Program (TCP) – Fifth Year Extension Cal Grant Recipients

Schools must verify that the Teaching Credential Program extension requirements described in "Chapter 3, Program Descriptions and Eligibility" are met.

8.2 Educational Level (EL) Verification Overview

To ensure that new Cal Grant A and B recipients receive the correct amount of initial program eligibility, schools must verify that Commission records reflect the recipient's correct educational level (EL) for the term in which the initial Cal Grant payment was made.

The actual number of years a student is entitled to receive Cal Grant payments is calculated based on the student's EL in the first term for which a Cal Grant award is paid. As a result, the EL designated by the eligible student's school corresponds to the student's EL for the term for which the student's first Cal Grant payment was paid, i.e., the term to which the Cal Grant payment is applied.

The Commission recommends that schools verify the EL for new recipients prior to making the fall payment.

In cases where a student's first payment is postponed, only the school where the student first receives Cal Grant payment can report the EL (i.e., the student is in Community College reserve and takes a leave of absence or periods of military deferment). If a situation occurs when a student has transferred and the EL has not been verified, schools must complete a *School Record Change Form (G-21)* or complete the Grant Record Changes Screen on WebGrants.

EL Verification is not required:

- If a student indicates on their FAFSA that they have never attended college
- for students attending a community college

EL Verification is required:

- If a student indicates on their FAFSA that they have attended a college.

Any student disagreeing with their initial EL will be referred to the school where they first received Cal Grant payment, even if that school was a community college.

Online Verification

Schools may verify a recipient's EL through the WebGrants Display Roster (Online Roster) screen. Transactions are processed weekly and will appear on the next online Roster. Results will also appear on an EL Verification Accept/Reject report available through the WebGrants "Data Transfer Report Download" screen.

Data Transfer

Schools may download the EL Verification Roster through the "Data Transfer Report Download" screen on WebGrants. New data files will be produced monthly during the Commission's month-end process.

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Schools may also use the Data Transfer File Upload screen on WebGrants to return verification data to the Commission. The upload data file must include a header record, students' Social Security numbers, and the reported EL. Uploaded files will be processed during the Commission's weekly payment processing cycle. Results will appear on the online Roster and on a new EL Verification Accept/Reject report available through the WebGrants Data Transfer Report Download screen.

Microsoft Excel Template

Schools may download the EL Verification Roster through the Data Transfer Report Download screen on WebGrants. Open the data file using the Excel template, key the EL for each student, and then upload the file through WebGrants. This template is located in the WebGrants Tools Menu.

8.3 Reporting Payments to the Commission Cal Grant Roster

Schools report payment transactions to the Commission by posting transactions on the Cal Grant Roster available on WebGrants.

For a listing and description of the data elements on the Roster for recipients, refer to the Cal Grant Record Layout available in the Help Center on WebGrants.

Roster Availability

The Commission begins creating academic year specific Cal Grant Rosters during January preceding each award year. The following table illustrates when recipients are added to the Roster.

Each year, Cal Grant funding is subject to state budget appropriations. For this reason the Roster is available only for viewing and posting school changes. The Roster is *not* available for reporting payment transactions. Payments can be made after the final state budget is passed but never before the beginning of August.

Weekly Processing

The Roster is updated throughout the award year on a weekly basis as information is reported to the Commission by students and schools.

Roster Cycle

Type of Recipients	When added to Roster
New A & B Enrollment Recipients	As soon as students are awarded and throughout the award year as corrections are processed (no earlier than the January preceding the award year)
New Competitive A & B Recipients for March 21 award cycle	Approximately early April
New Cal Grant C Recipients	Approximately early June to early August
Renewal A, B, & C Recipients	Approximately early July
New Competitive A & B Recipients for September 21 award cycle	Approximately early to mid October

The actual dates depend on Commission processing cycles and the signing of the year's state budget. *Operations Memos* are sent to schools announcing the actual dates.

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Reported transactions are either accepted or rejected through the weekly processing cycle and are reflected on the weekly *Accept/Reject Report*. Accepted transactions appear on the school's Roster beginning the first day following the weekly processing cycle (usually the following Monday).

Rejected transactions will appear on the school's *Accept/Reject Report* with a description of why the transaction rejected. Schools should review and correct these rejected transactions.

Updating the Roster

The following actions (if applicable) must be reported to the Commission on the Roster before final reconciliation of the award year:

- school changes
- renewal recipient's financial need
- adjustments to the renewal recipient's financial need
- maximum term award payments to recipients
- adjusted term award payments to recipients

Payment Reporting Deadlines

Schools should report on their most current Roster each term's payment transactions prior to the end of the term. Timely reporting of transactions guarantees timely advancement of funds and prevents fund offsets.

Processing of payment roster transactions occurs bi-monthly on WebGrants. Any WebGrants transactions made prior to the start of processing will be included on the next Roster.

The deadline to make payment to recipients is September 30 of the academic year following the award year. For example, for the 2005-06 academic year this would be September 30, 2006. The Commission expects payments by schools by September 30 but realizes that there may be some exceptions. Schools should

contact the Commission's Cal Grant Operations Branch for resolution to problem transactions.

School Changes

When students are first awarded, their record will appear only on the Roster of the first California school listed on the FAFSA which was used to determine their eligibility. Renewal recipients transferring from another school will not appear on the Roster until a school change is submitted.

If a recipient will be attending a school, but they are not listed on the school's Roster, a school change must be entered either before, or at the same time as a request for payment.

Once the school has requested the school change, the Commission will verify the recipient's eligibility at the new school and calculate the recipient's maximum annual award amount. If the Commission determines that the recipient is eligible at the new school, the recipient and the recipient's award information will be added to the new school's Roster. Schools may only request school changes for their school.

School Changes and EL Verification with Payments – Reporting school changes and/or EL Verification transactions along with a payment transaction, may commit a student to a different grant that may not be the most beneficial for the student. Questions regarding such transactions can be forwarded to the Cal Grant Operations Branch for resolution.

8.4 Reporting Need

Overview

The amount printed on the Roster under each term (FL [fall], WN [winter], SP [spring], or SU [summer]) is the amount the Commission expects

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the school to disburse, unless it is determined by the school that an adjustment is necessary.

Schools must review the total term award payment amount listed for the term to be paid. If the recipient is eligible for the total term payment as listed on the Roster, no payment adjustment is necessary.

Renewal Recipient's Financial Need - A need amount must be reported for all renewal recipients before payments are reported—except for Cal Grant C renewals. The need amount must be reflected as full-time for the student's full year of attendance.

School Entered Payment Status Codes

The status of a recipient's payment is indicated on the Roster in the "Pay Stat" field of the recipient's record. Schools may use one of the following three codes in the Pay Stat field depending on the transactions being reported:

1. SC – School Change

Requesting a school change only. Requesting a school change and reporting a renewal recipient's unmet need.

2. PD – Paid Reporting a maximum term payment amount only. Requesting a school change for a new recipient and reporting a maximum term payment at the same time. Requesting a school change for a renewal recipient and reporting a maximum term payment and reporting the renewal recipient's unmet need at the same time.

3. UN* – Unmet Need Reporting a renewal recipient's unmet need only. The "UN" code will automatically be entered into the Pay Stat Code field when a need is reported.

Not in Attendance (NA) and Yes in Attendance (YA) Codes

Schools can remove students from the eligible section of the Roster by entering the "NA" (Not in Attendance) code in the Pay Stat Code field. This will "hide" the student's record in the "Not in Attendance" Section 5 of the Roster and generate a letter to a student to request the name of the school in attendance.

If a student was placed in the "Not in Attendance" section of the Roster and a school wants to recall them to the eligible section, the school can locate the student by entering their SSN or CSAC ID in the top search field on the school's Roster and then entering the "YA" (Yes in Attendance) code in the Pay Stat Code field.

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8.5 GRANT ROSTER ADJUSTMENT REASON CODES

Following is a list of adjustment reason codes used by the Commission.

CODE FT

DEFINITION Recipient is attending full-time and payment is being increased to reflect full-time status.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field, but will not pay more than the recipient's maximum eligible amount for the term. Recipient uses full eligibility for the term.

NOTE: This adjustment reason code is necessary only when a recipient's payment is adjusted up to the full-time amount. It is not necessary to use this code when there is no change to a recipient's full-time status.

CODE TT

DEFINITION Recipient is attending three quarter-time, and payment is being adjusted (increased or decreased) to reflect three-quarter-time status.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not pay more than a prorated three-quarter-time amount when applicable, based on the payment prorating requirements for the school. The recipient uses three quarters of the full eligibility for the term.

CODE HT

DEFINITION Recipient is attending half-time and payment is being adjusted (increased or decreased) to reflect half-time status.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not

pay more than a prorated half-time amount when applicable, based on the payment prorating requirements for the school. The recipient uses half of the full eligibility for the term.

CODE AF

DEFINITION School makes a miscellaneous adjustment to a recipient's term payment, and the recipient is attending full-time. This code should only be used if a more specific code does not apply. The amount reported must be greater than 0.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field which can be more or less than the term amount displayed on the Grant Roster, but no more than the maximum for which the recipient is eligible. The recipient will use full eligibility for the term.

CODE AT

DEFINITION School makes a miscellaneous adjustment to a recipient's term payment, and the recipient is attending three-quarter-time. This code should only be used if a more specific code does not apply. The amount reported must be greater than 0.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field, which can be more or less than the term amount displayed on the Grant Roster, but no more than the maximum for which the recipient is eligible. The recipient will use three quarters of the full eligibility for the term.

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8.5 GRANT ROSTER ADJUSTMENT REASON CODES- *continued*

CODE AH

School makes a miscellaneous adjustment to a recipient's term payment, and the recipient is attending half-time. This code should only be used if a more specific code does not apply. The amount reported must be greater than 0. The Commission will pay the adjusted amount reported in the term adjustment field, which can be more or less than what is displayed on the roster, but no more than the maximum for which the recipient is eligible. The recipient will use half of the full eligibility for the term.

CODE OF

DEFINITION (Tuition/Fees only) Recipient is receiving tuition/fee assistance from an outside source, and the recipient is attending full-time. Partial charges or \$0 charges, depending on the amount of other assistance, should be entered in the term adjustment field on the Grant Roster.

COMMISSION ACTION/RESULT The Commission will pay the amount reported in the term adjustment field whether partial charges or \$0 are entered, but will not pay more than the maximum for which the recipient is eligible. Recipients for whom the school reports \$0 payment for the term will not be withdrawn from their program regardless of whether they have a Cal Grant A, B, or C or Graduate Fellowship. The recipient will use full eligibility for the term. *Note:* Dollar amount greater than \$0 will use eligibility.

CODE OT

DEFINITION (Tuition/Fees only) Recipient is receiving tuition/fee assistance from an outside source, and the recipient is attending three-quarter-time. Partial charges or \$0 charges, depending on the amount of other assistance, should be entered in the term adjustment field on the Grant Roster.

COMMISSION ACTION/RESULT

The Commission will pay the amount reported in the term adjustment field whether partial charges or \$0 are entered, but will not pay more than the maximum for which the recipient is eligible. Recipients for whom the school reports \$0 payment for the term will not be withdrawn from their program regardless of whether they have a Cal Grant A, B, or C or Graduate Fellowship. The recipient will use three quarters of the full eligibility for the term. *Note:* Dollar amount greater than \$0 will use eligibility.

CODE OH

DEFINITION (Tuition/Fees only) Recipient is receiving tuition/fee assistance from an outside source, and the recipient is attending half-time. Partial charges or \$0 charges, depending on the amount of other assistance, should be entered in the term adjustment field on the Grant Roster.

COMMISSION ACTION/RESULT The Commission will pay the amount reported in the term adjustment field whether partial charges or \$0 are entered, but will not pay more than the maximum for which the recipient is eligible. Recipients for whom the school reports \$0 payment for the term will not be withdrawn from their program regardless of whether they have a Cal Grant A, B, or C or Graduate Fellowship. The recipient will use half of the full eligibility for the term. *Note:* Dollar amount greater than \$0 will use eligibility.

CODE RF

DEFINITION The RF code indicates a renewal recipient has a revised need and is attending full-time. The school has made a revision to a renewal recipient's unmet financial need, and the current Grant Roster does not reflect the new need amount or the correct payment for the term(s). The school must enter a revised need

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8.5 GRANT ROSTER ADJUSTMENT REASON CODES- *continued*

amount in the Adjusted Need field on the Grant Roster and enter the adjusted term payment in the appropriate term adjustment fields for the individual award types (tuition/fees, subsistence, or book and supply). An adjusted annual need must be reported for renewal recipients when a revision to the need amount printed on the Grant Roster results in a change to the recipient's annual award amount, and therefore affects the term payments. This change can either result in a decrease or increase to the recipient's annual award. Note: Revisions to new recipients' need amounts must be reported on the Grant Record Change Form for Schools (G-21) and cannot be reported on the Grant Roster.

COMMISSION ACTION/RESULT The Commission will recalculate the recipient's annual award based on the adjusted need amount entered. The Commission will pay the amount entered in the term adjustment field(s), but no more than the maximum for which the recipient is eligible. If the recipient's payment should be \$0, the school must enter \$0 in the term adjustment field. The recipient will use full eligibility for the term. Subsequent Grant Rosters will reflect an updated annual award, the updated need amount, and updated term payments.

CODE RT

DEFINITION The RT code indicates a renewal recipient has a revised need and is attending three-quarter-time. The school has made a revision to a renewal recipient's unmet financial need, and the current Grant Roster does not reflect the new need amount or the correct payment for the term(s). The school must enter a revised need amount in the Adjusted Need field on the Grant Roster and enter the adjusted term payment in the appropriate term adjustment fields for the individual award types (tuition/fees, subsistence, or book and supply). An adjusted annual need must be reported for renewal recipients when a revision to the need amount

printed on the Grant Roster results in a change to the recipient's annual award amount, and therefore affects the term payments. This change can either result in a decrease or increase to the recipient's annual award.

NOTE: Revisions to new recipient's need amounts must be reported on the Grant Record Change Form for Schools (G-21) and cannot be reported on the Grant Roster.

COMMISSION ACTION/RESULT The Commission will recalculate the recipient's annual award based on the adjusted need amount entered. The Commission will pay the amount entered in the term adjustment field(s), but no more than the maximum for which the recipient is eligible. If the recipient's payment should be \$0, the school must enter \$0 in the term adjustment field. The recipient will use three quarters of the full eligibility for the term. Subsequent Grant Rosters will reflect an updated annual award, the updated need amount, and updated term payments.

CODE RH

DEFINITION The RH code indicates a renewal recipient has a revised need and is attending half-time. The school has made a revision to a renewal recipient's unmet financial need and the current Grant Roster does not reflect the new need amount or the correct payment for the term(s). The school must enter a revised need amount in the Adjusted Need field on the Grant Roster and enter the adjusted term payment in the appropriate term adjustment fields for the individual award types (tuition/fees, subsistence, or book and supplies). An adjusted annual need must be reported for renewal recipients when a revision to the need amount printed on the Grant Roster results in a change to the recipient's annual award amount, and therefore affects the term payments. This change can either result in

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8.5 GRANT ROSTER ADJUSTMENT REASON CODES, *continued*

a decrease or increase to the recipient's annual award.

Note: Revisions to new recipient's need amounts must be reported on the Grant Record Change Form for Schools (G-21) and cannot be reported on the Grant Roster.

COMMISSION ACTION/RESULT The Commission will recalculate the recipient's annual award based on the adjusted need amount entered. The Commission will pay the amount entered in the term adjustment field(s), but no more than the maximum for which the recipient is eligible. If the recipient's payment should be \$0, the school must enter \$0 in the term adjustment field. The recipient will use half of the full eligibility for the term. Subsequent Grant Rosters will reflect an updated annual award, the updated need amount, and updated term payments.

CODE LA

DEFINITION Recipient is taking a leave of absence from the Cal Grant. The school must enter a \$0 amount in the term adjustment field. The school should not use the LA code when a payment greater than \$0 is reported for a term.

COMMISSION ACTION/RESULT The Commission will place the recipient in a leave status for the term. The recipient will not use any eligibility for the term. The subsequent updated Grant Roster will reflect a \$0 term payment and a LA code in the Pay Status field. **NOTE:** Payments reported by any school for a term for which one school has reported a leave of absence will override the recipient's leave status for the term.

CODE NP

DEFINITION Recipient is not making satisfactory academic progress. The school must enter a \$0 amount in the term adjustment field.

COMMISSION ACTION/RESULT The Commission will place the recipient in an unsatisfactory progress status for the term, and the recipient will not use any eligibility for the term. The school must report a recipient's unsatisfactory progress for every term affected. The subsequent updated Grant Roster will reflect a \$0 term payment and an NP code in the Pay Status field. To clear a recipient's unsatisfactory progress status for a term, the school should report a payment adjustment for the term. Recipients who have an unsatisfactory progress status for consecutive terms beyond one academic year will be withdrawn from their program.

Example: A recipient who is reported as "NP" for both the fall and spring semesters must activate his or her award by re-establishing satisfactory progress during the subsequent term or the award will be withdrawn.

CODE LD

DEFINITION School is aware that the recipient is in default on an educational loan, and therefore, cannot disburse funds.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

CODE GR

DEFINITION School is aware that the recipient owes a refund on a federal or state grant, and therefore, cannot disburse funds.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

CODE IA

DEFINITION Ineligible course for Cal Grant A. Recipient is enrolled in an instructional program that is less than two academic years in length.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

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8.5 GRANT ROSTER ADJUSTMENT REASON CODES, *continued*

CODE IB

DEFINITION Ineligible course for Cal Grant B. Recipient is enrolled in an instructional program that is less than one academic year in length.

CODE IC

DEFINITION Ineligible course for Cal Grant C. Recipient is enrolled in an instructional program that is less than four months or greater than 24 months in length. Recipient is enrolled in a non-vocational course of study that does not qualify for the program. Recipient is taking all prerequisite courses that are not actually part of a technical/vocational program.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

CODE MV

DEFINITION Unable to verify requirements for Cal Grant Fifth-Year benefits. Recipient is a graduate. Recipient is not enrolled in an undergraduate degree program that requires every participant more than four years to complete.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

CODE TV

DEFINITION Unable to verify requirements for Cal Grant Teaching Credential benefits.

Recipient is not enrolled in a teaching credential program approved by the California Commission on Teacher Credentialing. Recipient has already received an initial teaching credential. Recipient has not yet received a bachelor's degree.

COMMISSION ACTION/RESULT Recipient's award will be withdrawn.

CODE IP

DEFINITION Special code for Commission use only or for use by schools at the direction of a Cal Grant Operations analyst. For more

information, please call the Cal Grant Operations Branch at 1-888-294-0153.

CODE SR

DEFINITION (Tuition/Fees only) Recipient is a graduating senior enrolled less than full-time (three-quarter time, half-time or less than half-time). Actual tuition/fee charges, up to the maximum term award, should be entered in the term adjustment field.

COMMISSION ACTION/RESULT The Commission will pay up to the amount charged by the school, but no more than the maximum amount the recipient is eligible to receive, based on the recipient's remaining eligibility in the program. The recipient will be withdrawn from the program after payment is made.

CODE ST

DEFINITION (Access only) Recipient is a graduating senior enrolled three quarter-time. The Commission will pay the adjusted amount reported in the term adjustment field, but will not pay more than a prorated three-quarter-time amount. The recipient uses three quarters of the full eligibility for the term.

COMMISSION ACTION/RESULT The recipient will be withdrawn from the program after payment is made.

CODE SH

DEFINITION (Access only) Recipient is a graduating senior enrolled half-time.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not pay more than a prorated half-time amount. The recipient uses half of the full eligibility for the term.

COMMISSION ACTION/RESULT The recipient will be withdrawn from the program after payment is made.

Chapter 8 Cal Grant Program Payments

8.5 GRANT ROSTER ADJUSTMENT REASON CODES, *continued*

CODE SL

DEFINITION (Access only) Recipient is a graduating senior enrolled less than half-time. The Commission will not pay access for this recipient. The recipient will use eligibility for the term only if he or she is receiving payment for tuition/fees for the same term.

COMMISSION ACTION/RESULT The recipient will be withdrawn from the program after payment is made.

CODE NS

DEFINITION School originally reported a payment transaction for a recipient who ultimately is ineligible for payment. The school enters a \$0 payment in the term adjustment field.

COMMISSION ACTION/RESULT The Commission will pay \$0 for the recipient, and the recipient will not use any eligibility for the term.

CODE PF

DEFINITION School disburses payments to recipients more than once per term and the school is unable to disburse the entire term amount to a recipient. Recipient was verified as attending full-time.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not pay more than the recipient's maximum eligible amount for the term. Recipient uses full eligibility for the term.

CODE PT

DEFINITION School disburses payments to recipients more than once per term, and the school is unable to disburse the entire term amount to a recipient. Recipient was verified as attending three-quarter-time.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not pay more than the recipient's maximum eligible amount for the term. Recipient uses three quarters of the full eligibility for the term.

CODE PH

DEFINITION School disburses payments to recipients more than once per term, and the school is unable to disburse the entire term amount to a recipient. Recipient was verified as attending half-time.

COMMISSION ACTION/RESULT The Commission will pay the adjusted amount reported in the term adjustment field but will not pay more than the recipient's maximum eligible amount for the term. Recipient uses half of the full eligibility for the term.

Chapter 8 Cal Grant Program Payments

Commission-Generated Payment Status Codes	
Code	Description
AP	Payment transaction has been accepted by the Commission and will be reconciled during the weekly processing cycle.
AA	The adjusted payment transaction has been accepted by the Commission and will be reconciled during the weekly processing cycle.
RP	The payment transaction has been processed and reconciled by the Commission during the bi-monthly processing cycle.
RA	The reported adjusted payment transaction has been processed and reconciled by the Commission during the bi-monthly processing cycle.
LA	Recipient's award is in a Leave of Absence status for the term.
NP	The school reported the grant did not make satisfactory academic progression for the term.
WD	Recipient's award is withdrawn. A student is withdrawn a WD will appear in the Pay Stat field of each term in the commission's database processed for payment. Any grant payment amounts that appear with a WD should not be included in the school's reconciliation.

Students will be withdrawn after three consecutive NP's from a semester term school and after four consecutive NP's from a quarter term school.

8.6 Leave of Absence

Students who postpone college or who will not be attending at least half-time during part of the school year must request a Cal Grant leave of absence. This policy is especially important for students who will be taking longer than four years to complete their program.

Students may leave their award on hold for up to one academic year, although exceptions may be granted through the Commission's appeal process.

Active Duty Students- Students who are on active duty in the U.S. Armed Forces may have their Cal Grant award deferred for up to three years by completing a *Deferment Request Form*, G-12, available at www.csac.ca.gov.

As long as students attend the minimum number of required terms each year, their grants will be eligible for renewal. Students attending semester term schools must attend at least one semester per year; those attending quarter term schools must attend at least two quarters per year.

Students whose schools report partial or full payment for a term in which they eventually request a leave of absence will have their eligibility for future benefits reduced accordingly.

150% Leave Time Maximum- Students will continue to have potential Cal Grant eligibility until they have exceeded a maximum 150% in leave time, excluding one "automatic" term per academic year. When the Commission has not received a payment transaction for any non-summer term, automatic leave is applied at the end of the academic year for up to one term.

Chapter 8 Cal Grant Program Payments

How Leave Time Accumulates

The following formula is used to calculate how total leave time accumulates toward the 150% term maximum:

Leave Time Formula

Total leave time = total leaves - one leave per year

Quarter School = 33.33% Per Term

	Fall	Winter	Spring
2003-04	Paid	Paid	X
2004-05	LA	X	Paid
2005-06	Paid	Paid	X
2006-07	LA	LA	X
2007-08	Paid	Paid	Paid
2008-09	X	Paid	Paid
2009-10	Paid	Paid	X

Legend
 LA Requested leave or absence
 X Payment transaction
 Automatic leave

Semester School = 50% Per Term

	Fall	Spring
2003-04	Paid	Paid
2004-05	LA	X
2005-06	Paid	X
2006-07	X	Paid
2007-08	Paid	Paid
2008-09	LA	X
2009-10	Paid	Paid

8.7 Summer Enrollment

For Cal Grant purposes, two categories of summer enrollment exist—mandatory and discretionary.

Mandatory Summer Term- Recipients who are enrolled in a program that *requires* summer-term attendance, in addition to all other terms, are in a mandatory summer program. Schools with mandatory summer terms are identified from information reported on the school's College Cost Estimate.

Rosters for mandatory summer term schools are arranged to automatically accept summer term payments reported by schools. Summer term payments are reported the same way as any other term.

Discretionary Summer Term- Students who are enrolled in a program that does not require summer term attendance, in addition to all other terms, may receive discretionary summer Cal Grant payments.

Schools can request discretionary summer payments for their students by notifying the Commission's Cal Grant Operations Branch with the following information:

1. Student(s) name
2. Student(s) CSAC ID number
3. Name of school of summer attendance

Send requests for summer payments to:

California Student Aid Commission
 Cal Grant Operations Branch
 - Summer Request
 P.O. Box 419028
 Rancho Cordova, CA 95741-9028

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Students requesting discretionary summer term payment may complete the *Summer Payment Request Form for Students (G-14)* available on www.csac.ca.gov.

Discretionary Summer Payment Cycle

Schools may request a summer payment to be paid on behalf of students any time during the academic year. With the school's authorization, the Commission can "obligate" a summer payment on a student's file. These payments can be seen on the WebGrants' "Student History" screen and all WebGrants reports.

While schools can request a summer payment prior to the term's start date, the payment will not reconcile until after the summer term advance is sent during the first week of June.

For example, if in early April a school requests a payment to be reported for the upcoming summer term, the Commission can report a payment on the date requested but the payment will remain in accepted status until the first reconciliation period after the summer term advance in June. The earliest schools will receive funding by using this method is after June mid-month reconciliation.

When students submit a request for a summer payment, the student's WebGrants file is modified so a summer term appears on the Roster. This allows the school to report a summer payment for the student as they would any other term.

After a summer payment is reported, the payment information will be processed and displayed on the next weekly Accept/Reject Report. Altering a student's file in this manner, however, cannot occur until after the Commission runs the Cal Grant renewal process for the next academic year. The renewal process occurs in early July (See Chapter 6, "Renewal of Cal Grant Awards").

Prior to modifying the student's file, a notification is sent to students explaining the process and requests them to take the letter to their Financial Aid Office in mid-to-late July to determine if they are eligible for payment. This letter is sent in late May to early June.

When reporting payments, schools should remember that:

- Summer is the last term (trailer) or payment period of the academic year in the Cal Grant program.
- First year Cal Grant A and B recipients are eligible for summer term payment beginning with the summer following their first year in the Cal Grant program.
- Students, who accept Cal Grant payments for attending a summer term, will reduce their remaining Cal Grant eligibility, and they may not have enough eligibility remaining to carry them through graduation.

Cal Grant B Summer Tuition and Fees Payments

Cal Grant B recipients attending a summer term after their freshman year can receive summer term tuition and fee payments only for terms that begin July 1 or later.

New Cal Grant C Summer Payment

New Cal Grant C recipients receiving payment for a summer term preceding their first year in the program are paid through a different process. Schools may send a list of summer term students to the Commission's Cal Grant Operations Branch. Students may complete the Summer Payment Request Form for Students (G-14) available on www.csac.ca.gov.

Upon receipt of these requests, the Commission will prepare a manual claim form and send it to schools for completion. Schools must then complete and return the claim form to the Commission, with the student's enrollment status and requested payment amount. The Commission will then authorize funding the summer term.

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Delivery of Funds

The earliest schools will receive funding for a summer term is as follows:

Mandatory summer schools:

- The summer term advance is sent the first week of June. If a school requires more funding, for any term of the academic year, funds are sent approximately every two weeks until the end of December.

Discretionary summer schools:

- **Student requested** – Assuming a payment is reported on WebGrants in July, the school will receive funding the first week of August.
- **School requested** – Discretionary summer schools requesting summer payments on the student's behalf will receive funding beginning with the June mid-month reconciliation cycle.

8.8 Revising Payments

Adjustments to Renewal Recipient's Financial Need

An adjusted need amount must only be reported for renewal recipients when a revision to the need amount previously reported on the Roster will result in an increase or decrease in the recipient's annual award. All changes should be reported immediately but must be reported no later than September 30 of the following academic year.

For new recipients, changes such as income, assets, or housing status that reduces a student's need amount, must be reported on the WebGrants Grant Record Changes screen or on the *Grant Record Change Form for Schools* (G-21). Students whose need is reduced below the minimum need required to retain the award must be reported to the Commission and will be withdrawn from the Cal Grant program.

Outside Aid- If students receive "outside aid" such as scholarships or employee tuition assistance that is not renewable (does not carry

over to the next school year), it is not necessary to adjust the student's need.

Students whose new Cal Grant awards are reduced due to the receipt of outside aid should be reported on the Roster for each term with a reason code of OF (outside, full time), OT (outside, three-quarter-time) or OH (outside, half time) and the appropriate term-adjusted amount.

Students who are not eligible to receive their Cal Grant award due to the receipt of outside aid should be reported on the Roster for each term with the reason code and term adjusted amount of zero. The student will not use eligibility for the reported term.

NOTE: Schools cannot modify payment activity for award years that have already passed final reconciliation.

Adjusted Term Award Payments

If students are not eligible for the full term amount, the reported payment must be adjusted. Students are generally not eligible for the full term amount because of their part-time enrollment or an adjustment to the need amount that subsequently affected payment or their limited eligibility for the term.

An adjustment reason code is required for each award type for which a school has entered an adjusted payment amount. If an incorrect adjustment reason code is not entered, the transaction for the term will reject. Refer to the Grant Roster - Adjustment Reason Code chart located on page 9.

If a recipient has more than one component (i.e., tuition and fees and Access, or tuition and fees and books and supplies) to their award and one component is affected by a payment adjustment and the other is not, enter the adjustment amount and adjustment reason code for the affected one only.

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\$0 Adjustment- Several adjustment reasons require the school to enter \$0 for the adjustment amount. For example, the use of such adjustment reasons codes as LA (leave of absence), NP (no progress) and NS (no show) always require that the school enter an adjusted amount of \$0. WebGrants will not assume \$0 if the field is left blank. The payment transaction will reject.

If a recipient withdraws from school within the school's refund period and is charged only a portion of the standard tuition and fees, enter the partial charges in the adjusted term field. Indicate the reason code AF (attending full time), AT (attending three-quarter-time), or AH, (attending half time) depending on the recipient's attendance status. If only partial Access or books and supplies payments were disbursed, enter the amount in the appropriate adjusted term field and indicate the reason code AF (miscellaneous adjustment, full time), AT (miscellaneous adjustment, three-quarter-time), or AH (miscellaneous adjustment, half time), depending on the recipient's attendance status.

Overawards

Schools are responsible to ensure that no Cal Grant recipients are overawarded. The total of the Cal Grant award and all other types of aid (e.g., federal, state, institution, and private) may not exceed the student's cost of attendance (budget) less the calculated Expected Family Contribution (EFC).

When learning of an overaward, schools must report the overaward through the Grant Record Changes screen on WebGrants or by completing the *Grant Record Change Form for Schools* (G-21).

Changes reported on the G-21 or on WebGrants are not considered "payment transactions" and do not appear on the Accept/Reject Transaction Report.

Upon the Commission's receipt of the change, term payments will be calculated by dividing the reduced award amount (reduced need rounded down to the nearest \$10 increment) by the number of terms.

If at least one payment is disbursed (but the Grant is not entirely disbursed) subsequent payment(s) are reduced so that the total term disbursements for the award year do not exceed the adjusted need. In addition, the school ensures that disbursements for any combination of terms do not exceed the proportional need during those terms.

Overaward Example

A recipient's need and annual award are originally calculated to be \$3,000. The fall payment of \$1,000 (a quarterly payment period school) is made. The school determines that the student's revised Cal Grant eligibility based on information received after the fall payment had been made is actually \$1,800 and that an overaward exists. The school must reduce subsequent term payments in the following manner:

Fall	Winter	Spring	Total Award
\$1,000	\$400	\$400	= \$1,800

If a school makes at least one payment of the award and an overaward exists even without disbursement of subsequent payments, the school may not release subsequent payments. The school reports \$0 payment for those remaining term(s), along with an adjustment reason code of OT (outside source, three-quarter-time), OF (outside source full-time), or OH (outside source, half time).

No school repayment is required if all payments for the award year have been made, and the

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school subsequently learns of an overaward. However, the school must report the overaward to the Commission.

NOTE: All overawards, regardless of the dollar amount, must be resolved and no tolerance amount is allowed.

8.9 Refunds

Schools are required to have a refund policy that includes the Commission's Cal Grant program. The refund policy must assure that no Cal Grant tuition and fee payments are issued in excess of the actual tuition and fees charged to the student, even if the student does not complete the term.

If school records indicate that *at least one* of the circumstances listed below existed at the time funds were disbursed to a recipient, the school is required to report an adjusted payment transaction to the Commission or, if the determination is made after the final reconciliation for the award year, schools must refund the ineligible amount that was disbursed *if*:

- The recipient was not maintaining Satisfactory Academic Progress as defined by the institution's financial aid Satisfactory Academic Progress policy;
- The recipient was enrolled in fewer units;
- The recipient was not enrolled in an eligible program;
- The recipient was required to be enrolled in an approved teaching credential or mandatory fifth-year program but was not enrolled in such a program;
- The institution knew the recipient was in default on a Title IV educational loan or owed a refund or repayment on a federal or state grant administered by the Commission
- The recipient had less remaining eligibility than required to justify payment;
- The recipient was not a legal California resident; *or*
- The recipient's need was not sufficient to justify payment.

If Cal Grant program funds are disbursed to a recipient's account or otherwise retained by the school for payment of school charges and the recipient withdraws during the term for which payment is made, the school will determine whether a refund is due the Commission based on the school's refund policy.

Recipient Drops Units- If the recipient is eligible for payment at the time of disbursement, but drops below the required number of units applicable to the payment received for a term, the recipient remains eligible for the entire payment or school charges, whichever is less, unless a refund is due based on the school's refund policy.

If a refund is due, schools are responsible for repaying the Commission by reporting an adjusted payment transaction.

Schools initiate refunds- If a determination is made after the Commission's final reconciliation, the school is responsible for initiating a refund to the Commission.

Refund Guidelines- Schools should use the following guidelines when making a refund to the Commission:

- If a determination is made after the final reconciliation for the award year, payment of refunds must be made to the Commission within thirty (30) days upon the identification of an ineligible payment.
- The Commission will be responsible for recovery of funds from the recipient if the school or the Commission discovers that a recipient has received funds for which the recipient was not eligible due to reasons other than those stated above.

The school will initiate any payments of refunds determined after the final reconciliation.

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When making a payment, include the student's name(s), SSN(s), CSAC ID(s), and academic year(s) with the refund and mail to:

**California Student Aid Commission
Fiscal & Administrative Services Branch
P.O. Box 419026
Rancho Cordova, CA 95741-9026**

9 Cash Management and Disbursement

Any interest earned on Cal Grant funds in any account must be returned to the Commission on behalf of the state.

This Chapter covers the processes by which schools receive and disburse Cal Grant funds. The annual funding cycle begins in August, or upon the passage of the state budget, and ends on December 31 of the following year.

9.1 Cal Grant Funding Process

Each year in August, or after the annual state budget becomes law, whichever is later, the Commission advances money to participating Cal Grant schools. Each school's fall term advance is 95 percent of the total reconciled Cal Grant payments for the fall term of the previous year. If a school is a newly participating institution or has no reconciled payments from the previous fall term, the school must submit payment transactions in order to receive funds. See Example 1.

Example 1 - Fall Advance

A school reconciled \$1,000,000 in payments for the fall term of 2002-03. Therefore, the school's 2003-04 fall term advance would be $\$1,000,000 \times 95\% = \$950,000$.

Schools will receive an advance for each term during the award year. The amount of the advance is calculated as 95 percent of the amount that was reconciled for the same term of the previous year. However, the amount advanced for subsequent terms is offset by any funds still remaining in the school's account. See Example 2.

Example 2 - Advance, Minus Offset

A school is advanced \$950,000 for the fall term and has reconciled \$80,000 in payments before the spring advance. $\$950,000 - \$80,000 = \$870,000$ potential remaining from the fall.
Prior year spring payments were \$100,000. $\$100,000 \times 95\% = \$95,000$ potential spring advance.
However, the new spring advance is $\$870,000 - \$95,000 = \$775,000$.

Once the advance is sent to the school, the institution uses the funds to disburse Tuition/Fee, Access and Books & Supplies payments to recipients or credit the recipients' accounts. The school also begins reporting payments to the Commission. The reconciliation process updates the school's account balance to reflect the total payments that have been reconciled. During the month-end process, if the amount of payments reconciled for the term exceeds the advance amount, additional funds will be sent to the school. See Example 3.

Example 3 - Additional Funds

A school was advanced \$950,000 for a term. The school reported \$1,050,000 in payments for the term. Therefore, the Commission will send an additional $\$1,050,000 - \$950,000 = \$100,000$ for the term.

Each month, the Commission produces a *Payment Activity Report* summarizing all funds sent to the school and the total of reconciled payment transactions received from the school for the academic year. This report is discussed in detail in Chapter 10, Reconciliation.

9.2 Delivery of Funds

When funds are authorized, the Commission submits a claim schedule to the State Controller's Office authorizing payment to the school. The State Controller's Office then issues either an Electronic Funds Transfer (EFT) to the school's designated account or a paper warrant.

EFT is Quicker- EFT allows schools to receive Cal Grant payments via direct deposit to a designated account. The paper warrant takes approximately five additional days for schools to receive funds.

Process for Delivery of Funds to Schools


- 1) Each August, or after the state budget passes, the Commission calculates an advance amount for each school.
- 2) The Commission sends a claim schedule to the State Controller's Office.
- 3) Advance funds are sent to schools.
- 4) Schools can begin disbursements.

EFT Participation- To participate in EFT, the Commission requires that the school:

- ▶ provide valid bank routing and account numbers
- ▶ provide name and e-mail address of an EFT contact person
- ▶ participate in a test run to assure the validity of the provided accounts

The designated school contact will receive e-mail notice from the Commission when Cal Grant funds are scheduled for electronic transfer to the school's bank. The e-mail notice will indicate the scheduled dollar amount of funds to be issued and the day the school may expect funds to be deposited. As a convenience, the school can designate the e-mail to be sent to multiple addresses.

Participation in EFT is highly recommended, but is not mandatory. It is important that schools notify the Commission as soon as possible to update any changes in EFT contact, bank or e-mail information.

 **Contact Us-** To contact the Commission regarding EFT transactions or information, use the following e-mail address: eft@csac.oa.gov

9.3 Institutional Cash Management

Account Maintenance

When agreeing to participate in the Cal Grant program, an institution agrees to maintain standards of administrative capability in accordance with state and federal laws and regulations as applicable. The institution shall maintain and document an accounting system that conforms to generally accepted accounting principles and practices that allows the Commission to determine adherence to fiscal responsibility and standards. Documentation requirements include items such as:

- ✓ Cash receipts and disbursement journals,
- ✓ Bank account reconciliation,
- ✓ Evidence of receipt of funds by recipients or credit of funds to recipients, and
- ✓ All other accounting records necessary to account for all transactions.

The institution must designate individuals who are responsible for Cal Grant account maintenance and the adherence to accepted accounting principles and practices. The institution also agrees to designate two separate individuals: one who is responsible for authorizing the payment of Cal Grant funds and one who is responsible for disbursing or delivering funds. No one person or office may exercise both functions for any student receiving Cal Grant funds. For additional information, please refer to **Chapter 2** and the Institutional Participation Agreement. A copy is included as **Appendix ?**

Designated Account- Schools are required to maintain all Commission Cal Grant funds in a designated account identified as the property of the state either by a ledger account or a bank account. The school may deposit funds from various sources including Cal Grant funds into one bank account, but must identify the Cal Grant funds by using subsidiary ledgers. If desired, the institution may establish a separate bank account designated for Cal Grant funds.

All activity (deposits and expenditures) of Cal Grant funds must be supported by appropriate accounting records in accordance with generally accepted accounting principles and practices. Any interest earned on Cal Grant funds *in any account* must be returned to the Commission on behalf of the state.

Security and Confidentiality

Schools must establish and maintain written policies and procedures that provide security and confidentiality of all recipients' personal identification information, payments, financial history and other related confidential information and documents.



Records Retention

The retention of comprehensive and accurate program and fiscal records documents the accuracy of reported grant payments and the right of the institution to receive or retain payments made by the Commission.

Commencing with the 2000-01 award year, the Commission moved to a three-year record retention requirement for Cal Grant records. All records related to an academic year (July 1-June 30) should be retained for three years following the end of that academic year. See Example 4.

Example 4- Records Retention

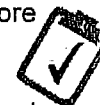
A student attends a school and exhausts his/her Cal Grant eligibility with a payment for the spring term that ends June 15, 2008. The student continues to be enrolled at the school but receives no future Cal Grant payments. The record retention requirement for the student's Cal Grant records is until June 30, 2008.

Records for award years prior to 2000-01 continue to be subject to the previous five-year requirement. The Commission policy is now generally aligned with the United States Department of Education records retention requirements.

The Commission emphasizes the importance of maintaining complete and accurate records. Program and fiscal records are critical to demonstrate the school's eligibility for participation in the Cal Grant Program and they provide a clear "audit trail" for Cal Grant Program expenditures. Records must be retained to demonstrate proper administration of Cal Grant Program funds. Records for each Cal Grant recipient must clearly reflect that the student was eligible for the funds received, and that the funds were disbursed in accordance with program regulations.

9.4 Disbursement of Funds

Schools are allowed to credit grant funds to recipients' accounts up to three weeks before the start of each term. Access or Books & Supplies payments may be released up to 10 days before the start of each term.



Schools are to establish a written disbursement policy consistent with the Commission's policies and guidelines. Schools must:

- ▶ Make available to students a written disbursement schedule consistent with the start dates of the institution's enrollment periods and in accordance with the requirements specified for each educational program.
- ▶ Determine course attendance according to the recipient's attendance status at the time Cal Grant funds are paid. Disburse "Access" and "Books & Supplies" payments within ten days of verification of enrollment status.
- ▶ Disburse funds only to recipients whose eligible payment statuses have been verified and for no more than that which the recipients are eligible to receive for the term.
- ▶ Use its institutional refund policy to determine the amount of Cal Grant funds to be returned to the Commission on behalf of the state. Cal Grant funds may not be used for reimbursement to the federal government.

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- ▶ Regularly submit payment transactions through WebGrants, data files or the Grant Roster.
- ▶ Make all disbursements no later than September 30 following the end of the award year (e.g., September 30, 2004, for award year 2003-04).
- ▶ Establish and publish a policy that informs students of their options regarding receipt of Cal Grant funds and the student's subsequent ability to rescind their existing instructions at any time. This policy should be explicit on at least the following points:
 - ◆ Access or Books & Supplies payments are disbursed in accordance with school policy unless the student requests another action. For example, if the school normally applies Access funds directly to tuition, the student may request that the term amount be delivered direct to them.
 - ◆ The student may make this request at any time; however, any cancellation only affects future payments.
 - ◆ Access or Books & Supplies payments cannot be delivered to a third person



In addition, schools should be aware that:

- ▶ Cal Grant funds are to be disbursed in term order (i.e., disburse the fall term payment before the winter or spring term payment)
- ▶ Schools are not required to keep a separate recipient signature on file to verify that the recipient received payment for Access or Books & Supplies payments. However, canceled checks or warrants with recipient endorsement must be retained as verification.
- ▶ Schools may mail checks to students.
- ▶ Tuition/fee awards are disbursed in an amount not to exceed the maximum value of the tuition award for the term, or the maximum tuition/fees charged, whichever is less.
- ▶ In the event that the student is receiving benefits from another financial aid source that is also restricted to tuition and fees, the Cal Grant

tuition/fee payment amount must be adjusted or the other tuition-paying award can be returned so as not to exceed, in total, the amount of tuition/fees charged. In the event of other tuition awards, attempts should be made to preserve Cal Grant eligibility, since Cal Grants are a renewable source of aid.

- ▶ In the event that other non-tuition restricted aid has already been applied to the student's tuition/fee charges, or if the student has already paid their tuition/fees from their own funds, then Cal Grant tuition/fee funds may be released to the student. This is assuming the student has sufficient financial need for the payment.
- ▶ Should a school disburse funds to a student prior to approval of a final state budget, any overpayment may be adjusted by reducing subsequent term payments for that academic year if the student was enrolled in later terms.

Consortium Agreements

Schools may release funds for students attending other schools if a consortium agreement is in place. See Chapter 2 for more information regarding the establishment of consortium agreements.

For payment purposes, a student's enrollment status (full-time, three-quarter-time, half-time) can be determined based on the total units at both schools if a consortium agreement exists between the schools. If no consortium agreement exists, concurrent enrollment cannot be considered for Cal Grant purposes, and the participant's payment eligibility will be based only on the student's status at the school reporting payment.

9.5 Year-end Process

The Cal Grant participation agreement requires schools to make all disbursements for the year no later than September 30 following the award year. (e.g., For the 2003-04 award year, the deadline to make payments is September 30,

2004.) The Commission expects schools to also report all payment transactions for the year by that date, but preferably much earlier.

To resolve any subsequent payment transaction problems, Commission staff is available to work with financial aid administrators to help complete October and November processing and to assist schools with the reconciliation process.

Return of Excess Funds- In January, following the award year, schools that owe funds as a result of the Commission's final reconciliation will be sent an invoice. Payment of any invoice is due to the Commission within thirty (30) days of the invoice date.

Why Wait?

It is not necessary to wait, however, for an invoice at the end of the year. If at any time during the year a school identifies that excess funds exist, the funds can be returned to the Commission with a brief note of explanation.



Mailing Address For Excess Funds

Institutions should send excess funds to:

Management Services Division
California Student Aid Commission
Fiscal and Administrative Services Branch
P.O. Box 419026
Rancho Cordova, CA 95741-9026

10 The Cal Grant Reconciliation Process

The institution agrees to reconcile Cal Grant expenditures for each award year on a student-by-student basis. The institution certifies that it has paid each student an amount that reconciles to the Commission's records for both Cal Grant funds expended and student attendance.

Institutional Participation Agreement Article IV.D.5

10.1 The Reconciliation Process

Reconciliation is the process of comparing the transactions reported by the school with transactions accepted and reconciled by the Commission. Reconciliation is not accomplished until the school's records match the Commission's records exactly. The reconciliation process is ongoing throughout the year, not just an end-of-the-year function.

The following are keys to a school's successful reconciliation process. Each school should:

1 Account for funds received by the institution

The first step to successfully managing Cal Grant funds is ensuring that the cash management procedures, described in Chapter 9, are followed. The school must establish a separate accounting ledger for Cal Grant funds. A successful reconciliation process includes all offices that award, disburse or receive Cal Grant funds. Examples include Financial Aid, Registrar, Bursar and Accounting. Coordination between offices is essential to ensure that student records are consistent and that all systems are in balance.

2 Have documented procedures for transferring information between the Commission's database and the school's database

Each school must develop a system of accounting for Cal Grant funds. The reported attendance status and payment amount for each student must be the same on the Commission's records as it is on the institution's records.

When adjusting payments on either system, the school must ensure that a corresponding adjustment is made to the other. For example, if a student drops from full-time to half-time and his/her Cal Grant payment is adjusted, the adjustment must be reported to the Commission and also entered into the school's database.

3 Work Commission reports on a regular basis

The following is a list of the reports that should be used in the reconciliation process:

a. Accept/Reject Report

-Produced weekly, following payment processes
-Provides a detailed listing of each payment transaction processed and whether it was accepted or rejected by the Commission

b. Payment Activity Report

-Produced monthly, following the month end cycle
-Provides a summary of the funds reconciled by the Commission and the fund balance

c. WebGrants Reconciliation Report

-Partial update weekly; full update monthly
-Provides cumulative year-to-date student level data for all payment transactions

d. Leave of Absence Report

-Updated weekly, following payment processes
-Provides a cumulative year-to-date list of students who have a leave of absence transaction posted and the term(s) in which the leave of absence was used

e. Withdrawn Student Report

-Updated weekly, following payment processes
-Provides a cumulative year-to-date list of students who have been withdrawn from the Cal Grant program.

Samples of each of the above reports are contained in Section 10.6.

10.2 Weekly Reconciliation

The Commission processes payments at the end of each week. All payment transactions, including school changes, submitted during the week are processed. A new payment roster is created, both the Roster and Reconciliation screens on WebGrants are updated, and a summary of all transactions for each institution is produced as a result of the weekly cycle. The transaction summary is the *Accept/Reject Report*.

The Accept/Reject Report- payment transactions submitted through a data file, keyed directly into WebGrants, or entered by the Commission are all listed on the Accept/Reject report. The report represents weekly activity; it is not cumulative. The report is available on WebGrants in both a data file and a report format.

This report is divided into two sections:

- The *Rejected* section contains a list of transactions that rejected during the payment processing cycle. The reject reason is indicated on the report, along with the transaction detail.
- The *Accepted* section lists transactions that have been accepted and the transaction detail.

Working the Report

Schools should regularly check the Rejected Section for transactions that were not accepted and should review the reject reasons and make the appropriate corrections. If the student is not eligible for payment, the school's records should be corrected. If the student is eligible for the payment, the payment transaction should be corrected and resubmitted to the Commission through the normal payment processes. Schools may call the Commission's Grant

Operations staff for assistance in resolving any problems that they encounter in posting payment transactions.

Common Payment Errors: The *Reject Reasons Table*, included in Section 10.6, helps schools resolve rejected transactions, including:

- Need must be reported for renewal students
- Student was already paid at another school
- No transaction was reported for the initial term
- Student not in an eligible award status
- Payment exceeded awarded amount

The Accepted Section of the report lists all of the transactions that were posted to the Commission's database along with a summary of the total number of transactions and the total dollar amount. Schools should review this section to check that the payments listed are reflected on the school's database and in their accounting records:

Student-by-student reconciliation is critical. It is possible for the total dollar amounts to match exactly and still have student-level errors. For example, a payment could have been inadvertently keyed for the wrong student (see *Figure 1*). The total number of transactions and the total dollar amounts included in the summary should match the institution's records.

Figure 1

Reconciliation Example

Payments Processed by CSAC		Payments Disbursed to Students	
Karen Banning	\$775	Karen Banning	\$775
Tim Chan	\$4,416	Tim Chan	\$4,416
Al Hamle	\$775	Al Hamle	\$775
Margaret Kith	\$5,191	Margaret Kith	\$775
John Smith	\$4,416	Julio Sanchez	\$4,416
		John Smith	\$4,416
Total	\$15,573	Total	\$15,573

In this example, the total dollar amounts match, but the student-level detail is not the same. The student Julio Sanchez received a payment of \$4,416 according to the institution's records, but this payment does not appear on the Commission's records. For the student Margaret Kith, the institution's records show a payment of \$5,191, a difference of \$4,416.

10.3 Monthly Reconciliation

Once a month, the Commission totals all of the payment transactions submitted by each institution and adjusts account balances accordingly. If additional funds are owed, payment is issued to the school. As a result of this process, the *Payment Activity Report* is produced. It provides schools with detail and summary information on:

- term advances
- reconciled and accepted payment transactions, and
- Cal Grant fund balance

The Payment Activity Report- incorporates all of the accepted payment transactions for the previous month. The report consists of two parts-

- the Accounting Summary, and
- the Payment Transaction Summary

Both sections of the report are produced regardless of whether or not the school reported transactions during the previous month. *These reports are informational only and should not be returned to the Commission.*

Working the Report

The Accounting Summary- provides the school with cumulative chronological information regarding the funds it has received from the Commission. Funds received and payment transactions are compared on the report and the resulting balance, or the amount of cash the school has "on hand," is calculated and displayed. The balance must match the school's Cal Grant fund balance exactly.

The Payment Transaction Summary (Summary)- provides schools with detailed information regarding reconciled and accepted payment transactions. The Summary has two sections:

a The Payment Transactions Reconciled- section contains the total dollar amount of reconciled payment transactions for the month's activity.

b The Accepted Payment Transactions- Not Reconciled- section reflects payment transactions reported by the school for "future" terms, or terms for which the school has not already received advance funds. When the advance for that term has been disbursed, these transactions will be transferred to the Payment Transactions Reconciled.

Both sections of the Summary have two parts: current and year-to-date activity. Each part of the Summary contains detailed information regarding the amount of the school's reported payment transactions for each term, with column totals provided. Schools should compare the information contained in the Summary with institutional records and resolve any discrepancies. Schools may need to review previous Accept/Reject reports to determine where the discrepancies occurred.

10.4 Year End Reconciliation

Following the end of each academic year, the Commission runs a final payment cycle and produces a final account balance for each school. Any institutions that still have Cal Grant funds remaining will receive an invoice for these funds.

In preparation for this process, schools are expected to make final payments by September 30 following the award year and resolve any outstanding payment issues during the months of October and November. To assist in tracking final reconciliation activities, the school should develop a summary form to document the process. All documentation should be retained by the institution and be available during a compliance review.

Each payment amount reported to the Commission must match both the Financial Aid Office's record of disbursement and the actual amount released to the student or the student's account. Each institution must reconcile its records at the Financial Aid Office to the records of the Accounting Office and/or the Burser's Office. These records must then be exactly reconciled with the Commission's records.

Sample Reconciliation Worksheet- the Commission has designed a sample reconciliation worksheet that lists the basic steps a school can follow to perform the reconciliation of Cal Grant payments with school records.

10.5 WebGrants Reconciliation Reports

Other tools for reconciliation

The WebGrants Reconciliation screens contain a variety of report options for schools to use in balancing institution records to Commission records. These reports are updated weekly. However, until the month-end process is completed, the transactions will show as "accepted" but not "reconciled." Schools may filter their reports to include only the reconciled payments. The Roster/Reconciliation Users Guide located in the Help Center on WebGrants contains additional information about the WebGrants reconciliation screens.

The CSAC Standard Format- contains all reconciled and accepted student records. The Basic Report Filter provides schools with the option of limiting the report to a specific term, program and/or award type. *For example*, if a school is reconciling payments and determines that the Cal Grant B Access amount for the fall term does not match, the school may create a list that contains only the students for whom the

Commission shows a fall Cal Grant B Access payment.

Customize Roster Formats- allows schools to sort and filter data to tailor reports to internal specifications. Schools may select which data elements are displayed, the order of those data elements, and then filter the records to be included.

The Student on Leave Report- is a cumulative list of all students who appeared on the institution's payment roster, for whom a leave of absence has been reported.

The Student Withdrawn Report- is a cumulative list of all students who appeared on the institution's payment roster, but were withdrawn during the academic year.

10.6 Report Samples and Field Descriptions

11 Compliance Review

The Commission provides the following general compliance review process information to help schools in evaluating their internal operations to determine compliance with the various requirements outlined in this and other Cal Grant Manual chapters.

11.1 Compliance Review Purposes and Methods

Compliance reviews are conducted at participating Cal Grant schools. The purposes of a Cal Grant compliance review are:

- ▶ to review and analyze the administration of the Cal Grant program at each participating school, and
- ▶ to provide information and feedback to school staff to assist them in taking corrective action, if necessary.

Through interviews and reviews of records, compliance staff analyzes the adequacy and enforcement of school-established internal controls. These controls help safeguard the operational and fiscal integrity of the Cal Grant program.

Review Process Helps Schools

Although most of the areas of review are included in this chapter, it is not intended to be all-inclusive or to limit the scope of review. Therefore, the absence of compliance items here does not relieve the school of its obligation to comply with all applicable federal and state laws and regulations, the Institutional Participation Agreement, this Cal Grant Program Manual or any other written procedures and policies issued by the Commission.

Purposes of a Compliance Review

A compliance review is conducted to:

- ▶ evaluate the school's administration of the Cal Grant program
- ▶ ensure compliance with applicable laws, regulations, Commission policies and procedures, and the Institutional Participation Agreement
- ▶ evaluate the school's controls and procedures

- ▶ document reasons for specific problems identified in the school's routine processing and exceptions monitoring
- ▶ initiate corrective action, including recovery of funds
- ▶ assist in the correction and/or prevention of future problems, and
- ▶ initiate any necessary administrative actions to encourage appropriate use of funds.

✓ School Selection for Compliance Review

Schools participating in the Commission's Cal Grant program are scheduled for compliance reviews, based upon, but not limited to, the following factors:

- ▶ no prior review
- ▶ timeframe of a date of last review
- ▶ findings noted in a prior review
- ▶ dollar volume and number of recipients of the Cal Grant program at the school
- ▶ non-payment of invoices
- ▶ reconciliation issues
- ▶ referral, such as from other Commission Divisions, or any other state or federal agency, or a pattern of inquiries about the school's financial aid or accounting practices.

Compliance Review Methods

There are two methods of compliance review:
On-site Review- Schools with a large number of Cal Grant recipients are scheduled for an on-site review. On-site reviews typically take three to five days in the field, depending on the size of the school, the sample size, and the number of Commission programs in which the school participates. More time may be required if the scope of the review is expanded.

Desk Review- Schools with very few Cal Grant recipients are usually considered for a desk

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review. The desk review is similar to the field review, except communication is conducted via telephone, facsimile and electronic mail. A desk review may include a site visit, if deemed necessary by the compliance staff in charge.

11.2 Areas of Review

The principal objective of a compliance review is improved overall administration of the Cal Grant programs. The review encompasses the following general areas:

General Eligibility- The school's general Cal Grant program administrative capability is reviewed. The school's academic programs are reviewed to determine that they are appropriate for Cal Grant programs in which the institution participates.

Applicant Eligibility- The school is responsible for ensuring that only eligible students receive Cal Grant program funds. Individual student eligibility (California resident, U.S. citizen or eligible non-citizen, enrollment status, satisfactory progress, etc.) is reviewed through the examination of a sample of students.

Fund Disbursement and Refunds

The school is responsible for establishing and complying with disbursement policies and requirements (authorization, payment amount, etc.).

Completion of Rosters and Reports- The school is responsible for the accurate completion of and timely submission of data (including reports, rosters and forms) that are used in the administration of the Cal Grant Programs. The school must also resolve and report any discrepancies found between the Commission's data and the institution's records.



File Maintenance and Record Retention-

Schools must retain all records pertaining to the Cal Grant programs for three years. Records may be stored on paper or in a machine-readable format.

Fiscal Responsibility for Program Funds -

The Commission's review includes an assessment of the school's internal accounting processes, procedures and controls used in the administration of Cal Grant funds.

11.3 Review Process

The review process encompasses:

School Notification

Schools are contacted to schedule a review date and establish a school contact person. An Engagement Letter will confirm the date, include the name of the compliance staff member who will perform the review, as well as request:

- ▶ policy and procedural material,
- ▶ student records, and
- ▶ other information required for the review.

The Commission reserves the right to perform unannounced program reviews when deemed necessary.

Sample Size Determination

- ▶ A sample size of 40 students is developed for schools with 100 or more program recipients
- ▶ A sample size of 15 students is developed for schools with 16 to 99 program recipients
- ▶ For a school with 15 or fewer recipients, all students are examined



Review Preparation

Engagement Letter- The Engagement Letter will request certain written material from the school prior to the on-site review. The information submitted by the school is reviewed by the compliance staff to become familiar with the school's operations in preparation for the on-site review.

On-Site Review

The on-site review includes the following:

Entrance Interview- The on-site review begins with an entrance interview. The Commission compliance staff conducts an entrance interview with school staff that describes the Cal Grant program administration compliance review

process. Compliance staff also collects additional information on school policies and procedures to be used in conducting the review.



Document the Review- Compliance staff reviews a sample of student records and other relevant information. The school must be prepared to give access to any paper or electronically stored institutional records. Interviews with various school staff from the different offices may be necessary to clarify or resolve any questions. During this phase of the review, the compliance staff analyzes the records and compiles review findings.

Documents compliance staff examines include:

- ▶ Academic records
- ▶ Attendance records
- ▶ Canceled checks (access and books & supplies)
- ▶ Citizen or eligible non-citizen documentation
- ▶ Class schedules and catalogues
- ▶ Disbursement policy and disbursement schedules
- ▶ Enrollment records
- ▶ Financial aid records, including need analysis documentation, ISIRs, budgets, award letters, renewal need calculations, etc.
- ▶ General ledgers and other accounting records that support Cal Grant fund transactions (e.g., Accounts Receivable reports, bank statements, etc.)
- ▶ Grant Roster transactions, Education Level Verification reports, and any other Commission reports that contain information the school reported to the Commission
- ▶ Individual student files
- ▶ Institutional refund policies
- ▶ Satisfactory academic progress documentation
- ▶ Student access and book & supplies authorizations
- ▶ Student account records
- ▶ Verification documentation
- ▶ Written policies and procedures describing the school's administration of the Cal Grant program, *and*

- ▶ Any other files the compliance staff deems necessary to conduct the review.

School Offices Contacted- the following school offices will be contacted during the compliance review:

- ▶ Financial Aid
- ▶ Admissions
- ▶ Registrar
- ▶ Accounting, *and*
- ▶ Additional offices and staff as necessary.

Written Pre-Exit Document

Compliance staff provides a written "pre-exit" document that lists questions, comments and draft non-compliance issues to the school contact. The school contact person will have an opportunity to provide a written explanation and any necessary supporting documentation prior to the exit interview.

Exit Interview- Compliance staff conducts an exit interview with school staff to discuss findings, recommend corrective actions, and convey potential liabilities. The school is also given a preliminary timeframe for receipt of the Commission's draft report.



Compliance Report

Draft Report- The Commission issues a written draft report after the compliance review is completed. The report summarizes the compliance staff's examination of records and procedures, and identifies specific findings, required actions, and recommendations. The school must respond to the report by:

- ▶ indicating the corrective actions taken,
- ▶ submitting payments,
- ▶ providing a clarifying response to any particular findings, and
- ▶ providing updated policies and procedures

Recovery of Liabilities- The Commission may assess liabilities against the school due to errors or omissions resulting from the disbursement of Cal Grant funds to students

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who do not meet program requirements or specific conditions of eligibility. The school is required to pay any school liability determined as a result of the program compliance review as detailed in the General Payment Instruction section of Chapter???

Final Report- Once the school has responded satisfactorily to all the draft report findings, and any liabilities have been paid, the Commission issues a final report to the school, closing the review.

!! Administrative Actions


Non-compliance with any of the provisions of the Institutional Participation Agreement and the requirements set forth in the Cal Grant Program Manual may result in the termination of the Institutional Participation Agreement and privileges that are afforded under it.

12 Commission Communications


The Commission releases Policy Bulletins, Operations Memos and Special Alerts to report changes in Commission practices, policy and procedures. These notices provide updated information and notify schools of changes. The Commission mails a copy to the Financial Aid Director at each campus and posts its notices to one or more of its List Services. The Commission advises school personnel to subscribe to its e-mail List Services to remain informed of new information.

The Commission may also post notices of policy changes and other information to the lists of the California Association of Student Financial Aid Administrators (CASFAA) and the California Community College Student Financial Aid Administrator's Association (CCCSFAAA).

12.1 Commission Web Site

 Schools may access the Commission's Web site at www.csac.ca.gov. Here, the Commission places information of importance to students, parents, schools and other interested parties about the Commission's programs and services. The Commission frequently changes Web site content and features, so it is advisable to visit the Commission's Web site regularly to review the changes.

Communications Tools

 **Publications-** This section includes Commission publications stored in the Adobe Portable Document Format (.pdf) including the most recent *Fund Your Future Workbook* for students, the *Fund Your Future Counselor Guide* designed for counselors and other student advocates and the *Fund Your Future* brochure, which provides the basics of financial aid. The Commission's *Forms and Publications Order Form* is also available here.

Operations Memos and Special Alerts- Recent Commission Operations Memos and Special Alerts are located here in Adobe Portable Document Format (.pdf).

Commission List Services

The Commission List Service feature was introduced to distribute Commission updates to school staff and others automatically.

There are four lists:

- College Financial Aid Professionals
- High School Professionals
- WebGrants Users
- CSAC News – Public

How to subscribe- To subscribe to any of these lists, log on to the Commission Web site at www.csac.ca.gov and select the "Links" option. The "CSAC List Services" option will then become available. Selecting it displays both the professional and public list service options. Follow the instructions to subscribe.

Professional Lists- Of the four lists, three are designed specifically for college financial aid administrators and high school professionals. These three lists, "College Financial Aid Administrators (CAA)", "High School Professionals (HSP)" and "WebGrants Updates (WebGrants)" are secured with a generic ID and password.

Only college aid administrators and high school counselors or principals should subscribe to these three lists. The log-on ID and password should not be shared with students or parents. As of October 2003, the ID and password are:


Username: students
Password: 1SEC2001

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This password is case sensitive and should be entered exactly as it appears. The Commission will periodically change the log-on ID and passwords. Schools will be notified of the changes via e-mail to participants and through a Commission Special Alert. Enter the log-on ID and password, then click on the "publications" link to bring up copies of all recent Commission Policy Bulletins, Operations Memos and Special Alerts.

General Information List- Students, parents, and the general public may subscribe to the public list service for general information relative to Cal Grants by subscribing to the "CSAC News" list service. Interested school staff may subscribe to this list as well. No ID or password is required to subscribe to "CSAC News."

12.2 Commission Publications

 The Commission, and its auxiliary EDFUND, annually publish a number of financial aid and educational publications. These include:

- ▶ *Fund Your Future Workbook* – The best overall guide to student financial aid available in California. There are several state versions, a national version and one just for California. Order the California version for students in California.
- ▶ *Fund Your Future Counselor's Guide* – The counselor's companion guide for the workbook.
- ▶ *Fund Your Future Brochure* – A brochure covering the financial aid basics.
- ▶ *Student Aid Commission GPA Verification Form* – March 2 (G-4) and September 2 (G-4.1) versions.
- ▶ *Cal Grant Flyer* – Available in English, Spanish, Chinese, Vietnamese, Korean and Russian.
- ▶ *Cal Grant Filing Deadline Posters* – To display in your financial aid office or other areas where students gather.
- ▶ *Specialized Programs Brochures* – Brochures are available for each of the Commission's Specialized Programs.
- ▶ *GED Brochure* – For GED graduates.
- ▶ *GPA Information Release Form* – Allows high school students to release GPA information. (Available on CSAC Web site only.)

Publication Ordering Information

Shipping Center- Contact the Commission's Shipping Center staff to place orders.

Write to:

California Student Aid Commission
P.O. Box 419027
Rancho Cordova, CA 95741-9027

Shipping Center Fax:

(916) 526-8838

Shipping Center Telephone:

(916) 526-7282

A number of publications about the Cal Grant program and the application process for other kinds of California financial aid can be ordered through the CSAC and EDFUND Web sites. You can log on to www.csac.ca.gov or www.edfund.org for lists of publications.

12.3 Outreach and Training

The Commission provides training on Cal Grants and general financial aid at numerous times throughout the year. Log on to the Commission Web site at csac.ca.gov/schools/training for training session information and a variety of training resources.

Schools may request specialized training on an as-needed basis. Commission training sessions can be scheduled to coincide with workshops and presentations at various education and outreach conferences.

Approved Certification Workshops

In accordance with the California Education Code, the Commission is responsible for the certification of seminars and workshops designed for financial aid office staff at private postsecondary educational institutions that do not grant degrees. Financial aid directors and officers at these schools must document completion, within the previous two years, of a training seminar or workshop certified by the Commission. (C.E.C. 94920 (b)(4)(B), (5)(A)).

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Contact the Outreach and Training Division for a list of those agencies and individuals who have been certified to provide such training.

12.4 Calendar, Division Hours and Contact Information

Calendar

Each year, the Commission publishes a list of observed holidays. Although normal Commission business will not be conducted on those days, the Grant Delivery System will continue to operate and WebGrants access will continue. A calendar of scheduled WebGrants processing periods is available on the WebGrants Web site. The calendar shows when the system will be available for update access.

Telephone Hours

Grant Services Division telephone hours are 8:00 a.m. to 4:55 p.m., Monday, Tuesday, Wednesday and Friday. On Thursday, the hours are 9:00 a.m. to 4:55 p.m.

Mailing Addresses

Regular mail:

California Student Aid Commission
Grant Services Branch
P.O. Box 419027
Rancho Cordova, CA 95741-9027

Overnight mail:

California Student Aid Commission
Grant Services Branch
10811 International Drive
Rancho Cordova, CA 95741

E-mail Addresses

Grant Services e-mail address:
custsvcs@csac.ca.gov

Specialized Programs e-mail address:
specialized@csac.ca.gov

Outreach and Training e-mail address:
otdtraining@csac.ca.gov

Technology Help Desk e-mail address:
csachelpdesk@csac.ca.gov

Telephone Numbers

Customer Service:

Students - (888) 224-7268
(916) 526-7590
Schools - (888) 294-0153

Customer Service Fax:

Students- (916) 526-8004
Schools- (916) 526-8002

Legal Services and Governmental Relations
(916) 526-8918

Policy and Research
(916) 526-7991

Technology Help Desk
(888) 294-0148
(916) 526-8989

Outreach and Training
(916) 526-8920



OPERATIONS MEMO

Update of the California Student Aid Commission

October 31, 2008

GOM 2008-24

TO: Financial Aid Administrators

FROM: Catalina G. Mistler *Catalina G. Mistler*
Chief, Program Administration & Services Division

CONTACT: Program Administration & Services Division
Phone: (888) 294-0153
Fax: (916) 464-8002
E-mail: schoolsupport@csac.ca.gov

SUBJECT: 2009-10 Cal Grant GPA Verification for Colleges

This Operations Memo provides information for the financial aid community and college registrars who submit grade point average (GPA) verifications on behalf of students who are applying to the California Student Aid Commission (Commission) for 2009-10 Cal Grant program awards. Please review the enclosed "GPA Calculation Instructions" and the "Questions and Answers for Colleges" for details on preparing the GPAs for your students. **The submission deadline is March 2, 2009.**

GPA Verification Form Availability

The 2009-10 Cal Grant GPA Verification Form is provided as an enclosure with this memo and it will also be available for download from the Commission's Web site at <http://www.csac.ca.gov/doc.asp?id=1177>. Pre-printed paper forms will not be available for ordering in bulk.

Applicants who complete the student section of the GPA Verification form must take it to their school for certification by a school official before sending it to the Commission. The GPA can be provided on the paper version of the form or submitted online by the school.

Electronic GPA Submission

In mid-November the Commission will begin accepting GPA uploads from schools for the 2009-10 academic year Cal Grant awards. The WebGrants GPA function provides immediate feedback regarding the number of GPAs that have been accepted and identifies any errors in the upload. Electronic submission is secure, fast, and minimizes errors. Using the electronic upload option increases



State of California
Arnold Schwarzenegger
Governor

For more information you may contact us at:
California Student Aid Commission, Program Administration & Services Division
P.O. Box 419028, Rancho Cordova, CA 95741-9028 (888) 294-0153 Fax: (916) 464-8002
Website: www.csac.ca.gov E-mail: schoolsupport@csac.ca.gov

the probability that more of your eligible students will receive a Cal Grant award. Since these GPAs are certified electronically, there is no need to fax or mail a paper GPA form. A guide on electronically submitting GPAs is available on the WebGrants "Help Center" under *User Guides – GPA Screens*.

We strongly encourage all schools to upload GPAs electronically. This allows immediate confirmation that the GPAs were accepted and allows students to immediately view their submitted GPAs through "WebGrants for Students." As an alternative, schools may continue to use paper GPA Verification forms.

For further assistance, schools can contact the Commission's School Support Services staff at (888) 294-0153 or at schoolsupport@csac.ca.gov. Students with questions should be directed to Student Support Services at (888) 224-7268 or studentsupport@csac.ca.gov.

Enclosures: 2009-10 Cal Grant GPA Verification Form
2009-10 Cal Grant GPA Calculation Instructions
Cal Grant GPA Questions and Answers for Colleges

Working together to effectively promote education beyond high school

Cal Grant GPA Verification Form
For 2009-10 Cal Grants

DEADLINE: MARCH 2, 2009



**DO NOT SEND ACADEMIC TRANSCRIPTS
SEE BACK OF FORM FOR INSTRUCTIONS**

TO BE FILLED OUT BY STUDENT
Please print clearly using *black* ink only.

1. Your Social Security number:
Re-enter your Social Security number: (REQUIRED)

2. Month/year of high school graduation: Month Year

3. Your name — last, first, middle initial, as it is listed on your Social Security card and FAFSA:
Your Last Name Your First Name M.I.

4. Your date of birth: Month Day Year

5. Telephone number: Area Code Phone Number

6. Your permanent mailing address:
Number and Street
City State Zip Code

7. Your e-mail address, if available:

CSAC USE ONLY

8. Spring school code: If enrolled for spring 2009, enter your school code.

9. Fill in bubble if you are submitting a SAT, ACT or GED test score instead of a GPA.
Attach your applicable test score to this form, transcripts will not be accepted. You do not have to have your school fill out the FOR SCHOOL USE ONLY section

10. **STUDENT CERTIFICATION:** I have read the instructions and information accompanying this form. I understand that this Cal Grant GPA Verification Form is used to determine Cal Grant eligibility and the GPA must be calculated as described on the Commission's web site at <http://www.csac.ca.gov/doc.asp?id=1177>. The information I have completed is true to the best of my knowledge, and I understand that it is illegal to report false or misleading information. I understand that without a valid Social Security number and signature, this form will not be considered. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Student Signature Date

FOR SCHOOL USE ONLY (High schools MUST be fully accredited by the Western Association of Schools and Colleges or an equivalent regional accreditation agency or have a UC-approved course list to certify a Cal Grant high school GPA.)

GPA IS BASED ON HIGH SCHOOL COURSEWORK? GPA VERIFIER'S SCHOOL CODE:
CALIFORNIA COMMUNITY COLLEGE REESTABLISHED GPA? VERIFIED STUDENT GPA:

The signature of the high school or college official certifies, under penalty of perjury, that the GPA is calculated as described on the Commission's web site at <http://www.csac.ca.gov/doc.asp?id=1177>. The signature of a high school official also certifies that his or her high school is fully accredited by the Western Association of Schools and Colleges (WASC) or other regional accrediting agency, or has a UC-approved course list as required by California regulations. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of School Official Name of School
Telephone Number of School with Area Code Title of School Official
Date E-mail Address City State Zip Code

Mail completed form to:

California Student Aid Commission, Cal Grant Operations, P.O. Box 419077, Rancho Cordova, CA 95741-9077

Instructions for filling out the Cal Grant GPA Verification Form

STUDENT INFORMATION SECTION. Please print clearly using black ink only.

1. *Your Social Security number:* Enter your Social Security number (SSN) as it appears on your Social Security card and your FAFSA. (Valid SSNs do not begin with 8, 9 or 000. If you believe your SSN begins with an 8, 9 or 000, then contact your local Social Security Office to verify your number.) Individual Tax Identification Numbers (ITIN) are not accepted.
2. *Month/year of high school graduation:* Enter the month and year you graduated, or plan to graduate from high school. Enter the month in a two-digit format (for example: January should appear as "01"; November should appear as "11"). Enter the year in a four-digit format (for example: 2009 should appear as "2009").
3. *Your name:* Print your full name as it appears on your Social Security card and your FAFSA. Enter last name, first name, middle initial.
4. *Your date of birth:* Enter your birth date. For example, June 25, 1991 would be entered as 06-25-1991.
5. *Telephone number:* Enter your area code and daytime telephone number.
6. *Your permanent mailing address:* Enter your permanent mailing address, city, state and five-digit zip code.
7. *Your e-mail address:* Enter an e-mail address where you can be contacted for questions. This is optional.
8. *Spring school code:* Enter the school code for the school at which you are in attendance for spring 2009. Students graduating from high school in spring 2009 should write in the College Board high school code number for their high school. This is the same code used for sending SAT score information to the high school. Students who are in college for the spring 2009 school term should write in the federal code number of the college at which you are in attendance in spring 2009. Students who are not in college or high school for the spring 2009 school term should leave this section blank.
9. *Submitting a test score instead of a GPA:* Complete questions 1 through 10, sign the form and attach a copy of the testing organization's score report and mail by the deadline. **TRANSCRIPTS ARE NOT ACCEPTED.**
The results from the GED, SAT or ACT tests must be submitted in lieu of a GPA if:
 - You participated in a home schooling program or attended an unaccredited high school.
 - You attended a high school or college outside of the United States and are unable to have those grades converted to a 4.00 scale or your school did not grade in a manner that can be readily converted to a 4.00 scale.
 - Students who have been out of school for five years can choose to submit either test scores or their GPA.
 - Scores from the California High School Proficiency Examination (CHSPE) cannot be accepted in lieu of a high school GPA, but passing the CHSPE does meet the high school graduation requirement of the Entitlement Cal Grant program. Also, grade reports, transcripts, and other proficiency certificates **WILL NOT BE ACCEPTED.**
10. *Student signature:* By signing this form, you certify that you have read these instructions and that the information you provided is correct. It is illegal to report false or misleading information on this form and doing so may result in any Cal Grant award being revoked.
Once you have filled out the student information, take the form to your school and request that they verify your GPA. Be aware that if your school will be electronically submitting your GPA to the California Student Aid Commission, you do not need to submit this form. It is your responsibility to verify that the school will be submitting your GPA for you.

FOR SCHOOL USE ONLY SECTION

- GPA IS BASED ON HIGH SCHOOL COURSEWORK:** Fill in this bubble **ONLY** if the GPA is based on high school coursework.
- CALIFORNIA COMMUNITY COLLEGE RE-ESTABLISHED GPA:** Fill in this bubble **ONLY** if the GPA being certified is based on at least 16 but less than 24 units completed at a California Community College.
- If the GPA is based on college units, and is not a reestablished GPA as described above, do not fill in any bubble.**
- GPA VERIFIER'S SCHOOL CODE:** High schools use their College Board school code; colleges use their USED OPE ID code.
- VERIFIED STUDENT GPA:** Fill in **ALL** three GPA spaces. Cal Grant GPAs are calculated on a 4.00 scale. High Schools certifying GPAs **MUST** be accredited or have a UC-approved course list in order to verify GPAs. Students not attending accredited high schools should provide either a GED, SAT or ACT score.
GPA must be calculated in the manner described on the Commission's web site at <http://www.csac.ca.gov/doc.asp?id=1177>

After the school completes the GPA information, mail to:

California Student Aid Commission
Cal Grant Operations
P.O. Box 419077
Rancho Cordova, CA 95741-9077

All GPA forms must be postmarked on or before March 2, 2009



ABOUT CAL GRANTS

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ANSWERS TO HELP YOU!**2008 CASH FOR COLLEGE WORKSHOP REGISTRATION:****FREQUENTLY ASKED QUESTIONS**[What is the Cash for College Workshop series?](#)[What are Cash for College Regional Coordinating Organizations?](#)[Who can register to host a workshop?](#)[What are the requirements to host a workshop?](#)[How do I register to conduct a workshop?](#)[When does the workshop series begin?](#)[What is the new Web-based Evaluation Pilot Project?](#)[Where do I order materials?](#)[How long will it take my materials to reach my school, campus or organization?](#)[Where can I get workshop tools such as presentations and required survey forms?](#)[What is the Cash for College Scholarship?](#)[How do students qualify for Cash for College scholarships?](#)[What qualifies a workshop to offer a Cash for College scholarship?](#)[How many scholarships are offered at a Cash for College workshop?](#)[Who can I contact if I have more questions?](#)**What is the Cash for College Workshop series?**

California Cash for College is a partnership effort which brings together high schools, community college and university financial aid experts and community organizations to offer low-income and first-generation college-bound high school seniors and their families hands-on help completing the FAFSA and other forms to apply for financial aid. Multi-lingual workshops are held each year starting in January through the March 2 Cal Grant application deadline at sites throughout the state. Many workshop sites also offer assistance for students who may not qualify for state or federal financial aid, volunteer assistance with tax forms and help researching private scholarships and other financial aid options.

[back to top](#)**What are Cash for College Regional Coordinating Organizations?**

Six regions in the state have established broad regional coalitions to plan, promote, coordinate and in many areas conduct Cash for College workshops. Regional Coordinating Organizations, or RCOs, include Cal-SOAPs, higher education, school district and community groups. Each offer a venue to include all stakeholders locally, to ensure resources are maximized and duplication of effort is avoided. If your area is not within these coverage areas, the statewide Cash for College office will be your point of contact, at cashforcollege@caac.ca.gov.

Current regional coverage areas and corresponding contacts include:

- Far North State: Butte, Del Norte, Glenn, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, and Trinity Counties. Please contact Marylee Boales, Shasta Union High School District, mboales@shusd.net
- Capitol Area: Sacramento and Yolo Counties. Please contact Monica Roberts, Sacramento Cal-SOAP/ Cash for College Coalition, mroberts@scoa.net
- East Bay Area: Alameda and Contra Costa Counties. Please contact Denise Little, East Bay Cal-SOAP/Cash for College Coalition, denise@eastbayconsortium.org
- South San Joaquin Valley: Kern and Kings Counties. Please contact Frank Ramirez, UC Merced, Bakersfield Center, framirez7@ucmerced.edu
- Los Angeles: Los Angeles County. Please contact Alma Salazar, Los Angeles Area Chamber of Commerce, asalazar@lachamber.org
- San Diego: San Diego and Imperial Counties. Please contact Linda Doughty, San Diego Cal-SOAP Consortium, ldoughty@ucsd.edu

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Who can register to host a workshop?

College and university campuses, high schools, Regional Coordinating Organizations, government and community organizations can offer workshops.

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What are the requirements to host a workshop?

Cash for College is a partnership effort which offers a series of tools and support to Cash for College organizers to organize, promote and conduct a financial aid workshop, and also asks Cash for College workshop organizers for assistance in outreach and evaluation to make the workshop and scholarship program a success. Below is a list of what Cash for College workshop organizers are offered and what is asked as part of the partnership.

What we offer workshop organizers:

- A \$1,000 scholarship to be offered at each qualifying Cash for College workshop (to learn more, see additional FAQs). Workshop organizers inform scholarship recipients of their award. Awards will be announced in May, 2008.
- Financial Aid Power Point presentations that provide a step-by-step guide on completing the FAFSA on the Web Worksheet;
- A collection of customizable planning tools (i.e. sign in sheets, templates, scholarship recognition letters, and student and parent surveys) to help coordinate and implement a successful event. You will have access to these tools under your organization's account;
- Follow up assistance or referrals for students requesting more assistance after the workshops;
- Increased coordination of local, regional and statewide marketing efforts to increase participant attendance;
- Access to marketing resources and tool kits;
- Access to specialized trainings and resources (i.e. volunteer financial aid training and AB540 presentation materials and guidebooks)
- Access to coalitions of Cash for College RCOs, where applicable, to help direct students and parents to your workshop. See FAQs for a list of coverage areas and regional contacts.
- Site support in the amount of \$300 is offered to the school or organization conducting the workshop. If more than 100 unduplicated student surveys are returned, the amount is increased to \$500. These funds are meant to help defray the costs of the workshops, including, but not limited to, materials, janitorial service, community site space rental, technology or assistance with computer lab set up.

What we ask of workshop organizers:

- Commit and plan to serve at least 25 students at each workshop.
- Complete the California Cash for College Outreach Action Plan.
- Use the California Priority High Schools targeted outreach list to guide selection of workshop sites. Or, if Priority High Schools are not identified in your area, prioritize outreach to low-income or disadvantaged students and first-generation college bound students. The Priority High School tool describes conditions which impact access to education beyond high school. Indicators used by the University of California ACCORD Research Center include family income, levels of poverty in schools, school counseling ratios, parent education levels, high school graduation rates, Cal Grant application rates and school or student submission of GPA Verification Forms. This tool is not meant to determine the level of outreach resources at each high school.
- Use the free California Cash for College/Cal Grant posters, adaptable regional and local flyers, PIN card and other tools as part of the organizer's student, school and community outreach.
- Aggressively promote the \$1,000 California Cash for College scholarship.
- Provide students and their parents/guardians line-by-line assistance on the FAFSA and direct students to verify their Cal Grant GPA during the months of January and February and up to the March 2nd Cal Grant deadline.
- Offer additional language support at workshops, as needed.
- Use attendance sign-in sheets at workshops and return copies to your regional or statewide office.
- Distribute the California Cash for College workshop evaluation/ scholarship entry form at each workshop, gather all surveys and return to the statewide or regional office. If you are participating in the 2008 Online Evaluation Project, evaluation forms will be made available online.
- Following the March 2 deadline, to apply for site support funds, provide a summary of student and parent attendance and other relevant workshop information to help evaluate the workshop series.

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How do I register to conduct a workshop?

It only takes a visit to the [Cash for College Registration Site](#) to create your online account, read through and accept the Partnership Agreement, create your outreach plan, request your dates, locations and time of workshops, and order materials. We will confirm your registration and activate your dates and times for the online listing so that students and parents can locate workshops nearest to them. Activation may take a few days or up to a week, depending on the volume of requests received. You will receive an email from

us confirming when your workshops are activated and posted online. Our goal is to confirm and activate all workshops for the online listing prior to the December holidays.

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When does the workshop series begin?

The 2008 Cash for College workshop series begins in January and runs up to the March 2 Cal Grant deadline. In some areas serving year-round high school schedules may offer workshops in mid December. Please note the Cal Grant March 2 deadline falls on a Sunday this year, which allows for one more weekend to offer workshops! Cal Grant GPA Verification forms will be accepted by the California Student Aid Commission on Monday, March 3, 2008.

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What is the new Web-based Evaluation Pilot Project?

Each year, Cash for College tabulates all student and parent evaluations from each workshop to evaluate our progress in helping students successfully apply for as much financial aid as possible. Up to now, we have relied on a paper evaluation process. An Internet-based survey increases the quality of survey data so that Cal Grant application and awards for Cash for College participants can be tracked. An Internet-based survey can also ensure that email addresses are valid or that certain questions are answered. If you are interested to learn more about this new web-based feature, please contact the statewide Cash for College coordinator at cashforcollege@csac.ca.gov.

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Where do I order materials?

When you've logged into your account, you can click on the Orders link to place your orders. Most all materials will be shipped to you from the CSAC/EDFUND warehouse. Some materials will be shipped from CSAC Headquarters or your Regional Coordinating Organization where appropriate.

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How long will it take my materials to reach my school, campus or organization?

CSAC/EDFUND Publications staff is very efficient in filling materials requests. This year, we are asking organizers to tell us your "need to receive by" date. Please build in time you'll need to assemble your materials, as shipments will be targeted for receipt in time for your "need by" date.

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Where can I get workshop tools such as presentations and required survey forms?

2008 survey forms will be posted under Account Settings closer to the workshop series start date, in December. Please do not use old surveys or presentations. If you cannot locate the current materials on the website, please do not hesitate to contact the regional or statewide office to obtain updated information. 2008 Presentation materials can be accessed at the [Cash for College Organizer](#) page.

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What is the Cash for College Scholarship?

The Cash for College Scholarship is a \$1,000 scholarship offered through a third year of generous grant funding from the College Access Foundation of California. Up to 500 scholarships will be awarded statewide in 2008. The Foundation is the largest private non-profit foundation of its kind in California; its mission is to help students in California who have financial need attend college.

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How do students qualify for Cash for College scholarships?

High school seniors who attend a Cash for College workshop, complete a student exit evaluation, and complete and send the required FAFSA and Cal Grant GPA Verification forms by the March 2 Cal Grant deadline, could qualify for a scholarship. After the March 2 deadline, one high school senior at each qualifying workshop who applies by the Cal Grant deadline will be randomly selected to receive a scholarship. Awards will be announced in May of 2008. To claim the scholarship, scholarship recipients must attend a 2-year public or 4-year public or private degree granting institution in Fall 2008 (within our outside of California).

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What qualifies a workshop to offer a Cash for College scholarship?

A workshop must be registered prior to the workshop date. The student survey serves as the entry form to qualify for the scholarship. Student surveys must be returned to the regional or statewide office as soon as possible following each workshop. For sites participating in the Web-based Evaluation Pilot project, evaluations will be completed online at the workshop.

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How many scholarships are offered at a Cash for College workshop?

Each workshop is offered up to two scholarships!

One (1) scholarship is offered per workshop with 25 or more returned, unduplicated student evaluations. If a workshop has fewer than 25 returned, unduplicated student evaluations, we will consider rural and remote area workshops in determining whether student evaluations are combined with another small workshop or whether the workshop will receive one (1) scholarship. An additional (1) scholarship is offered to workshops with 75 returned unduplicated evaluations.

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Who can I contact if I have more questions?

You can contact your Cash for College Regional Coordinating Organization described in the above FAQs. If you are not working within those coverage areas, or have general questions, please send an email message to the statewide coordinator, Despina Costopoulos, at cashforcollege@csac.ca.gov.

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HIGH SCHOOL GRADUATION CONFIRMATION FOR HIGH SCHOOLS

WebGrants User Guide
Updated: May 23, 2008

Accessing WebGrants



WebGrants is the Commission's on-line school user interface to the Cal Grant program. It allows schools to upload and download information to the Commission. In particular, high schools can upload GPAs, view and download GPA summary reports, see Cal Grant participation lists for their students and perform high school graduations confirmations.

WebGrants is an Internet Secured Site as indicated by the "https" in the address. Information is only available to authorized users. In order to access WebGrants, users must have access to the Internet through an Internet Service Provider (ISP) or Intranet link, and must have a compatible web browser such as Internet Explorer 5.5 or higher, Mozilla Firefox 1.4 or higher, or Netscape 6.2.3 or higher.

WebGrants information is generally accessible – 24 hours per day, 7 days per week. However, during weekly processing cycles, "Update" functions used to add or change system data may be suspended.

During these periods, update is affected but the system maintains the inquiry function and data upload and download capabilities. In addition to the weekend cycle, WebGrants also undergoes semi-monthly processing cycles. A production schedule of these "down" times is posted on WebGrants.

Initial access to WebGrants is set up by the Commission's Technology Help Desk. After initial set-up, however, each school selects a WebGrants System Administrator to issue employee access to the system. To obtain WebGrants System Administrator access for your institution, complete an Information Security and Confidentiality Agreement and a System Administrator's Access Request form.

The completed forms should be mailed to:

California Student Aid Commission
Information Technology Services Division
Attn: CSAC HELP DESK
PO Box 419026
Rancho Cordova, CA 95741-9026

CSAC Fact:

The California Student Aid Commission was established in 1955 as the California State Scholarship Commission to oversee the administration of the California State Scholarship Program, the forerunner of today's Cal Grant program.



Once your forms are received, the Help desk will set up your WebGrants account and contact you by E-mail with your ID. Upon receiving your ID, call the Help desk at (888) 294-0148 to complete the WebGrants set-up and receive your temporary password. The Help desk will provide you with preliminary information on accessing and using the WebGrants system.

In addition, our WebGrants support team can provide you with any technical, procedural, and policy support you may require. You may direct your questions to schoolsupport@csac.ca.gov.

Normally, accounts are established within 24 hours of receiving completed forms. When your school's system administrator is assigned and has access, that person or persons can grant access to additional school employees as needed.

For problems or questions you may have, contact the CSAC Technology Help desk at (888) 294-0148 or csachelpdesk@csac.ca.gov.

WebGrants



Cal Grant Entitlement High School Graduation Requirement

To be eligible for a Cal Grant Entitlement award, a student must be a high school graduate or the equivalent. Acceptable equivalents to high school graduation include passing the GED and passing the California High School Proficiency exam. In response to state audit findings in 2006, the California Student Aid Commission (Commission) voted to require confirmation of new Cal Grant Entitlement participants graduation status. For 2007-08, Cal Grant Entitlement participants were to submit proof of high school graduation to the college they were attending or complete a self-certification of their high school graduation on the California High School Graduation Certification Form (G-8) confirmed prior to receiving payment in the fall. The system placed the responsibility to restrict payment on the colleges.

For the 2008-09 school year, the Commissioners directed staff to put into place an electronic certification system with the Commission as the central repository of high school graduation confirmations. The WebGrants system will store the required confirmation data and restrict Cal Grant payment to those student's whose status has not yet been confirmed. Confirmation to this system must be post-high school graduation. No certifications of graduation status will be allowed until after the student has actually graduated. For this reason, the great majority of new Cal Grant Entitlement high school graduation confirmations can not be made until May or June each year.

WebGrants allows high schools, colleges, students and Commission staff to work collaboratively to gather high school graduation confirmations. We have created a system that will expeditiously allow confirmation of a new participant's high school graduation.

Here are the confirmation options available to the various parties:

High Schools

High schools may certify a participant's high school graduation on the High School Graduation Verification screen, accessible on the GPA menu in WebGrants. This user friendly process allows high school staff to quickly designate Cal Grant awardees who have not completed their high school graduation requirements at the time of certification.

Colleges

Colleges may submit batch submissions of graduation confirmations using the WebGrants File Upload screen accessed from the Data Transfer Menu. File layouts for the high school graduation confirmation upload are available on the WebGrants Help menu.

Colleges can also certify on a student by student basis directly into WebGrants.

Students

Students can confirm their graduation status on WebGrants for Students (WGS). To do this, they will go to the High School Graduation screen which is accessible on the main Cal Grant menu. Those students whose high school graduation has not yet been confirmed will be asked to confirm their status in WGS starting in late June.

Students will also be able to submit a paper confirmation using the new 2008-09 California High School Graduation Confirmation Certification Form (G-8). However, the Commission will be encouraging students to confirm on-line using WebGrants for Students.

Confirmation by Commission Staff

Commission staff will also be able to update a participant's high school graduation status based on documentation of graduation, such as copies of diplomas from students or the Cal Grant Entitlement California High School Graduation Certification Form (G-8). Please be advised that the Commission has revised the G-8 form from last year and this new form will not be mailed to students until later in the year. We are hopeful that on-line completion of the form through WebGrants for Students will diminish the need for a hard copy form. Please do not provide students with copies of the 2007 G-8 as this form may confuse some students. Instead, direct students to WebGrants for Students to update their high school graduation status, perform address changes, schools changes and request leave of absences from the Cal Grant program. The web address for WebGrants for Students is <https://mygrantinfo.csac.ca.gov>

In the event that a school reports a student as not graduated, the student will have to submit authoritative proof, such as a copy of their final transcripts, to allow CSAC staff to override their status.

Graduation documents from students should be sent with a letter explaining why they are being sent and the student's Social Security number to:

California Student Aid Commission
Cal Grant operations Branch
PO Box 419028
Rancho Cordova, CA 95741-9028

Effects of Non-Confirmation

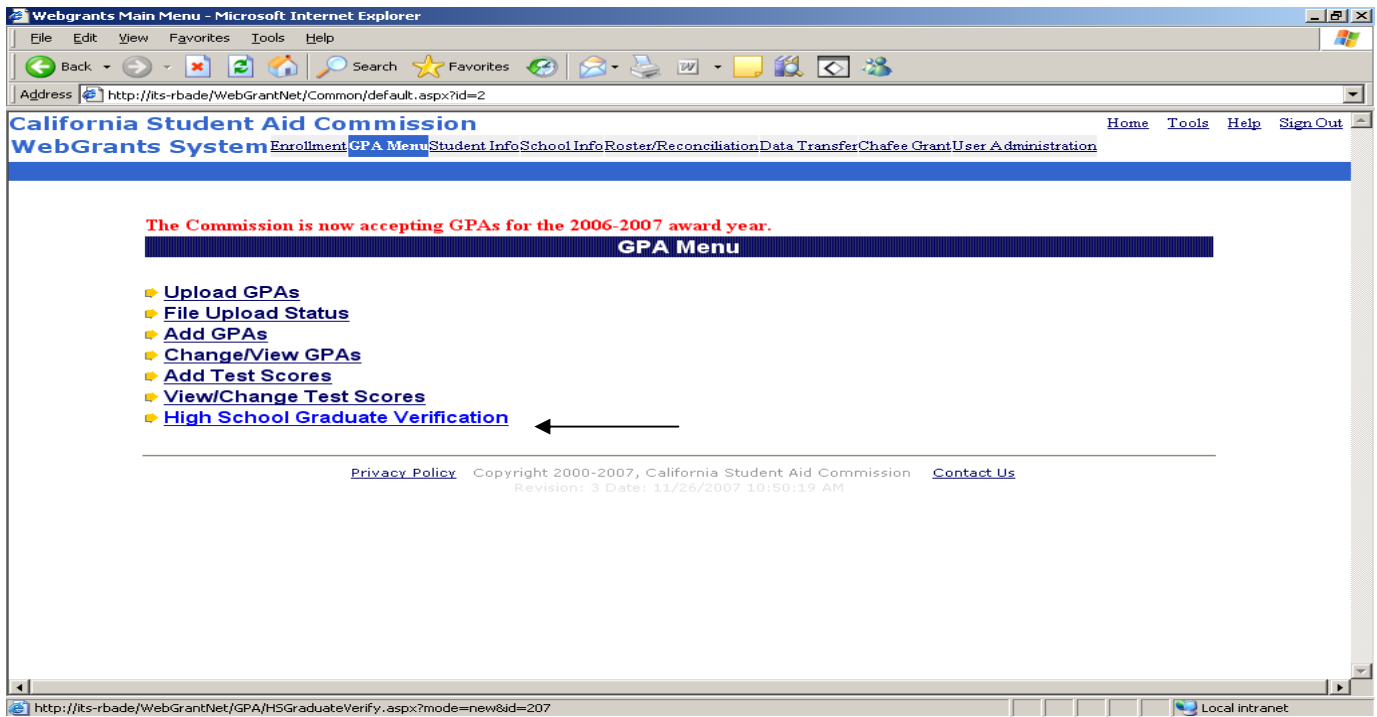
If a student's high school graduation cannot be confirmed, this will not cause their immediate withdrawal from the Cal Grant program. No payment transactions will be accepted until graduation has been confirmed. Students will have until December 31, 2008 to confirm their high school graduation status. Cal Grant Entitlement participants who have not graduated by December 31, 2008, must be withdrawn from the program.

If you have questions regarding any of this information, please contact School Support Services toll-free at (888) 294-0153.

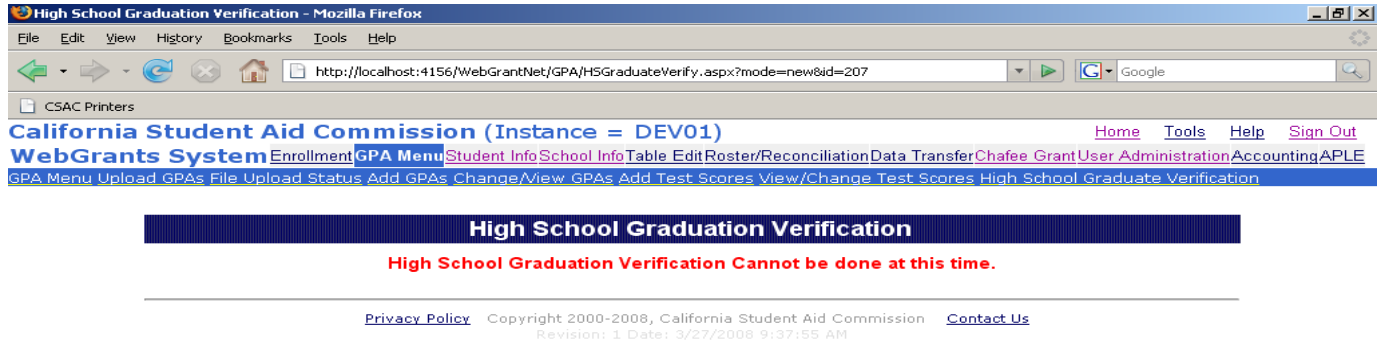
Using WebGrants to Perform High School Graduation Confirmation

For newly awarded Cal Grant Entitlement participants, a confirmation of the student's graduation from high school, or its equivalent, is needed prior to the release of any payments to the student. High schools and colleges will use WebGrants to report whether or not a student has graduated. Students will be able to use WebGrants for Students to confirm their graduation status.

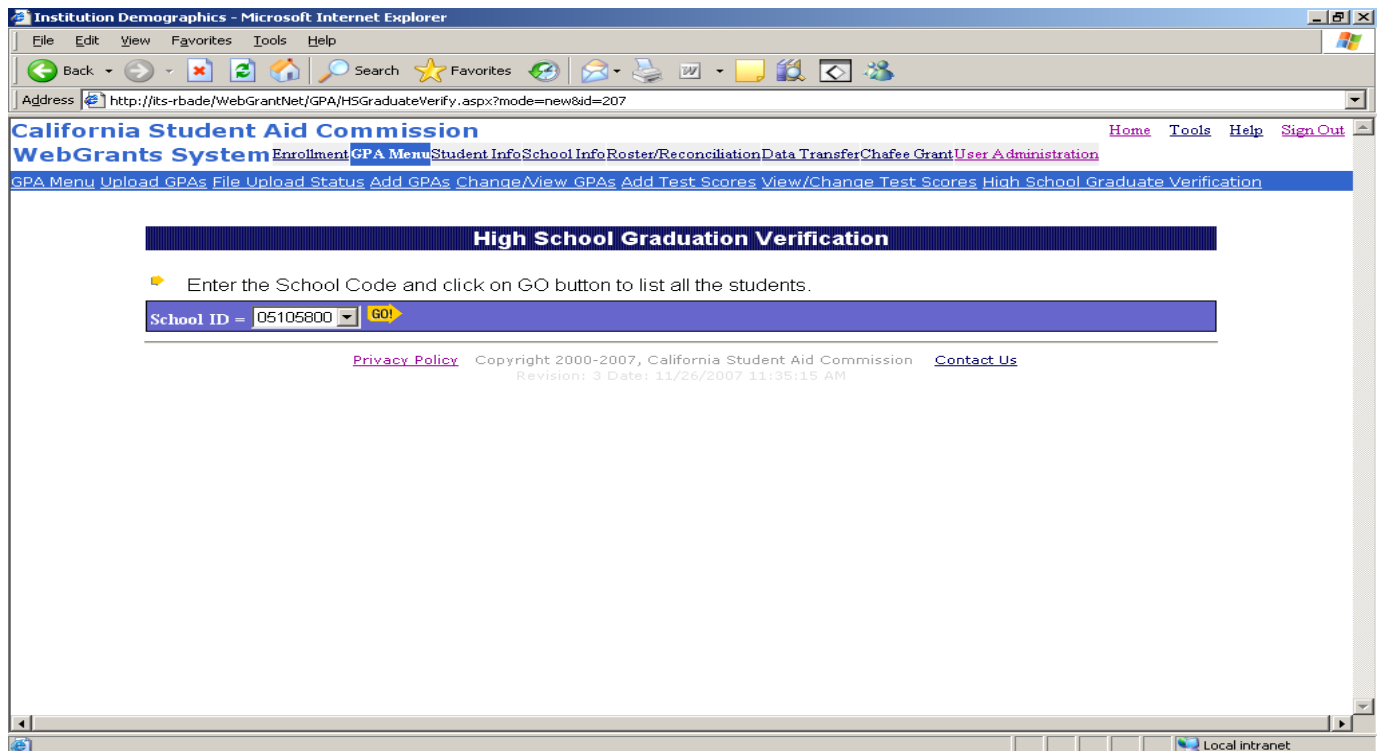
High schools can access the High School Verification Screen by following the GPA link from the WebGrants Main menu. Then, click on the High School Graduate Verification link. A schools GPA menu may have fewer options then displayed below. Look for "High School Graduate Verification."



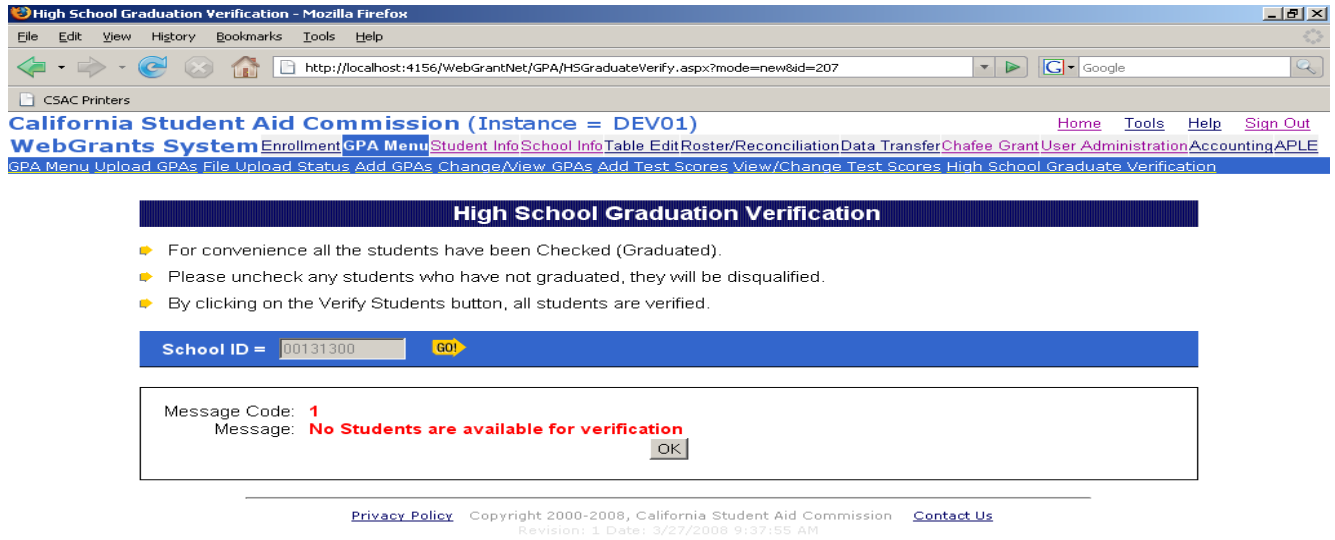
If accessing the High School Graduation Verification screen when no data is present, the following screen will be displayed. Verification will not be allowed until late May each year.



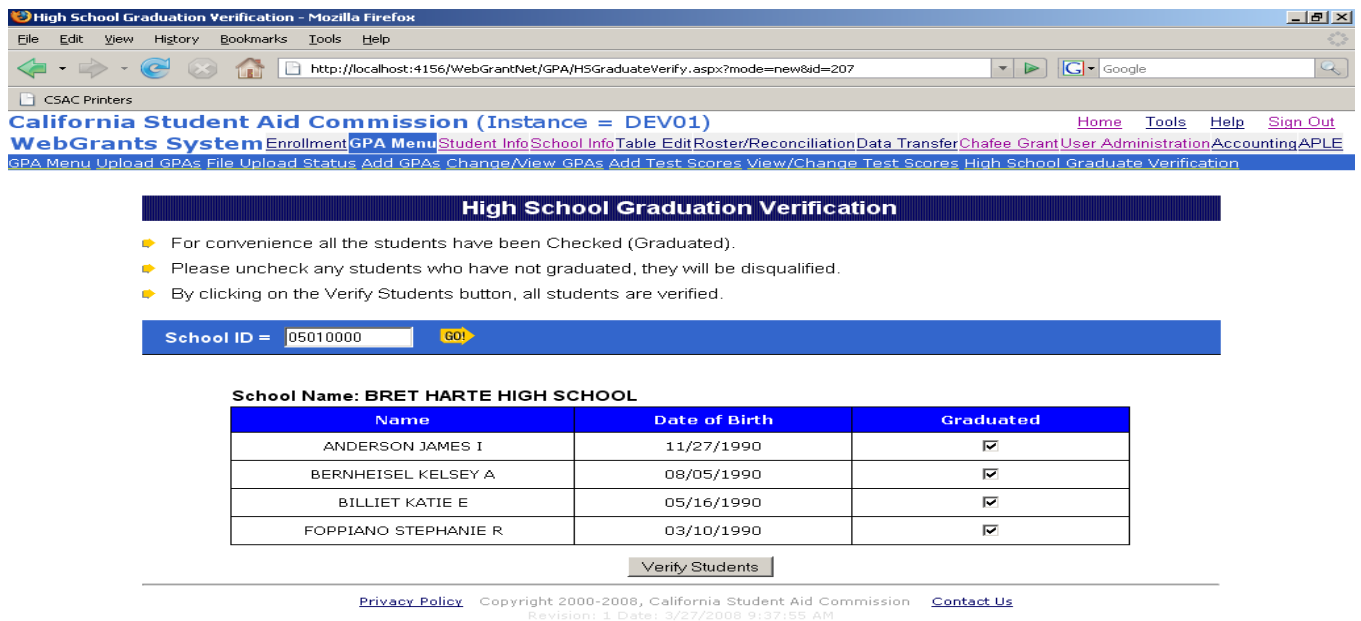
If data is present, after clicking the High School Graduate Verification Link, the screen below will appear. Notice the School ID field below. The school ID field as displayed below will appear only for those individuals that have access to WebGrants for more than one school, such as from a district office. If a school code is required, the <GO> button must be clicked.



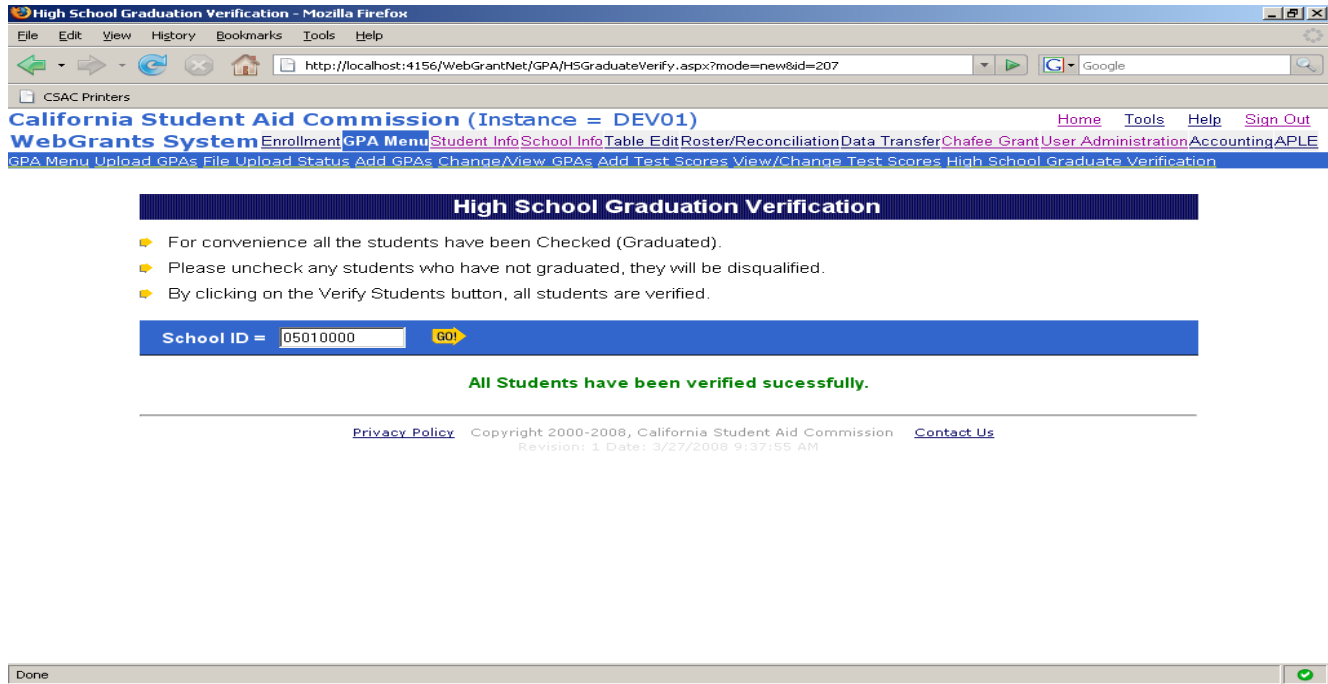
2.4 When no students are found for the school. The following screen will be displayed.



On the Verification screen below, all students with Entitlement awards will be displayed with a check mark next to the students. The high school is to uncheck for those relatively few students who have not graduated at the time the report is completed. Remember that students will get a chance to submit proof of graduation if they later complete the requirements.



After the school clicks the verify Students button. The student' records are updated and the following screen will be displayed:



Questions on completing the high school graduation confirmation pages can be directed to the Commission's School Support Services Branch at schoolsupport@csac.ca.gov or (888) 294-0153.



Ting Bill Requirements Letter



CALIFORNIA STUDENT AID COMMISSION

PROGRAM ADMINISTRATION & SERVICES DIVISION

Dear High School Administrator:

We are writing to inform you of a new law which affects your campus. Assembly Bill 2160, commonly referred to as the "Ting Bill", was signed into law in September of 2014, amending section 69432.9 of the [Education Code](#).

This law mandates that grade point averages (GPAs) be submitted electronically to the California Student Aid Commission (Commission) for all grade 12 pupils at public schools, including charter schools, each academic year, except for individual pupils who have opted out. The law became effective in the 2015-2016 academic year; thus, GPAs for 2015-2016 seniors must be submitted before March 2, 2016. GPAs must be subsequently submitted each year thereafter by the March 2 deadline.

Uploading GPAs to the Commission helps to ensure that students who have filled out either a Free Application for Federal Student Aid ([FAFSA](#)) or California Dream Act Application ([CADA](#)) by the March 2 deadline can be considered for a Cal Grant or Middle Class Scholarship award. These state grants represent free money to assist students in pursuing higher education.

Either schools or districts may upload GPAs to the Commission. Electronic GPA submission is achieved through the use of the Commission's [WebGrants](#) system. Access to this system is gained by submitting the attached Access Request Form. It is recommended that schools and districts who do not currently have access, submit their forms before the current school year ends; this allows the Commission time to process the request and allows new WebGrants users time to learn how to [upload GPAs](#). GPAs can be uploaded as soon as fall, 2015. New system users are strongly encouraged to upload GPAs in the fall.

The Commission's goal is to provide you with as much assistance as possible to ensure that you have the knowledge and support you require to upload and send your school's GPAs electronically. To this end, the Commission currently offers [list-serv](#) access to Special Alerts and Operations Memos, [live webinars](#), [recorded training webinars](#) and [mini-training modules](#), online materials and publications, and individual assistance by phone and e-mail for schools. These materials can be accessed by visiting the Commission's website at www.csac.ca.gov.

We look forward to working together and urge you to take full advantage of the support the Commission offers. For more information, contact Institutional Support at (888) 294-0153 or schoolsupport@csac.ca.gov.

Sincerely,

Catalina Mistler, Chief
Program Administration and Services Division

P.O. BOX 419028, RANCHO CORDOVA, CA 95741-9028 11040 WHITE ROCK ROAD, RANCHO CORDOVA, CA 95670
TEL: (888) 294-0153 FAX: (916) 464-8240 WEBSITE: www.csac.ca.gov

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California Student Aid Commission (CSAC)

Non-SSN GPA Q & A

For the 2013-14 Cal Grant Application Year

Includes related questions on the Dream Act (AB 131)

1. What is the Non-SSN GPA Submission process?

The CSAC non-SSN GPA submission process allows high schools, high school districts or private school central offices to submit Entitlement Cal Grant GPAs for students without including a Social Security number (SSN). Instead of the student's SSN, CSAC uses other demographic information with the Grade Point Average (GPA) to match with the student's Free Application for Federal Student Aid (FAFSA) or Dream Act Application.

New for the 2013-14 year is the capability for community colleges to upload Non-SSN GPAs for their AB 540 eligible students.

2. Why was this system created?

GPAs received for the Entitlement Cal Grant application process must be matched with the student's FAFSA or Dream Act Application to allow selection of potentially eligible Cal Grant program participants. Many high schools and districts do not collect student SSNs. Also, students completing the Dream Application do not have an SSN at all, thus making the submission of GPAs without an SSN both useful and necessary. By using additional demographic data other than the SSN, the CSAC can match GPAs with the FAFSA or Dream Act Application data.

3. When does CSAC plan on implementing the Dream Act for Cal Grants?

The Dream Act (AB 131) for Cal Grant applicants will be implemented January 2013 for the 2013-14 academic year.

4. Who can submit Non-SSN GPAs?

Non-SSN GPA submission is allowed only for certain school types and GPA types:

- 1) High school GPAs from any California high school with WebGrants access. If a high school does not have WebGrants access yet, we encourage the school to complete the necessary forms to establish a WebGrants account.
- 2) Community colleges for community college GPAs. These are used for the Community College Transfer Entitlement Cal Grants. Only AB 540 eligible students' GPAs should be submitted.
- 3) Other California Colleges for submission of high school GPAs and College GPAs. Community college GPAs may be submitted only by community colleges. High school and college GPAs must be submitted as separate files and only for AB 540 eligible students.

5. What Cal Grant programs are available for Dream Act students?

- 1) High School Entitlement Cal Grants – Only a high school GPA can be used.
- 2) Community College Transfer Entitlements – Only a community college GPA can be used.
- 3) Cal Grant C award – High school and college GPAs can be used.

6. Can Non-SSN GPAs be submitted for all students?

High schools may use this method for any student. Colleges may submit GPAs only for AB 540 eligible students. Submission of all college GPAs using the Non-SSN method would overwhelm the system

7. How was the Non-SSN GPA project tested?

The CSAC began working with the Los Angeles Unified School District (LAUSD) staff during the 2010-11 academic year on data requirements for matching against the FAFSA. Due to the success of that pilot, submission using this method was opened for any California high school.

8. How does the Non-SSN GPA work?

Along with the GPA, the submitting school includes additional student demographic information. This data is matched to the student's FAFSA or Dream Application. This data includes the student's full name, address and phone number, student's date of birth and e-mail address, as well as the parent's last name and e-mail address. From these, a score is determined which indicates the likelihood of a match. The higher the score, the more likely that the GPA and FAFSA/Dream Application match.

9. What if the records do not match a FAFSA?

Non-SSN GPA records might fail to match for two primary reasons:

- 1) The demographic data received with the GPA varied too much to match with any FAFSA.
- 2) There was no FAFSA or Dream Application submitted by the student.

In the case of a non-match, the "Non-SSN GPA Unmatched Report" is produced and made available to the school in WebGrants.

10. What is the deadline for submission of Non-SSN GPA data?

The same March 2 filing deadline is in place for all GPA data regardless of delivery method. The earlier that any data is delivered is better so that any problems in submission or processing can be worked out and corrected, if necessary. Since GPAs for current high school seniors do not include senior year grades, we recommend schools attempt to deliver any GPAs to the CSAC before January. Using that time frame for delivery, GPA matches can be made as soon as FAFSA data is processed.

Colleges must also submit by March 2, but should include grades posted for the fall semester or quarter.

11. Does this affect FAFSA or Dream Act Application submission at all?

There is no connection between the federal FAFSA submission process and the California GPA submission process. Likewise, although the Dream Act Application is submitted to the Student Aid Commission, that is handled as a separate process. Once both are filed, however, the CSAC will attempt to match the two records.

12. Does current WebGrants functionality change?

All current WebGrants functionalities are still in place. The data file layout for traditional GPAs **with** SSNs is the same as it has been. The data file layout for the non-SSN match is significantly different with more than three times as many data fields.

13. Can we submit paper GPAs without an SSN?

No. CSAC cannot manually match paper GPAs based on data fields other than a SSN. For the 2013-14 year, all paper GPAs must include the student's SSN.

For the much smaller number of students applying under AB 131, if a student completes the Dream Application, they may complete a Non-SSN GPA Verification form. The Non-SSN GPA Verification form must only be used by AB 540 eligible students. Despite the availability of paper forms, we advise schools to submit electronic GPAs.

14. Is the Non-SSN submission method only for AB 131 Dream Act applicants?

No. The Non-SSN electronic GPA submission method is for all students. Since some Dream Act applicants do not have a SSN, this method will be the most efficient for that student population.

October 11, 2012



OPERATIONS MEMO

Update from the California Student Aid Commission


STATE OF
CALIFORNIA



May 24, 2017

GOM 2017-16

TO: Financial Aid Administrators
High School Counselors
High School District Administrators

FROM: Catalina G. Mistler 
Deputy Director, Program Administration & Services Division

SUBJECT: **2017-18 High School Graduation Verification**

This Operations Memo from the California Student Aid Commission (Commission) provides an update to [GSA 2017-13](#) regarding the 2017 high school graduation confirmation process for new 2017-18 Entitlement Cal Grant offered awardees.

Education Code 69432.92 (b) states:

High Schools and High School Districts are to verify the graduation of their pupils as soon as possible upon their graduation and no later than August 31 of the academic year following the pupil's graduation.

New Entitlement Cal Grant offered awardees:

- Must have their high school graduation confirmed prior to receiving a Cal Grant payment.
- Can self-certify their high school graduation at [WebGrants for Students](#).
- Will be notified regularly to confirm their high school graduation status.
- Will be withdrawn from the Cal Grant program if their high school graduation is not confirmed.

High Schools Confirming High School Graduation in WebGrants (WG)

- May certify 2017 graduates by using the "High School Graduation Verification" screen from the Grade Point Average (GPA) menu in WG. There are 3 different status options: "Graduated," "Not Graduated," or "Pending."
- Students who are marked "pending graduation" will have until December 31, 2017, to meet high school graduation requirements in order to remain eligible for a 2017-18 Cal Grant award.
 - In order to release the hold on a student's Cal Grant award, schools must submit a new graduation status in WG once the graduation requirements are satisfied.

Colleges Confirming High School Graduation in WG

- Upload high school graduation confirmations by using the WG “File Upload” screen accessed from the Data Transfer menu. The file layout specifications are available in the WG Help menu. Individual student records can also be updated using the WG payment roster.
- Choose to confirm students attending your campus by “opting out” of the high school graduation confirmation process on the “College Cost Estimate” screen.
 - Campuses assume the liability for any new Entitlement Cal Grant funds disbursed to students who have not graduated high school, or achieved the equivalent, as required by law.
 - This “opt out” option might be used by institutions that require high school graduation as part of their admission requirements.
 - Individual students are not affected by a campus checking the “opt out” option.
 - Although payment is allowed at the campus that is choosing to opt out, a student who transfers to another school that does not “opt out” is required to have their graduation status verified prior to disbursement at the new campus.

Cal Grant Entitlement Students who do not confirm their high school graduation will:

- Not be eligible to receive Cal Grant payments.
- Be withdrawn from the Cal Grant program.

Commission Staff Confirming High School Graduation

We are able to update high school graduation status with documentation such as copies of a diploma, transcripts, or a completed G-8 form.

Need to contact us?

- Institutional Support phone number: (888) 294-0153
- E-mail: schoolsupport@csac.ca.gov

Working together to effectively promote education beyond high school!



OPERATIONS MEMO

Update from the California Student Aid Commission

STATE OF
CALIFORNIA



October 9, 2015

GOM 2015-35

TO: High School Counselors

FROM: Catalina G. Mistler *Catalina G. Mistler*
Chief, Program Administration & Services Division

SUBJECT: **Assembly Bill 2160 – Cal Grant Opt-Out Form**

This Operations Memo from the California Student Aid Commission (Commission) reminds public high schools and charter schools of the requirement to provide an opportunity for 12 grade pupils to opt out of the now mandatory electronic Grade Point Average (GPA) submission to the Commission.

- Assembly Bill (AB) 2160 was signed into law in September of 2014, amending Section 69432.9 of the Education Code. Under current law, school districts and charter schools must:
 - Notify their 12 grade students (seniors) and their parents or guardians (for students under 18 years of age), that they will be deemed Cal Grant applicants and that their GPA will be submitted to the Commission unless they choose to opt-out.
 - Do so in writing and no later than October 15. The required notice shall indicate when the school will first send grade point averages to the Commission.
 - Provide an opportunity for their students to opt-out of being automatically deemed a Cal Grant applicant.
- The Commission offers a Cal Grant [GPA Opt-Out Form](#) in both English and Spanish that schools may use or adapt in order to comply with the opt-out notification process. This form is available at www.csac.ca.gov, by selecting the "High Schools" tab and the "GPA Submission" link.
- Use the WebGrants System to electronically submit GPAs. To gain access to WebGrants, schools and districts should submit a WebGrants System Access Request Form. This form is available at www.csac.ca.gov, hover over the "High School" tab, and select [District Access – WebGrants](#) link.
- All secondary schools and local educational agencies with WebGrants access are required to sign and return the [FAFSA / DREAM Act Completion Program Agreement](#) to the Commission.

The Commission currently offers [mini-training modules](#), online materials and publications, as well as individual assistance by phone and e-mail.

Need to contact us?

- Institutional Support phone number: (888) 294-0153
- E-mail: schoolsupport@csac.ca.gov

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OPERATIONS MEMO

Update from the California Student Aid Commission

STATE OF
CALIFORNIA



October 10, 2016

GOM 2016-31

TO: High School Counselors
High School Principals
County and District Superintendents

FROM: Catalina G. Mistler 
Deputy Director, Program Administration & Services Division

SUBJECT: **2017-18 Cal Grant Grade Point Average (GPA) Reminder**

This Operations Memo from the California Student Aid Commission (Commission) reminds public high schools and charter high schools of Education Code section [69432.9](#), which requires schools to electronically submit GPA data for their grade 12 pupils for the 2017-18 grant programs.

High schools were encouraged to upload GPAs to the Commission by October 1, 2016 in a joint letter from Commission Executive Director, Lupita Cortez Alcalá; State Superintendent of Public Instruction, Tom Torlakson; and President of California State Board of Education, Michael Kirst. This early submission was encouraged so as to line up with the earlier opening of the FAFSA and California Dream Act Application.

- The GPA submission window was opened on June 10, 2016 and as of October 4, 2016, the Commission has only received 12% of the required GPAs.
- Submitting GPAs as soon as they are prepared benefits students as they will receive earlier notification of their Cal Grant award status. This will give students more time to effectively plan for college and allow counselors enough time to assist students with college decisions and preparations.
- The Commission plans to begin sending Cal Grant award notifications to High School Entitlement students in early November 2016.

GPA Related Reports

- The WebGrants System provides GPA related reports to help you understand the status of the GPA data you have submitted. These reports are available from the *Report Download* screen accessible from the *Data Transfer* link in WebGrants.
- Beginning October 11, 2016, the 2017-18 Non-SSN GPA Unmatched Reports will begin to generate and update daily.
- For more information regarding available GPA reports, please visit the Commission's [Training page](#) on the www.csac.ca.gov website.

Access to the WebGrants System for GPA Upload

School Administrators must have WebGrants access to upload GPAs. The following documents must be submitted to obtain access:

County: [Request for System Administrator Access](#)
[FAFSA/ Dream Act Completion Program Agreement](#)

District: [Request for System Administrator Access](#)
[FAFSA/ Dream Act Completion Program Agreement](#)

High School: [Request for System Administrator Access](#)
[FAFSA/ Dream Act Completion Program Agreement](#)

The Commission would like to thank the high schools who have already submitted their students' GPAs. We appreciate your partnership in making early Cal Grant award notifications possible.

Need to contact us?

- Institutional Support phone number: (888) 294-0153
- E-mail: schoolsupport@csac.ca.gov

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SPECIAL ALERT

Update from the California Student Aid Commission

March 27, 2017

GSA 2017-13

TO: High School District Superintendents
High School Principals
High School Counselors

FROM: Catalina G. Mistler 
Deputy Director, Program Administration & Services Division

SUBJECT: **Important Reminders**

This Special Alert from the California Student Aid Commission (Commission) reminds district and high school administrators of the requirements of California Education Code 69432.9 pertaining to important deadlines.

2018-19 Cal Grant GPA Upload Submission

Education Code 69432.9 (c)(2) states that a GPA is to be submitted electronically to the Commission for all grade 12 pupils at public and charter high schools no later than October 1 of each academic year.

- GPAs for the class of 2018 can be electronically submitted starting May 2017.

Student Opt-Out Option

Education Code 69432.9 (d)(1) states that the school district or charter school is to notify, in writing, each grade 11 pupil (for a pupil under 18 years of age, his or her parent or guardian) no later than January 1 of their grade 11 academic year, the option to not be included in the GPA submission. The students and parents must be given at least 30 days to reply to the opt-out option.

- The opt-out notification should be sent to the class of 2018 before the end of their junior year.

High School Graduation Verification

Education Code 69432.92 (b) states that high schools and high school districts are to verify the graduation of their pupils as soon as possible upon their graduation and no later than August 31.

- The class of 2017 must have the graduation date verified in WebGrants by August 31, 2017. The capability to verify the high school graduation date will begin the first week of the students' reported month of graduation.

Need to contact us?

- Institutional Support phone number: (888) 294-0153
- E-mail: schoolsupport@csac.ca.gov

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2017 High School Graduation Certification Form For the Entitlement Cal Grant Program

Attention: Confirmation of your high school graduation is required in order for Cal Grant payments to be released. You can certify this information online quickly and easily at www.webgrants4students.org. **Important:** Submit this form only if you cannot access it on Webgrants for Students.

Earlier this year the California Student Aid Commission (Commission) offered you an Entitlement Cal Grant to help pay for your college expenses. Prior to receiving your Entitlement Cal Grant, you must submit confirmation of your high school graduation to the Commission. Use this form to verify that you have graduated from high school and meet this requirement for your Cal Grant. Read the information on the reverse side to help you complete this form correctly.

First Name	MI	Last Name	Social Security Number or CSAC ID or DREAM ID (Please circle one)
Address		City	State
Email Address:		Date of birth MM/DD/YYYY: / /	
College of Attendance:			

Step 1 Please check the box of the statement that best fits your educational status.

*****Failure to answer all questions will delay processing*****

A I have completed all of my high school requirements, and graduated.

If you checked A, above, please fill in the items below.

Month and year of graduation: _____

Name of high school or agency: _____

City, state, country of high school: _____

Or

B I have passed the General Education Development (GED) Test. Issue Date: _____

Or

C I have passed the High School Equivalency Test (HiSET) or Test Assessing Secondary Completion (TASC). Issue Date: _____

Or

D I do not meet any of the three statements above.

Step 2

Student Certification: By signing the certification below, I am affirming that I have completed all of my high school graduation requirements, or I have passed a high school equivalency test such as the General Education Development (GED), HiSET or TASC. I understand that it is illegal to report false or misleading information. I have read the information printed above and certify under penalty of perjury under the laws of the State of California that the information above is true and correct.

Signature

Daytime telephone number Date

See reverse side for more information

G-8 (7/16)

Submit this form only if you cannot access Webgrants for Students online at
www.webgrants4students.org

High School Graduation Certification Form For the Entitlement Cal Grant Program

Where do I submit my high school graduation certification?

Please submit this form to the address at the bottom of this page or submit it online at www.webgrants4students.org.

What does completing all graduation requirements mean?

Completing all high school graduation requirements means you have passed all required coursework and passed any required examinations. When leaving high school, graduates would have been given a diploma, not just a "Certificate of Completion." If you are unsure, please contact your high school.

What if I don't have a diploma but I do have a graduation equivalent?

Instead of graduating, you may have taken and passed the General Education Development (GED) Test or another High School Equivalency exam such as the HiSET or TASC. A passing score on any one of these tests is considered "the equivalent of high school graduation" and satisfies the high school graduation requirement necessary for a student to participate in the Entitlement Cal Grant program.

What if I have not graduated from high school or do not have a graduation equivalent? What can I do?

You are not eligible to receive Entitlement Cal Grant benefits if you have not graduated from high school or achieved the equivalent. However, state law gives potential Entitlement Cal Grant participants until December 31 of the award year to complete the high school graduation requirements. If you have not yet graduated, but expect to graduate prior to December 31 of the award year, keep this certification form and submit it after you have completed all your graduation requirements. If you have not graduated from high school, or achieved the equivalent, by December 31 of the award year, this Cal Grant offer is void. You would have to reapply next year by the March 2 application deadline.

This certification can be completed online at www.webgrants4students.org.

If you have questions or need additional information about your Entitlement Cal Grant award, please contact the Commission by phone at (888) 224-7268 or by email at studentsupport@csac.ca.gov

Mail this completed form to:

California Student Aid Commission
PASD
PO Box 419028
Rancho Cordova, CA 95741-9028

ITEM 3
REVISED FINAL STAFF ANALYSIS
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES
AS MODIFIED BY STAFF

Education Code Section 51225.3
Statutes 1983, Chapter 498

Graduation Requirements
CSM 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05

San Diego Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, Sweetwater Union High School District, Mountain View-Los Altos High School District, State Controller's Office, Requestors

Executive Summary

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program in Education Code section 51225.3. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

Background

Education Code section 51225.3 requires students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses. The Commission approved the test claim and adopted parameters and guidelines, with an original period of reimbursement beginning July 1, 1984.

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The first lawsuit, (*San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.), dealt with the reimbursement of teacher salaries and concluded that:

- The Commission's finding in the test claim that school districts are eligible to receive reimbursement for the increased costs to staff the second science course mandated by Education Code section 51225.3, is final and binding on the parties.
- The plain language of the test claim statute mandates school districts to *add* a second science course without requiring school districts to replace or eliminate existing course offerings. Education Code section 51225.3 preserves the school districts' right to specify and offer other courses not required for high school graduation on an equal par with the

courses mandated by the state. In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.

- The authority in Education Code section 44955 to lay off teachers when the state mandates new curriculum rests entirely in the *discretion* of a school district. The court determined that the plain language of Education Code section 44955 does not suggest legislative intent to require a school district to use section 44955 as an offset to avoid the actual increased costs for teacher salaries.
- The Controller may not deny or reduce a claim for teacher salary costs on the ground that the district has not exercised its authority under Education Code section 44955 and/or shown a reduction in non-science classes and teachers corresponding to the addition of the new mandated science class.
- The Controller may not require a showing by the school districts that the claimed teacher salary costs could not have been offset pursuant to Education Code section 44955.
- The State Controller may require a school district to submit cost data and documentation to demonstrate whether it experienced any savings to offset the teachers' salary costs as a "direct result" of providing a second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.

Reimbursement for teacher salaries is also required if no changes in a district's instructional service is shown. The Legislature, in Government Code section 17565, has determined that "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, the district would still be entitled to reimbursement under article XIII B, section 6.

The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed for several cost components, including the reimbursement of teacher salaries.

Requests to Amend the Parameters and Guidelines

The issues raised by these proposals are as follows:

1. What is the period of reimbursement for the proposed amendments to the parameters and guidelines?

Staff finds, pursuant to Government Code section 17557, that the period of reimbursement for the request to amend the parameters and guidelines to add a reasonable reimbursement methodology for teacher salary costs by San Diego Unified School District, first filed on August 13, 1996, begins in fiscal year 1995-1996.

Staff further finds that the period of reimbursement for the requests to amend the parameters and guidelines made by Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District (hereafter “Castro Valley”) in the February 28, 2007 filing begins in the 1995-1996 fiscal year. This recommendation is made on the ground that (1) Castro Valley is a co-requestor to the original 1996 request to amend the parameters and guidelines; (2) Government Code section 17557 and section 1183.2 of the Commission regulations are silent with respect to the treatment of new proposals made in response to original requests to amend parameters and guidelines; (3) the Commission has, on occasion, treated subsequent proposals as comments in the past; and (4) Castro Valley’s filing is labeled “comments,” and not “proposed amendments” like the filing of other requestors.

2. Should the Commission amend the Eligible Claimants section of the parameters and guidelines to specifically identify county offices of education? In initial comments, the Department of Finance objected to this request.

Staff finds that Education Code section 51223.5 applies to all pupils that graduate from high school whether or not the science course is provided by a school district or a county office of education. Staff recommends that the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants.

3. Should the Commission amend the parameters and guidelines to clarify that the activities of “acquisition of additional space” and “remodeling existing space” include “planning, design, land, demolition, building construction, fixtures, and facility rental”? There is no dispute regarding this amendment.

Staff recommends that the Commission amend the parameters and guidelines as requested.

4. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased facility costs for acquiring or remodeling space? The proposal authorizes reimbursement for 50% of the actual total cost of acquisition and remodeling for grades 9-12 science instruction facilities expended during the claim year, reduced by 50% of the total amount of restricted construction funding received. The Department of Finance and the State Controller’s Office object to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

5. Should the Commission amend the parameters and guidelines to clarify that “acquisition” of equipment includes the activities of “planning, purchasing, and placement” of additional equipment and “furniture”? There is no dispute to this request.

Staff recommends that the Commission amend the parameters and guidelines as requested.

6. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased costs for acquiring

equipment and furniture? The proposed formula is similar to the formula proposed for acquiring or remodeling space; 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller's Office object to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

7. Should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased teacher salary costs incurred as a result of the test claim statute? The proposed formula is the "one quarter class load method." This proposal is made by the school districts and the State Controller's Office. The Department of Finance objects to this proposal, and estimates the cost to the state at \$3 billion for fiscal years 1995-1996 through 2007-2008 and \$250 million thereafter if the Commission adopts the proposed methodology.

Staff recommends that the Commission amend the parameters and guidelines to adopt the proposed one quarter class load method, as modified by staff for the *gross* teacher salary costs incurred. Staff finds the proposal satisfies the definition of a reasonable reimbursement methodology in Government Code section 17518.5. Based on the court's decision in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al., any offsetting savings taken by a school district is at the discretion of the district and may only be used to reduce a claim when the offset is taken as a "direct result" of the *Graduation Requirements* mandate. Thus, offsetting savings must be looked at on a case-by-case basis. Offsetting savings and revenue for teacher salary costs are not included in the proposed formula.

Staff further finds, in response to allegations of the Department of Finance, that:

- The adoption of a reasonable reimbursement methodology is not an unlawful retroactive application of the law.
- The proposed reasonable reimbursement methodology provides reimbursement to school districts in a cost-efficient manner.
- The proposed parameters and guidelines amendment allows the State Controller's Office to determine if a school district experiences offsetting savings in accordance with the court's ruling in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.
- The proposed reasonable reimbursement methodology takes into account dropout rates using CBEDs data to calculate total secondary enrollment.
- Based on the history and purpose of article XIII B, section 6, the revenue limit apportionments made to school districts are the districts' "proceeds of taxes" and cannot be considered offsetting revenue under article XIII B, section 6 of the California Constitution, as argued by the Department of Finance. Article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local

spending in other areas.¹ Thus, staff disagrees with the Department of Finance’s argument that the proposed reasonable reimbursement methodology for teacher salary costs should be denied because the methodology does not consider revenue limit apportionment funding to school districts.

8. Should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of “other science instruction personnel,” such as lab assistants? The Department of Finance and the State Controller’s Office object to this proposal.

Staff recommends that the Commission deny this request because there is no evidence in the record or the law to support the claim that using science instruction personnel other than teachers is reasonable necessary to comply with the mandate to provide the second science course, pursuant to section 1183.1, subdivision (a)(4), of the Commission’s regulations.

9. Should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies? There is no dispute with this request.

Staff recommends that the Commission approve this request.

In addition, should the Commission amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for science instruction materials and supplies? There are two separate proposals made. One proposal provides reimbursement for 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller’s Office object to this proposal. The second proposal is made by the State Controller’s Office and is similar, but not the same as, the one-quarter class load method. The Department of Finance objects to this proposal.

Staff recommends that the Commission deny this request because the proposed methodology does not satisfy the definition of a reasonable reimbursement methodology in Government Code section 17518.5, subdivision (c).

10. Should the Commission amend the offset section of the parameters and guidelines to incorporate language from the court’s decision in *San Diego Unified School Dist. v. Commission on State Mandates* (Sacramento County Superior Court, Case No. 03CS01401), and to specifically identify potential offsetting revenue?

Staff recommends that the Commission approve this request.

Proposed Amendments to the Parameters and Guidelines

The proposed amendments have different periods of reimbursement based on the filing dates of the requests, with the first period of reimbursement beginning in fiscal year 1995-1996. Because of the different periods of reimbursement, and the fact that the parameters and guidelines for the *Graduation Requirements* program have been amended twice in the past with different periods of reimbursement (in 1991 and 2005), three separate proposed documents reflecting these amendments would be required as follows.

¹ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284.

Proposed Amendments Beginning in Fiscal Year 1995-1996 (See Pink Attachment)

- A. Amend the Eligible Claimants section to specifically identify county offices of education as eligible claimants.
- B. Add the reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs. Staff proposes the following language:
The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:
1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
 2. The number of additional classes is the enrollment in (1) divided by the average science class size.
 3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
 4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.
- C. Add a section to the parameters and guidelines regarding record retention. School districts must retain documentation supporting the data elements for the one quarter class load method; e.g., enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources.
- D. Amend the parameters and guidelines to clarify the activity of supplying the new science classes as follows: “Increased cost to school district for ~~staffing and~~ supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).”
- E. Amend the activity of “acquisition of additional space” and “remodeling existing space” as follows:
Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for ~~conducting new science classes~~ the mandated additional year of science instruction, providing that space is lacking in existing facilities. ...
Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.
- F. Identify the “acquisition of additional equipment” in a separate paragraph from the acquisition of additional space for purposes of clarity. Amend the language to

specify that “acquisition” includes “planning, purchasing, and placement” of additional equipment and “furniture” as follows:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes~~ ... the mandated additional year of science instruction.

G. Amend the Offset section of the parameters and guidelines to add the following offsetting revenue:

- Funding for science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual
- Funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5
- Funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498)
- If a school district has previously filed a reimbursement claim for costs incurred beginning July 1, 1995 for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

Proposed Amendments Beginning in Fiscal Year 2004-2005 (See Blue and Green Attachments)

A. For costs incurred beginning July 1, 2004, amend the Offset section of the parameters and guidelines to add offsetting savings language from the court’s decision in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05, 06-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*

3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.

STAFF ANALYSIS

Chronology

- 01/22/87 Commission adopts Statement of Decision
- 03/23/88 Commission adopts parameters and guidelines on consent
- 08/24/88 Commission adopts non-substantive amendment to parameters and guidelines
- 07/27/89 Commission adopts statewide cost estimate
- 01/24/91 Commission amends parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements, as directed by Statutes 1990, chapter 459
- 01/--/91 Initial claiming instructions issued by State Controller's Office
- 08/20/93 The State Controller's Office issues letters to school districts denying reimbursement claims for teacher salary costs. Forty-one (41) incorrect reduction claims filed regarding the reimbursement of teacher salaries and remodeling and leasing additional space
- 1996-1997 Commission hearings and workshops between State Controller's Office and school districts to discuss reimbursement methodologies for teacher salary costs
- 08/13/96 San Diego Unified School District files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course
- 09/23/96 The Commission continues the request to amend the parameters and guidelines filed by San Diego Unified School District until after incorrect reduction claims are resolved
- 2000-2002 Commission issues Statements of Decision denying incorrect reduction claims
- 09/19/03-1/09/04 Six lawsuits challenging the incorrect reduction claims for teacher salary costs, and the costs for remodeling and leasing additional space, filed by San Diego Unified School District, Castro Valley Unified School District, Sweetwater Union High School District, San Jose Unified School District, Clovis Unified School District, and Grossmont Union High School District filed in the Sacramento County Superior Court. Court consolidates cases for purposes of hearing (*San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case No. 03CS01401)
- 12/27/04 Sacramento County Superior Court issues Ruling on Submitted Matter in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case No.03CS01401. Court affirms Commission's decision on classroom construction and remodeling costs, and overrules Commission's decision on teacher salary costs
- 2/09/05 Court enters Judgment and issues Peremptory Writ of Mandate in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No.03CS01401

- 05/26/05 Commission sets aside Statements of Decision on the incorrect reduction claims relating to teacher salary costs and directs the State Controller's Office to reevaluate claims for teacher salary costs pursuant to court's order in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No.03CS01401
- 10/13/05 Mountain View- Los Altos High School District files request to amend parameters and guidelines to amend the "Offsetting Savings and Reimbursement" section by adding language directly from the court ruling and judgment for teacher salary costs in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401
- 08/24/05-09/27/05 Sixteen (16) school districts file lawsuits challenging the incorrect reduction claims on teacher salary costs filed in Sacramento County Superior Court. Court consolidates cases for purposes of hearing (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)
- 12/09/05 Commission amends parameters and guidelines to require school districts to reduce a valid reimbursement claim for a new science facility by the amount of state bond funds received, as directed by Statutes 2004, chapter 895, section 17 (AB 2855)
- 05/24/06 Sacramento County Superior Court enters a judgment pursuant to the parties' stipulation in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.* The stipulation acknowledges that the judgment and writ entered in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* is binding for other reimbursement claims pursuant to principles of collateral estoppel
- 07/28/06 Commission sets aside Statements of Decision on the incorrect reduction claims filed by the 16 school districts in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, pursuant to court order and stipulation
- 07/28/06 & 10/26/06 Commission fully complies with Peremptory Writ of Mandate in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* by determining that the State Controller properly reevaluated the reimbursement claims of the six petitioner school districts, adopting decisions sustaining the Controller's reevaluation of the claims, and remanding the reevaluated claims to the Controller for payment
- 10/13/06 San Diego Unified School District requests that the following school districts be added as requesting parties to amend the parameters and guidelines: Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

- 02/28/07 San Diego Unified School District files letter requesting that the proposed amendments to the parameters and guidelines be amended to reflect the “One Quarter Class Load Method”
- 03/02/07 Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District file separate request to amend parameters and guidelines to clarify reimbursement components and add methodologies for claiming reimbursement for “other science personnel,” acquisition and remodeling of additional space, and science instruction materials
- 03/20/07 State Controller’s Office files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course, and requiring supporting documentation for the amount received by a school district to construct a new facility from restricted resources or state bond funds
- 03/29/07 Pre-hearing conference held on proposed amendments to the parameters and guidelines
- 04/16/07 San Diego Unified School District requests that its proposal of February 28, 2007, be withdrawn and replaced with proposed language modifying the request to amend the parameters and guidelines, without prejudice to the effective date of the 1996 request
- 06/08/07 Administrative record for the incorrect reduction claims and *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401, provided to the Department of Finance
- 06/08/07 Notice of comment period, informational hearing, and background information issued
- 06/29/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines
- 07/11/07 State Controller’s Office files comments
- 07/13/07 Commission grants Department of Finance’s request for extension of time
- 07/26/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines
- 08/03/07 Commission grants Department of Finance’s request for extension of time
- 09/05/07 Department of Finance files comments
- 10/10/07 Request for postponement of hearing to January 31, 2008, filed by Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

10/09/07 Commission approves request for postponement of hearing and issues notice of hearing on all the requests to amend the parameters and guidelines for January 31, 2008

01/09/08 Commission issues draft staff analysis and notice of hearing

01/25/08 Commission issues staff's Draft Proposed Parameters and Guidelines

01/30/08 Castro Valley Unified School District, et al., file comments on draft staff analysis

01/39/08 State Controller's Office files comments on draft staff analysis

01/31/08 Pre-hearing Conference

02/15/08 Department of Finance files comments on draft staff analysis

03/14/08 Final Staff Analysis issued

03/26/08 San Diego Unified School District requests postponement of hearing

03/26/08 Commission approves request for postponement of hearing on one issue only regarding the application of Education Code section 41372 and 41374 and the revenue limit apportionments made to school districts as potential offsetting revenue for teacher salary costs. The request for postponement was denied for all other issues.

03/28/08 Commission hearing; entire item continued for further briefing

04/03/08 Notice of informal conference issued

04/14/08 Notice of additional comment period and hearing date issued

04/18/08 Informal conference held

05/29/08 State Controller's Office files comments on final staff analysis issued on March 14, 2008

05/30/08 "Graduation Requirements Mandate Resolution Committee Litigation Group" files comments on final staff analysis

05/30/08 Castro Valley Unified School District, et al., files comments on final staff analysis

05/30/08 San Diego Unified School District files comments on final staff analysis

05/30/08 Department of Finance files comments on final staff analysis

06/25/08 "Graduation Requirements Mandate Resolution Committee Litigation Group" files rebuttal comments

06/27/08 Castro Valley Unified School Dist., et al., files rebuttal comments

07/01/08 Department of Finance files rebuttal comments

08/12/08 Notice of new hearing schedule issued

09/24/08 Revised Final Staff Analysis issued for comment

10/07/08 State Controller's Office files comments on Revised Final Staff Analysis

10/17/08 Department of Finance files comments on Revised Final Staff Analysis

Background

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines.

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed. The history of this claim and a summary of the proposals follow.

Statement of Decision and Parameters and Guidelines

On January 22, 1987, the Commission adopted a Statement of Decision approving the *Graduation Requirements* test claim on Education Code section 51225.3, as added by Statutes 1983, chapter 498. The Commission determined that Education Code section 51225.3 constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses. Thus, Education Code section 51225.3, subdivision (a), states the following:

- A. Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.
[¶] ...
 - (C) Two courses in science, including biological and physical sciences.

On March 23, 1988, the Commission adopted the parameters and guidelines on the consent calendar. The following reimbursable activities are in the parameters and guidelines:

1. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
2. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.

3. Increased cost to school district for staffing and supplying the new science classes mandated.

The offset paragraph of the parameters and guidelines states the following:

Any savings the Claimant experiences as a direct result of this statute must be deducted from the cost claimed, e.g., *reductions in non-science classes resulting from increase in required science classes*. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim. (Emphasis added.)

The parameters and guidelines were amended on August 24, 1988, and January 24, 1991. The August 24, 1988 amendment was a technical, non-substantive amendment. The January 24, 1991 amendment was based on a statute requiring the Commission to amend the parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements. Documentation requirements and the following language related to the first reimbursable activity was added: “However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.”

The parameters and guidelines were subsequently amended on December 9, 2005, pursuant to Statutes 2004, chapter 895, section 17 (AB 2855), for costs incurred beginning January 1, 2005 (the effective date of the bill). AB 2855 provided that if a school district or county office of education submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility. This language was included in Section VII, the Offsetting Savings and Reimbursements, of the parameters and guidelines. Other non-substantive and technical changes were also made.

Statewide Cost Estimate

From August 1988 until July 1989, the Commission conducted hearings on the adoption of a statewide cost estimate for the *Graduation Requirements* program.² During the hearings, the Department of Finance reported to the Commission that the cost estimates by Commission staff (\$159,413,000) might be inaccurate based on the failure of the school districts to offset the additional science classes with corresponding staff reductions in non-science classes, and the failure of school districts to account for overall increased enrollment.³ In response to a revised estimate, the Department of Finance proposed a statewide cost estimate in the amount of \$16.8 million based on the assumption that the cost of hiring science teachers would be offset by the reduction of non-science, elective courses and the termination of those teachers, pursuant to Education Code section 44955.⁴ On July 27, 1989, the Commission

² SDUSD-Administrative Record, pages 269-283.

³ SDUSD-AR, p. 125.

⁴ SDUSD-AR, pp. 159-162.

adopted, on consent by the parties, a statewide cost estimate in the amount of \$16.8 million for fiscal years 1984-85 through 1989-90 for all school districts.⁵

Incorrect Reduction Claims - Teacher Salary Costs

On August 20, 1993, the State Controller's Office sent school districts a letter denying reimbursement for all teacher salary costs, which stated in relevant part the following: "The addition of science classes should have resulted in offsetting savings due to a corresponding reduction of non-science classes. Your claims do not indicate a corresponding reduction." The Controller took the position that since the Legislature did not increase the minimum school day and year or the credits required for high school graduation, the districts could shift students from non-mandated classes to science classes, eliminate the non-mandated classes, use the authority under Education Code section 44955⁶ to terminate teachers of the non-mandated classes, and thereby offset the costs of the teachers' salaries for the second science course. Thus, by reorganizing the class offerings and reallocating revenues for teacher salaries, the Controller expected that districts could avoid incurring a net increase in the cost of teacher salaries, except for any differential between the salaries of the teachers hired for the second science course and the salaries of the terminated teachers of non-mandated courses.

Forty-one (41) school districts that did not identify any offsetting savings related to the cost of teacher salaries, filed incorrect reduction claims with the Commission based on the reduction of their costs incurred during fiscal years 1984-85 through 1995-96. After several hearings and workshops between the parties, the incorrect reduction claim of San Diego Unified School District was decided first, on September 28, 2000. The Commission upheld the action of the State Controller's Office. The Commission determined that the State Controller's Office did not incorrectly reduce the claim for teacher salaries since the reductions were performed in accordance with the parameters and guidelines, the claiming instructions, and Education Code section 44955. The Commission further determined that the school district did not include any offsetting savings with respect to teacher salaries or claim salary differentials pursuant to Education Code section 44955, or provide any documentation to support its claim for teacher salaries. The other school districts that filed incorrect reduction claims incorporated by reference the arguments and record of San Diego into their claims for teacher salaries. Adopting the same conclusions and findings as the San Diego incorrect reduction claim, the Commission denied the incorrect reduction claims of the other school districts.

Incorrect Reduction Claims - Science Classroom Construction and Remodeling Costs

In November 1996, Grossmont Union High School District filed its initial reimbursement claim with the State Controller's Office for science classroom construction and remodeling in four of its schools for fiscal years 1994-95 through 1995-96 in the amount of \$337,113. In 1994 and 1996, Clovis filed reimbursement claims with the State Controller's Office for leasing portable science classrooms in the amount of \$72,034 for fiscal years 1994-95 through 1995-96.

⁵ SDUSD-AR, pp. 207 [adopted statewide cost estimate], 281 [minutes of the Commission's July 27, 1989 hearing].

⁶ Education Code section 44955 provides authority to school districts to terminate the services of permanent employees when state law requires the modification of curriculum.

The State Controller's Office reduced these reimbursement claims because each school district did not provide documentation to show that the board certified that an analysis of all appropriate science facilities within the district was conducted and a determination made that the existing facilities could not reasonably accommodate the increased enrollment for the additional science class required by Education Code section 51225.3, as required by the parameters and guidelines and claiming instructions.

The school districts then filed incorrect reduction claims with the Commission. On January 24, 2002, the Commission adopted Statements of Decision denying the incorrect reduction claims for the classroom costs of Grossmont and Clovis, and upheld the action of the State Controller's Office to reduce the claims. The Commission found that there was no evidence in the record, as specifically required by the parameters and guidelines, that the governing board conducted an analysis of the science facilities within the district and made specific findings that no facilities existed to reasonably accommodate the increased enrollment in the science course required by Education Code section 51225.3.

First Lawsuit Filed by School Districts Challenging the Reductions (*San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.)

San Diego Unified School District, San Jose Unified School District, Sweetwater Union High School District, Castro Valley Unified School District, Grossmont Union High School District, and Clovis Unified School District filed lawsuits in the Sacramento County Superior Court challenging the Commission's decisions on the incorrect reduction claims.

The Sacramento County Superior Court upheld the Commission's decisions on the classroom construction and remodeling claims of Grossmont Union High School District and Clovis Unified School District. The court held that these districts did not satisfy the certification requirement of the parameters and guidelines when they submitted their reimbursement claims and, thus, the Controller properly reduced the reimbursement claims.

The court, however, disagreed with the Commission's decisions upholding the Controller's reduction of claims for teacher salary costs on the ground that the school districts did not identify any offsetting savings due to a corresponding reduction of non-science teachers pursuant to Education Code section 44955. Thus, the court granted the petitions for peremptory writ of mandate on that issue and remanded the case to the Commission for rehearing with directions.

The court's holding on the teacher salary issue is stated on page 17 of the decision as follows:

The court concludes that the Controller's offsetting savings requirement and the Commission's IRC decision sustaining the requirement are invalid to the extent that the requirement precludes reimbursement under [article XIII B,] section 6 for the teachers' salaries incurred by SDUSD and other school districts in providing the second science course mandated by Education Code section 51225.3 without offsetting the science teachers' salaries by terminating, pursuant to Education Code section 44955, teachers of courses not mandated by the state.

In reaching its conclusion, the court made the following findings:

1. The court determined that the finding in the Statement of Decision, that school districts are eligible to receive reimbursement for the increased costs to staff the second science course mandated by Education Code section 51225.3, is final and binding on the parties.⁷
2. The court concluded that the plain language of the test claim statute mandates school districts to *add* a second science course without requiring school districts to replace or eliminate existing course offerings. The court found that Education Code section 51225.3 preserves the school districts' right to specify and offer other courses not required for high school graduation on an equal par with the courses mandated by the state. In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.⁸
3. The court agreed that the authority to lay off teachers given to a district by Education Code section 44955 applies when the state modifies curriculum. But the court concluded that the authority given by section 44955 rests entirely in the *discretion* of a school district. The court determined that the plain language of Education Code section 44955 does not suggest legislative intent to require the district to use section 44955 as an offset to avoid the actual increased costs for teacher salaries.⁹
4. When determining the teacher salary issue, the court reviewed the legislative history of Education Code section 44955 and found only an enrolled bill report by the Department of Finance that supported the position that school district claims should have identified offsetting savings. The court held that the opinion of the Department of Finance in the enrolled bill report is not indicative of legislative intent and, thus, the court did not rely on the Department's interpretation.¹⁰

In addition, the court acknowledged the opinion of the Department of Education regarding Education Code section 44955, which was consistent with the position that school district claims should have identified offsetting savings. However, the court held that the Department's interpretation of Education Code section 44955 was not binding on the court, and was contrary to the terms and structure of Education Code sections 44955 and 51225.3.¹¹

5. The court also relied on the Supreme Court case of *San Diego Unified School District v. Commission on State Mandates* (2004) 44 Cal.4th 859, 887-888 [*Expulsions*], where the Supreme Court stated in dicta that the underlying intent of section 6 would be

⁷ Exhibit R, page 13, fn. 3.

⁸ Exhibit R, page 15.

⁹ Exhibit R, pages 15-16.

¹⁰ Exhibit R, page 16, fn. 4.

¹¹ Exhibit R, page 17, fn. 5.

contravened if reimbursement were denied for a local agency's costs of providing state-mandated protective clothing and safety equipment for its employees on the ground that the local agency had initial discretion to reduce its employees and thereby avoid incurring increased costs for the mandated clothing and equipment.¹²

The court remanded the case for further review by the State Controller's Office of the school districts' reimbursement claims for teacher salaries. The court held that its conclusion

...does not prevent the Controller, when auditing school district' reimbursement claims ...from requiring claimants to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. Such a documentation requirement has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9). Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do not increase the number of classes that they take overall. Thus, the Controller can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.

However, the court's conclusion regarding the invalidity of the Controller's offset savings requirement does prevent the Controller from denying school districts' claims for reimbursement of science teacher salaries on the ground that the claimants have not shown a reduction in non-science classes and teachers corresponding to the addition of science classes and teachers to comply with the mandate in subdivision (a)(1)(C) of Education Code section 51225.2. As explained in this ruling, this ground for denying reimbursement of science teachers' salaries is premised on an erroneous interpretation of Education Code sections 44955 and 51225.3 that would require school districts to divert their limited revenues from courses specified by the districts' boards pursuant to subdivision (a)(2), in violation of section 6.¹³

The Peremptory Writ of Mandate directed the Commission to set aside the Statements of Decision on the issue of teacher salary costs, directed the State Controller's Office to reevaluate the claims in accordance with the court's ruling, and then required the Commission to review the Controller's reevaluations and determine if the reevaluations were proper. When reevaluating the claims, the court provided the following instructions:

- The Controller may not deny or reduce a claim for teacher salary costs on the ground that the district has not exercised its authority under Education Code section 44955 and/or shown a reduction in non-science classes and teachers corresponding to the addition of the new mandated science class.

¹² Exhibit R, page 17.

¹³ Exhibit R, page 18.

- The Controller may not require a showing by the school districts that the claimed teacher salary costs could not have been offset pursuant to Education Code section 44955.

On July 28, 2006, and October 26, 2006, the Commission fully complied with the Peremptory Writ of Mandate by (1) determining that the State Controller properly reevaluated the reimbursement claims of each petitioner school district; (2) adopting decisions sustaining the Controller's reevaluation of the claims filed by each petitioner school district; and (3) remanding the reevaluated claims to the Controller for payment. The lawsuit in *San Diego Unified School District* resulted in reimbursement to the six school districts for teacher salary costs in the amount of \$32,627,355.

Second Lawsuit Filed by Sixteen School Districts Challenging the Reduction for Teacher Salaries (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)

After the ruling in the *San Diego Unified School District* case, sixteen other school districts challenged the Commission's decisions on the *Graduation Requirements* incorrect reduction claims with respect to reimbursement for teacher salaries. These lawsuits involved reimbursement claims for teacher salary costs for fiscal years 1984-85 through 1991-92 in the amount of \$26,378,028.

To avoid further litigation, the parties stipulated that the court's judgment and peremptory writ of mandate for the *San Diego Unified School District* case was binding in these actions under collateral estoppel principles since the second lawsuit involved the same issues previously litigated; reimbursement for teacher salary costs to implement the *Graduation Requirements* mandate. On May 24, 2006, a judgment pursuant to the stipulation was entered by the court. The stipulation required the Commission to set aside its decisions on the incorrect reduction claims, and required the State Controller's Office to reevaluate the school districts' reimbursement claims in accordance with the Court's judgment and writ in *San Diego Unified School District*. The Commission was not required to hear and determine whether the Controller's reevaluations were correct, unless the school districts and the Controller did not agree on the reevaluation. The Commission set aside the Statements of Decision on the incorrect reduction claims on July 28, 2006. No further action was filed with the Commission on these incorrect reduction claims.

One Incorrect Reduction Claim is Still Pending

Six other incorrect reduction claims were filed with the Commission. Five of these claims were dismissed by the Commission in January 2008 because the school districts were paid in full. One incorrect reduction claim remains pending, which raises issues relating to teacher salary costs, material and supply costs, and science room construction costs.

Requests to Amend the Parameters and Guidelines

San Diego Unified School District – Filed August 13, 1996 (CSM 4181 A)
Proposed language modified April 12, 2007

This proposal requests that the parameters and guidelines be amended to include a standardized method (the "One Quarter Class Load Method") for calculating the increased costs to school districts for staffing and supplying the science course. San Diego, in its letter dated

April 12, 2007, describes the “One Quarter Class Load Method” for reimbursement of teacher salaries as follows:

This method is based on [the] number of teachers needed to teach the additional year of science assuming a student would take the class in one of the four years of high school. Total secondary enrollment is multiplied by one quarter, and then the remainder is divided by the number of classes taught by a full-time equivalent teacher [5 classes]. The increase in teachers is then multiplied by an average salary and benefit amount to determine total costs. The total costs are then discounted by the portion of total teachers that are funded by restricted funds (categorical programs) to arrive at the net costs.

San Diego proposes the following formula for the reimbursement of teacher salary costs:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

San Diego states that a similar formula can be used for supply costs.

This request was continued by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006.

In comments dated May 30, 2008, San Diego Unified School District contends that the revenue limit apportionments made to school districts and the limitations on those funds in Education Code sections 41372 and 41373 must not be considered offsetting revenue for teacher salary costs. San Diego argues that revenue limit apportionments are intended to provide unrestricted general purpose funding to school districts for basic operations and are not intended to reimburse the expenses of any one specific program or activity.

Mountain View–Los Altos High School District – Filed October 13, 2005 (05-PGA-05)

This proposal seeks to amend the “Offsetting Savings and Reimbursement” section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

The State Controller, when auditing school district’s reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers’ salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District - Filed February 28, 2007 (06-PGA-05)

These districts join in the San Diego Unified School District request to add the “one quarter class load method” for reimbursement of teacher salary costs. The districts, however, propose two changes to San Diego’s formula for claiming teacher salary costs: (1) change the default average science class size to 35 students (instead of 30 students proposed by San Diego), and (2) add the following underlined language to the last step in the formula:

- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with total amount of any~~ restricted or specific purpose funding or reimbursement received or used for this purpose grade 9-12 science instructors during the claim year from sources which do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

On February 28, 2007, these districts proposed new amendments to the parameters and guidelines. As co-claimants to San Diego’s original request to amend the parameters and guidelines, these districts contend that the following proposed amendments are reimbursable beginning July 1, 1995:

1. Amend Section III, Eligible Claimants, to include county offices of education. The districts propose the addition of the following underlined language: “All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.”

2. Amend Section IV, Reimbursable Activities, as follows:

a. Increased Facility Costs –

- Clarify that the activities of “acquisition of additional space” and “remodeling existing facilities” includes “planning, design, land, demolition, building construction, fixtures, and facility rental.”
- Add the following methodology for claiming increased facility costs for acquiring or remodeling space: “In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.”¹⁴

b. Increased Equipment Costs

- Clarify that “acquisition of additional equipment” includes “planning, purchasing, and placement of additional equipment and furniture.”
- Add a standardized method of claiming increased equipment costs, similar to the method proposed for increased facility costs.

c. Add language reimbursing “other science instruction personnel,” such as lab assistants. The districts propose the following formula for claiming costs:

In the absence of more precise cost accounting documentation, the calculation of the increased cost of “other (non-classroom teacher) science instruction personnel (e.g., laboratory assistants) for grades 9-12 for each fiscal year, will be calculated according to the following formula:

- 1) The number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by dividing the number of full-time equivalents (five hours of class per day) of “other science instruction personnel” for grades 9-12 for the claim year by the number two (2).
- 2) This increased costs of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased other science instruction personnel” by the average

¹⁴ Castro Valley also requests that the Commission move the documentation requirement for acquisition of space to Section IX, Supporting Data for Claims. The Commission made that change when it amended the parameters and guidelines in 2005.

annual salary and benefit cost for the school district for “other science instruction personnel” for grades 9-12 for the claim year.

- 3) The increased cost of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by one-half of the total amount of any grade 9-12 restricted or specific purpose funding or reimbursement received or used for “other science instruction personnel” during the claim year from sources which do not require repayment by the school district.
- d. Science Instruction Materials – Add a standardized method for claiming costs for science instruction materials as follows:

~~Increased cost to school district for staffing and~~ supplying the new science classes mandated.

In the absence of more precise cost accounting documentation, the calculated cost of ‘increased science instruction materials (textbooks, materials and supplies)’ shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated cost of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.

3. Amend the section on “Offsetting Savings and Reimbursements” to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.
4. Replace the language setting the maximum reimbursable fee for contracted services with current boilerplate language for claim preparation and submission.

In comments dated May 30, 2008, and June 27, 2008, Castro Valley, et al., argues that funds appropriated pursuant to the revenue limit apportionments are not specifically intended to fund the cost of teacher salaries for the additional mandated science course. Thus revenue limit funds cannot be considered offsetting revenue. Castro Valley, et al., filed other comments on the draft and final staff analyses. These comments are summarized in the analysis below.

State Controller’s Office – Filed March 20, 2007 (06-PGA-04)

The State Controller’s Office agrees with the use of the “one quarter class load” method for teacher salary costs. The State Controller’s Office, however, proposes three modifications to the proposal of San Diego Unified School District: (1) the Controller’s proposal uses the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) the Controller’s proposal requires school districts to submit supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources; and (3) the Controller’s proposal does not add the indirect cost calculation in the last step *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries

by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs.

The State Controller's Office also proposes the following formula for the increased material and supply costs:

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the "one quarter class load method"].
3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes' material and supply costs funded by restricted resources.

The Controller's Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.
- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Controller further requests language in the parameters and guidelines requiring supporting documentation to back up the formulas for materials and supplies as follows: "Supporting documentation shall be required to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources."

State Agency Comments

Department of Finance

On August 31, 2007, May 30, 2008, July 1, 2008, and October 17, 2008, the Department of Finance filed comments opposing many of the requests to amend the parameters and guidelines. Finance argues the following:

1. Eligible Claimants. Finance is opposed to amending the Eligible Claimant section of the parameters and guidelines to include county offices of education. Finance states the following: "Alternative programs that are administered by COEs are intended to provide

temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.”

2. One Quarter Class Load method for calculating teacher salary costs. Finance opposes the reimbursement methodology and states the following:

- The current definition of a reasonable reimbursement methodology enacted as part of Assembly Bill 1222 should not be applied to any parameters and guidelines amendment requests filed prior to the statutory change to the definition.
- If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”
- “It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”
- The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
- Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
- The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. Education Code section 41372 requires that high school districts expend 50% of their current expenses of education for the payment of salaries of classroom teachers. Revenue limit apportionments consist of approximately 60% state aid, “well in excess of the fifty percent the districts must spend on teacher salaries.” While current law does not specifically earmark revenue limit apportionments for the additional course in science or any other course required for graduation, it does not preclude the funds from being used for that purpose. This funding should be identified as an offset.

- If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:
 - (a) Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data.
 - (b) Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.
- 3. Reimbursement for science instruction personnel other than teachers (lab assistants). Finance opposes this request for reimbursement. Finance states that the “use of other personnel such as laboratory assistants or instructional aides is discretionary on the part of the school district and, therefore, is not a state-reimbursable mandated activity.
- 4. Reimbursement methodology for facility, equipment, and instructional material costs. Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. Finance further states that funds appropriated in the Budget Act should be specifically identified as an offset. Specifically, Finance states that the 2007 Budget Act contains Proposition 98 funding for instructional materials for core classes, such as science:

The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.
- 5. Clarifying the activities of acquisition of additional space and remodeling existing facilities to include “planning, design, land, demolition, building construction, fixtures, and facility rental.” Finance does not dispute this request and states that “[i]t is our understanding that these items are already considered reimbursable activities by the State Controller’s Office.”¹⁵

¹⁵ Finance also states that it opposes Castro Valley’s proposed amendment to delete the “Professional and Consultant Services” paragraph from the 1991 version of the parameters and guidelines. Finance argues that “[w]ithout this language contracted services could be charged at any rate.”

Castro Valley requests that the paragraph regarding “Professional and Consultant Services” be replaced with current boilerplate language. The Commission made that change when it amended the parameters and guidelines in 2005. With the 2005 amendment, “Professional and Consultant Services” is in Section V, Claim Preparation and Submission, and still sets the maximum reimbursable fee for contracted services at \$65 per hour, adjusted annually by the GNP Deflator.

State Controller’s Office

On July 11, 2007, May 29, 2008, and October 7, 2008, the State Controller’s Office filed comments on the school districts’ proposals to amend the parameters and guidelines as follows:

1. Proposal of San Diego Unified School District. The State Controller’s Office recommends that the Commission adopt the “one quarter class load method” for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the reimbursement period of San Diego’s request. The Controller’s Office argues that San Diego substantially modified their methodology in 2007 to conform to the method first proposed by the Controller’s Office. The Controller’s Office further states that amending the parameters and guidelines back to fiscal year 1995-1996 “could significantly impact State finances.”
2. Proposal of Castro Valley Unified School District, et al. The Controller’s Office states the following:
 - The proposal for reimbursing teacher salary costs “adds the indirect cost calculation before offsetting revenue is applied,” which is “potentially confusing in that indirect costs are part of the calculation and part of a separate section in the Ps & Gs.”
 - There may not be a mandate for reimbursement for “other science instruction personnel.” Also, the method proposed for reimbursing these employees is arbitrary.
 - The method proposed for reimbursing materials, supplies, and facilities (50% of the total costs reduced by 50% of total related revenues), is arbitrary.

Position of Other Interested Parties

On May 30, 2008, and June 25, 2008, the Commission received comments from the “Graduation Requirements Mandate Resolution Committee Litigation Group” regarding the treatment of school district revenue limit apportionments expended on teacher salaries under Education Code section 41372 and 41374 as potential offsetting revenue to the teacher salary costs. The Litigation Group is composed of the following eight school districts: San Jose Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, Norwalk-La Mirada Unified School District, Poway Unified School District, and Sweetwater Union High School District. Although some of these districts request specific amendments to the *Graduation Requirements* parameters and guidelines, they are also being represented as part of the Litigation Group by Kronick, Moskovitz, Tiedemann, and Girard, a Law Corporation on this item.

The Litigation Group argues that the revenue limit apportionment provided to school districts is prohibited by article XIII B, section 6 of the California Constitution from being considered offsetting revenue for purposes of mandate reimbursement.

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STAFF ANALYSIS

The proposals are analyzed in the order the issue is presented in the parameters and guidelines.

Issue 1: What is the period of reimbursement for the proposed amendments to the parameters and guidelines?

Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

The parties have raised two issues with respect to the period of reimbursement.

Period of Reimbursement for the San Diego Unified School District's Request

The original period of reimbursement for the *Graduation Requirements* program began July 1, 1984. On August 13, 1996, San Diego Unified School District first requested that the parameters and guidelines be amended to include a reimbursement methodology for teacher salary costs using the one-quarter class load method. San Diego modified the proposed methodology on April 12, 2007. The State Controller's Office recommends that the Commission adopt the one quarter class load method for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the period of reimbursement of the original 1996 filing based on Government Code section 17557.

The Controller's Office contends that San Diego substantially modified its 1996 proposed methodology on April 12, 2007, to conform to the method proposed by the Controller's Office on March 20, 2007, when it filed a request to amend the parameters and guidelines after the Commission hearings on remand of the case, *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al. (hereafter "*San Diego case.*") The Controller's Office explains that the 1996 proposal used the quarter load method to determine teacher salary costs, and also included a class size differential to determine offsetting savings. Once total costs were determined using the quarter load method, the average science class size was compared to the average class size. If the average science class size was smaller than the average class size, then the incremental difference between the two ratios was applied to determine the allowable portion for reimbursement. For example, a decrease in science class size of 6% relative to average class size resulted in only 6% of the increased costs which is reimbursable. If the average class size was greater or equal to the average class size, there was no increased cost.

The 1996 request to amend the parameters and guidelines was continued by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved in the *San Diego case*. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006. The administrative record for these requests to amend the parameters and guidelines closed in September 2007.

On March 20, 2007, the Controller's Office filed a request to amend the parameters and guidelines to include the quarter load method for claiming teacher salary costs, but deleted the class size differential as an offset, and added potential offsetting revenue for the percentage of science teachers funded by restricted resources. The Controller acknowledges that assuming a school district experienced an offset using a class size differential is not consistent with the court's judgment in the *San Diego case*. The Controller correctly states that "[a]ny consideration

of offsetting savings based on the impact of the additional year of science on non-science classes must show a direct relationship between the reduction in non-science classes and the increase in the mandated science class.” Page 2, paragraph 1 (lines 5-13) of the court’s Judgment in the *San Diego* case prohibits the Controller from reducing a claim on the ground that the school district *could* have offsetting savings. The court states the following:

Respondents [The State Controller’s Office and the Commission] *may not deny* reimbursement of costs for teachers’ salaries incurred by a school district providing a second science course pursuant to [the test claim statute] ... *on the ground that the school district could have offset these costs by using its authority* under subdivision (b) of Education Code section 44955 to terminate teachers of other courses provided by the district, in particular courses provided pursuant to subdivision (a)(2) of Education Code section 51225.3 [the courses required by the school district for graduation]. Emphasis added.¹⁶

Rather, the Court’s writ states that

The State Controller may require the petitioner to submit cost data and documentation to demonstrate *whether it experienced any savings to offset the teachers’ salary costs as a direct result of providing a second science course pursuant to subdivision (a)(1) of Education Code section 51225.3 ...*¹⁷

On April 12, 2007, San Diego changed the proposed reasonable reimbursement methodology for teacher salary costs by deleting the class size differential and adding potential offsetting revenue for teacher salaries paid with restricted funds, consistent with the Controller’s proposal. The quarter load method to determine the gross amount of teacher salary costs incurred as a result of the test claim statute remains the same as the 1996 proposal; i.e., dividing the total number of pupils in grades 9-12 by the number four, which represents one additional year of instruction.

Although San Diego modified its original proposal, staff finds that if the Commission amends the parameters and guidelines by adopting the one-quarter class load method for teacher salary costs, the reimbursement period would begin for costs incurred in fiscal year 1995-1996. This conclusion is based on the requirements of Government Code section 17557, subdivision (d), the Commission’s regulations that existed when San Diego filed the request to amend the parameters and guidelines (Cal. Code Regs., tit. 2, former § 1185.3 (Register 87, No. 49)), case law interpreting the filing date of amended pleadings, and on the past practices of the Commission when handling requests to amend parameters and guidelines.

At the time San Diego filed its request to amend the parameters and guidelines in 1996, the Commission had the authority to include an allocation formula or uniform allowance in the parameters and guidelines. (Gov. Code, § 17557, subd. (b); Stats. 1995, ch. 945.) In addition, former section 1185.3 of the Commission’s regulations stated that “a parameters and guidelines amendment filed after the initial claiming deadline must be submitted on or before November 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. Today, Government Code section 17557, subdivision (d), similarly states that “[a] parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims,

¹⁶ Exhibit R.

¹⁷ Exhibit R.

as specified in the claiming instructions pursuant to Section 17561, and on or before the claiming deadline following a fiscal year, *shall establish* reimbursement eligibility for that fiscal year.” (Emphasis added.) Although the Commission has the authority to adopt amendments to the parameters and guidelines, once an amendment is adopted, the period of reimbursement is established by law in former section 1185.3 of the Commission’s regulations and Government Code section 17557. The Commission does not have discretion with respect to the period of reimbursement.

Government Code section 17557 and section 1183.2 of the Commission’s regulations allow a party to request a parameters and guidelines amendment, establish a period of reimbursement for the request, and allow parties and interested parties an opportunity to file comments on the request. These provisions of law, however, are silent with respect to the effect of a subsequent amendment to an original request to amend parameters and guidelines.

Generally, the law allows a party to amend their pleadings.¹⁸ If the subsequent amendment relies on the same set of facts as the original pleading, the subsequent amendment will be deemed filed as of the date of the original amendment.¹⁹ The purpose of the law allowing amendments is to permit correction of errors and omissions, to clarify ambiguities, or to explain mistaken statements made in the original pleadings.²⁰ The courts have also allowed amendments to relate back to the filing date of the original claim when the amendment does not change the obligation sought to be enforced, but merely changes the form of remedy sought.²¹

In this case, the 2007 amended proposal is based on the same set of facts as the original pleading since both proposals use the quarter load method for claiming gross teacher salary costs. The 2007 proposal clarifies and corrects any errors in potential offsetting costs that were addressed by the court in the *San Diego* case. Thus, staff disagrees with the Controller’s Office that the 2007 proposal is “entirely different.”

Moreover, as more fully described in the next issue below, the Commission has treated subsequent proposals to an original request to amend parameters and guidelines as comments and based the period of reimbursement on the filing date of the original request to amend the parameters and guidelines.

Therefore, if the Commission adopts the one-quarter class load method of claiming costs for teacher salaries, the period of reimbursement is established by law, and begins in fiscal year 1995-1996.

Period of Reimbursement for Castro Valley’s Request

On October 13, 2006, San Diego Unified School District requested that Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District (hereafter “Castro Valley”) be joined as co-requestors to San

¹⁸ Code of Civil Procedure sections 472 and 473.

¹⁹ *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

²⁰ California Jurisprudence 3d, Volume 43, Limitation of Actions, section 145.

²¹ *Ibid.*

Diego's request to amend the parameters and guidelines to add the "one quarter class load method" for reimbursing teacher salary costs.

On February 28, 2007, Castro Valley filed a separate document requesting that the Commission further amend the parameters and guidelines in other respects as follows:

- Amend the "Eligible Claimant" section to include county offices of education.
- Clarify the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies.
- Add language reimbursing "other science instruction personnel."
- Establish reasonable reimbursement methodologies for these activities. (See Exhibit H.)

When the February 28, 2007 document was filed with the Commission, it was treated by Commission staff as a new request to amend the parameters and guidelines, and given a separate file number, based on the fact that the proposals of Castro Valley were new and did not involve the reimbursement of teacher salaries.

Throughout these proceedings, however, Castro Valley has contended that its February 28, 2007 filing is not a separate request to amend the parameters and guidelines, but simply comments filed in response to a request for comments on the 1996 San Diego request to amend and the 2005 Mountain View-Los Altos request to amend the parameters and guidelines. Castro Valley argues that the period of reimbursement for the requested amendments identified in its February 28, 2007 letter should go back to the period of reimbursement of San Diego's request that begins in fiscal year 1995-1996.

Thus, the issue is whether Castro Valley's proposed amendments, first requested in 2007, relate back to the original period of reimbursement of San Diego's request (a request joined by Castro Valley), or establishes a new period of reimbursement based on the 2007 filing.

As indicated above, Government Code section 17557 and section 1183.2 of the Commission's regulations are silent with respect to the effect of a subsequent amendment to an original request to amend parameters and guidelines. In the staff analysis issued for the March 2008 Commission hearing, staff interpreted Government Code section 17557 based on general principles of civil procedure; that if the proposed amendment does not rely on the same set of facts as the original pleading, the amendment will be deemed filed as of the date of the subsequent amendment.²² Staff concluded Castro Valley's February 28, 2007 filing was deemed filed on February 28, 2007, and did not relate back to the August 1996 original request to amend, thus establishing a period of reimbursement beginning in 2006-2007.²³

²² *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

²³ This finding did not apply to Castro Valley's request to clarify that county offices of education are eligible claimants since that issue raised a question of law regarding what the Legislature originally intended to mandate when it amended the test claim statute. The finding stated the following:

The legal interpretation of a statute by a court, even when the statute is interpreted after the effective and operative date of the statute, is retroactive to the date the statute

On May 30, 2008, Castro Valley filed further comments contending that the Commission's past practice has been to accept subsequent filings as comments and approve parameters and guidelines amendments on issues beyond the scope of the original request to amend, making the subsequent proposals applicable to the period of reimbursement of the original request. Castro Valley is correct in these statements. However, the interpretation of subsequent proposals in past practice has not been consistent. Staff recommends, therefore, that the Commission amend its regulations to clearly define these issues.

For purposes of this case, however, staff recommends that the Commission find that Castro Valley's filing of February 28, 2007, be considered comments to the original request, with a period of reimbursement beginning in fiscal year 1995-1996. This recommendation is made on the ground that (1) Castro Valley is a co-requestor to the original 1996 request to amend the parameters and guidelines; (2) Government Code section 17557 and section 1183.2 of the Commission regulations are silent with respect to the treatment of new proposals made in response to original requests to amend parameters and guidelines; (3) the Commission has, on occasion, treated subsequent proposals as comments; and (4) Castro Valley's filing is labeled "comments," and not "proposed amendments" like the filing of Mountain View-Los Altos High School District (Exhibit E), with the following language contained in the document:

On January 31, 2007, the Commission distributed copies of requests by the two above referenced districts to amend the parameters and guidelines for Graduation

became operative. (*Donaldson v. Superior Court* (1983) 35 Cal.3d 24, 36-37. Unlike the court, however, the Commission is a quasi-judicial agency with limited jurisdiction. The Commission does not have the jurisdiction to clarify the interpretation of a test claim statute and make that interpretation retroactive to the original period of reimbursement after the Statement of Decision becomes final. Once a Statement of Decision is issued, it becomes final unless a party seeks reconsideration within a limited period of time, or challenges the decision in court. The Commission does, however, have jurisdiction to amend the parameters and guidelines under such circumstances when requested by a party pursuant to Government Code section 17557, subdivision (d). The period of reimbursement for any changes to the parameters and guidelines adopted by the Commission based on its legal interpretation of the test claim statute is established by Government Code section 17557, subdivision (d), and is based on the filing date of the request to amend the parameters and guidelines.

As indicated above, San Diego filed the initial request to amend the parameters and guidelines in August 1996 to add a method for reimbursing teacher salary costs and Castro Valley is a co-requestor to that proposed amendment. The request has a potential period of reimbursement beginning in fiscal year 1995-1996. If the Commission finds that county offices of education are mandated by the state to comply with the test claim statute and are eligible claimants, county offices of education would be eligible to receive reimbursement for teacher salary costs. Since the courts have allowed amendments that clarify a pleading to relate back to the filing of the original request, staff finds that the potential period of reimbursement for the request to amend the eligible claimant section of the parameters and guidelines goes back to fiscal year 1995-1996.

Requirements and invited comment. This letter transmit the response of the following six districts which I represent ...”

On August 13, 1996, the San Diego Unified School District submitted a request to amend the parameters and guidelines for Graduation Requirements. The language proposed here by the six districts is intended to modify the language proposed in 1996 by San Diego. To avoid confusion, the proposed language modifies the last amended parameters and guidelines dated January 24, 1991, rather than attempt to simultaneously amend both the 1996 San Diego proposed language and 1991 language. With the permission of San Diego, the six districts would in essence modify the 1996 proposed language by substituting the language proposed here without prejudice to the effective date of the 1996 request by San Diego.

Accordingly, if the Commission approves any of Castro Valley’s requests to amend the parameters and guidelines, those amendments would be effective on July 1, 1995. As more fully described in the analysis, staff recommends that the Commission approve only the first two requests of Castro Valley by amending the “Eligible Claimant” section to include county offices of education, and clarifying the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies. The parties do not dispute the second request to clarify the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies.

Issue 2: Should the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants?

Castro Valley requests that Section III, Eligible Claimants, be amended to include county offices of education. The districts propose the addition of the following underlined language: “All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.”

The Department of Finance opposes this request and states the following:

Alternative programs that are administered by COEs are intended to provide temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.

Staff recommends that the Commission amend Section III to specifically include county offices of education as eligible claimants.

The plain language of the test claim statute, Education Code section 51225.3, applies to all pupils receiving a diploma of graduation in high school. That section states in relevant part the following:

- (a) Commencing with the 1988-89 school year, *no pupil shall receive a diploma of graduation from high school* who, while in grades 9 to 12, has not completed all of the following:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[¶] ...

(C) Two courses in science, including biological and physical sciences.
(Emphasis added.)

Section 51223.5 is included in the chapter of the Education Code that prescribes the course of study for all of grades 7 through 12, and does not distinguish between courses of study provided by school districts and county offices of education.²⁴

County offices of education do provide alternative programs for students attending county community schools, as contended by the Department of Finance.²⁵ Pupils enrolled in county community schools, which are administered by the county superintendent of schools, include pupils that are expelled from a school district, pupils referred as a condition of probation, and homeless children.²⁶ The county superintendent of schools is the executive officer of the county office of education.²⁷ County community schools receive revenue from the State School Fund based on the average daily attendance of pupils.²⁸

In some cases, the education provided by the county is temporary; i.e., when an expelled pupil is readmitted to his or her district of residence.²⁹ However, the county superintendent of schools providing educational services to homeless children “shall be deemed to be the district of residence of those children.”³⁰ Furthermore, “[t]he course of study of a county community school shall be adopted by the county board of education and *shall* enable each pupil to continue academic work leading to the *completion of a regular high school program.*” (Emphasis added.)³¹

Thus, there is nothing in the plain language of the test claim statute, or the statutes governing county offices of education that suggests county offices of education are not required to provide the high school science course required by Education Code section 51223.5 when the county is the school district. Moreover, Government Code section 17518 defines a school district eligible to claim reimbursement under article XIII B, section 6 to include the county superintendent of schools.

Finally, when the Legislature enacted Statutes 2004, chapter 895 (AB 2855) to direct the Commission to amend the parameters and guidelines for this program to identify amounts received from state bond funds to construct new science facilities as an offset, the Legislature specifically referred to funds received “by the school district or county office.” Section 17 of AB 2855 states the following:

²⁴ Education Code, division 4, part 28, chapter 2, article, 3, sections 51220, et seq.

²⁵ Education Code section 1983.

²⁶ Education Code sections 1981, 1982, subdivision (a).

²⁷ Education Code section 1010.

²⁸ Education Code section 1982, subdivision (a).

²⁹ Education Code sections 48915.1, 48915.2, 48916.

³⁰ Education Code section 1982, subdivision (c).

³¹ Education Code section 1983, subdivision (d).

Notwithstanding any other law, for purposes of calculating the amount of the state reimbursement pursuant to Section 6 of Article XIII B of the California Constitution for the state-mandated local program imposed by increasing the science course requirement for graduation from one science course to two science courses (Sec. 94, Ch. 498, Stats. 1983), if the school district or *county office* submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or *county office* to construct the new science facility. (Emphasis added.)

The courts have held that subsequent expressions of intent by the Legislature of an earlier act, while not binding, may be considered along with other factors to determine the legislative intent of the earlier-enacted statute.³² Thus, AB 2855 may be properly considered by the Commission, together with other factors described in the analysis above, to determine that the Legislature intended Education Code section 51223.5 to apply to county offices of education.

Staff finds that Education Code section 51223.5 applies to all pupils that graduate from high school whether or not the science course is provided by a school district or a county office of education. Staff recommends that the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants. Pursuant to Government Code section 17557, subdivision (d), and the analysis regarding amendment of pleadings in Issue 1, this proposed amendment is for costs incurred beginning in fiscal year 1995-1996.

Issue 3: Should the Commission amend the parameters and guidelines to clarify that the activities of “acquisition of additional space” and “remodeling existing space” includes “planning, design, land, demolition, building construction, fixtures, and facility rental”?

Castro Valley requests that the Commission add the following underlined language to the activities of “acquisition of additional space” and “remodeling existing space” as a result of the requirement to provide the second year of science:

Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for ~~conducting new science~~ classes the mandated additional year of science instruction, providing that space is lacking in existing facilities. ...

Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction to ~~accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets~~ essential to maintaining a level of instruction sufficient to meet college admission requirements.

The parameters and guidelines provide that the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in

³² *Fong Eu v. Chacon* (1976) 16 Cal.3d 465, 470.

high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed the activities of planning, design, demolition, building construction, fixtures, and facility rental were reimbursable activities.

Staff finds that the proposed activities of planning, design, land, demolition, building construction, fixtures, and facility rental are activities that are necessary to carry out the mandated program.³³ In addition, amending the parameters and guidelines to include facility rental is consistent with prior Commission decisions on incorrect reduction claims for this program. In an incorrect reduction claim filed by Clovis Unified School District (CSM 4435-I-06/38), the Commission determined that acquisition of additional space includes leasing portable classrooms.³⁴

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 1995-1996, to include the underlined language proposed by Castro Valley Unified School District with respect to acquisition of additional space and remodeling existing space.

Issue 4: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased facility costs for acquiring or remodeling space?

Castro Valley Unified School District, et al requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring or remodeling space. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller's Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a "reasonable reimbursement methodology" and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17557, subdivision (b), states that the Commission may adopt a reasonable reimbursement methodology when adopting parameters and guidelines. Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a "reasonable reimbursement methodology" to "mean a formula for reimbursing local agencies

³³ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

³⁴ Administrative Record – Clovis, page 307.

and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring or remodeling space for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner.

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring or remodeling space is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”³⁵ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”³⁶ Staff finds that the proposed mathematical method for reimbursing school districts for acquiring and remodeling space at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 is applicable and binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for acquiring or remodeling of space because the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology.”

Issue 5: Should the Commission amend the parameters and guidelines to specify that “acquisition” of equipment includes the activities of “planning, purchasing, and placement” of additional equipment and “furniture”?

The parameters and guidelines authorize reimbursement for the acquisition of equipment necessary for conducting the new science class. The language identifying acquisition of equipment as a reimbursable activity is included in the same paragraph as the activity of acquiring additional space.

Castro Valley requests that the Commission identify the acquisition of equipment in a separate paragraph for purposes of clarity. The requestors further propose that the Commission add language specifying that “acquisition” of equipment includes “planning, purchasing, and

³⁵ Webster’s II New College Dictionary (1999), page 440.

³⁶ The New Oxford American Dictionary (2001), page 666.

placement” of additional equipment and “furniture.” The requestors propose the following amendments, reflected in underline and strikeout:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes ...~~ the mandated additional year of science instruction.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed these activities were already being reimbursed by the State Controller’s Office.

Staff agrees with the requestors’ proposal, and finds that the activities of “planning, purchasing, and placement” of equipment are activities that are necessary to carry out the mandated program.³⁷ In addition, staff agrees that “equipment” includes “furniture.” Staff further agrees that a separate paragraph for the acquisition of equipment and furniture helps to clarify the reimbursable activities.

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 1995-1996, to include the language proposed by Castro Valley with respect to acquisition of equipment and furniture.

Issue 6: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased costs for acquiring equipment and furniture?

Castro Valley requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring equipment and furniture. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of increased equipment and furniture for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of science instruction equipment and furniture for grades 9-12 expended for this purpose during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted funding or reimbursement for this purpose received or used during the claim year by the school district from sources which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller’s Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology” and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among

³⁷ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring equipment and furniture for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner. The proposed formula begins by using the actual total costs for science instruction equipment and furniture. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, “other coursework as the governing board of the school district may by rule specify.” Therefore, the actual total costs for science equipment and furniture for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction equipment and furniture for grades 9-12 expended during the claim year) could result in reimbursement for furniture and equipment for courses that are not mandated by the state. For example, San Diego Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.³⁸ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.³⁹

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring equipment or furniture is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”⁴⁰ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”⁴¹ Staff finds that a proposed mathematical method of reimbursing school districts

³⁸ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8). (See Ex. M.)

³⁹ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3. (See Ex. M.)

⁴⁰ Webster’s II New College Dictionary (1999), page 440.

⁴¹ The New Oxford American Dictionary (2001), page 666.

for acquiring equipment or furniture at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for the acquisition of equipment and furniture because the proposed formula does not satisfy the requirements of a “reasonable reimbursement methodology.”

Issue 7: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology of the “one quarter class load method” for claiming increased teacher salary costs?

A. Proposals

San Diego Unified School District, Castro Valley Unified School District, et al., and the State Controller’s Office request that the Commission amend the parameters and guidelines to include the “one quarter class load method” for claiming increased teacher salary costs. The language and methodology proposed by San Diego Unified School District is as follows:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

Castro Valley proposes a similar methodology as follows (language that is different than San Diego’s proposal is noted in underline and strikeout):

In the absence of more precise cost accounting documentation, the calculation of the increased cost of science teachers for each fiscal year, will be calculated according to the following formula:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is ~~30~~ 35 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with total amount of any~~ restricted or specific purpose funding or reimbursement received or used for this purpose grade 9-12 science instructors during the claim year from sources which do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

The State Controller’s Office proposes three modifications to the proposal of San Diego Unified School District: (1) use the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) require districts to retain supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources to support the reimbursement claim; and (3) do not add the indirect cost calculation in last step of the calculation *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs. Thus, the Controller’s last step in the formula simply states the following: “The reimbursable cost is determined by reducing the increased cost in [step] 4 by the portion of all science teachers funded by restricted resources.” References to the indirect cost calculation remains in the boilerplate section of the parameters and guidelines and would be applied after the increased teacher salary is fully calculated using the “one quarter class load method.” The language proposed by the State Controller’s Office is as follows:

The increased teacher costs are calculated based on the number of teachers to teach the additional year of science as follows:

1. Total regular secondary enrollment (grades 9-12) is divided by four representing the additional year of science.

2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (the de facto standard teacher day consists of 5 class periods)
4. The increased cost is determined by multiplying the number of teachers in (3) by the average salary and benefit cost of a science teacher.
5. The reimbursable cost is determined by reducing the increased cost in (4) by the portion of all science teachers funded by restricted resources.

San Diego Unified School District and the State Controller’s Office include the following “sample calculation” in their proposals:

Sample Calculation

A. Secondary Enrollment	28,000
B. One Quarter Class Load (Line A x 1/4)	7,000
C. Average Science Class Size	28
D. Increased Classes (Line B/Line C)	250
E. Number of Classes Per Teacher	5
F. Increased Science Teachers (Line D/Line E)	50
G. Average Teacher (or Science Teacher)	
Salary and Benefits	\$ 60,000
H. Total Costs (Line F x Line G)	\$3,000,000
I. Science Teachers Not Funded by Categorical Programs (90%)	90%
J. Net Science Teacher Costs (Line H x Line I)	\$2,700,000

The Department of Finance opposes the adoption of a reimbursement methodology for teacher salary costs, and states the following:

- The current definition of a reasonable reimbursement methodology enacted as part of Assembly Bill 1222 should not be applied to any parameters and guidelines amendment requests filed prior to the statutory change to the definition.
- If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2008-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”
- “It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would

have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”

- The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
- Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
- The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. This funding should be identified as an offset.

If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:

- Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data (a proposal made in the draft staff analysis).
- Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.
- Require claimants to submit with their claims the same documentation the trial court stated the State Controller could require in an audit; “cost data and documentation to demonstrate whether [the district] experienced any savings to offset the teachers’ salary costs as a direct result of providing the second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.”

B. The “one quarter class load method” for teacher salary costs satisfies the definition of a reasonable reimbursement methodology

Staff finds the “one quarter class load method” for *gross* teacher salary costs satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below under sub-issue D.

Government Code section 17557, subdivisions (b) and (f), authorize the inclusion of a reasonable reimbursement methodology in the parameters and guidelines “that balances accuracy with simplicity.” Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state . . .,” in lieu of filing detailed documentation of actual costs. Government Code section 17518.5 requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses

local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).)

As more fully explained below, staff recommends that any offsetting savings and revenue for teacher salary costs not be included in the reasonable reimbursement methodology. The court in *San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al., held that any offsetting savings taken by a school district is at the discretion of the district and may only be used to reduce a claim when the offset is taken as a “direct result” of the *Graduation Requirements* mandate. Thus, offsetting savings must be looked at on a case-by-case basis. Offsetting savings and revenue for teacher salary costs are not included in the proposed formula.

Staff finds that, except for the proposed default class sizes in the formula, the “one-quarter class load method” for *gross* teacher salary costs considers the variation of teacher salary costs among school districts to implement the *Graduation Requirements* mandate. The formulas proposed are calculated using each school district’s actual numbers for enrollment, average science class size, and average teacher salary.

The two proposals from San Diego and Castro Valley use a default class size when the district cannot calculate the average science class size for grades 9-12 for the claim year. As indicated above, San Diego proposes a default science class size of 30, while Castro Valley proposes a default class size of 35. Castro Valley argues that the proposed default class size acknowledges that obtaining district data back to fiscal year 1995-1996 may be impossible since most retention requirements for documents prepared in the normal course of business lapse in three to five years. Castro Valley further states that average class size is reported to the state, but average science class size may not be uniformly available. Castro Valley proposes that the Commission adopt the default class size for the amended claims for costs incurred before fiscal year 2006-2007. Beginning in fiscal year 2006-2007, claimants would be on notice to keep track of the actual average science class size and could reasonably be required to provide that information. Thus, Castro Valley proposes that the default average class size be removed from the formula beginning in fiscal year 2006-2007.

Staff finds, however, that the default class sizes do not comply with the requirements of Government Code section 17518.5. Although Castro Valley’s proposal may be considered equitable, there is no evidence in the record that the default class sizes proposed by San Diego and Castro Valley are based on or consider a variation of actual class sizes among different school districts in the state pursuant to Government Code section 17518.5. Moreover, the difference of five students between the default numbers proposed by San Diego (30) and Castro Valley (35) could be significant statewide. Assuming total secondary enrollment is 1000 and the average annual teacher salary and benefit cost is \$60,000⁴², the annual cost to a district using an average science class size of 30 would result in a \$100,000 reimbursement. A default science class size of 35 would result in an annual reimbursement of \$14,000 less to a district. Without knowing what the proposed default numbers are based on, staff does not recommend that the Commission adopt a default science class size in the methodology.

⁴² This number is for illustrative purposes and is not intended to reflect the current average annual salary and benefit cost for a teacher.

Staff further finds that the “one quarter class load method” for *gross* teacher salary costs reimburses school districts for implementing the mandate in a cost-efficient manner. Education Code section 51225.3, subdivision (a), states the following:

Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:

(2) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[¶] ...

(C) Two courses in science, including biological and physical sciences.

The Commission and the court in the *San Diego* case found that the test claim statute increases the number of science courses required for high school graduation from one science course to two science courses. The court, when ruling on the incorrect reduction claims for teacher salary costs, held that the second science class mandated by the test claim statute requires the district to *add* the course to the existing courses offered by the school district.⁴³ Since the course has to be taken in one of the four years from grades 9-12, and it constitutes an additional class required to be provided by the school district, the methodology positively identifies the additional course by dividing total enrollment in grades 9-12 for the claim year by four (4). The methodology also uses actual enrollment and salary data from the school district to calculate the cost.

C. Staff disagrees with the arguments raised by Finance in opposition to the proposed reasonable reimbursement methodology for teacher salary costs

The adoption of a reimbursement formula is not an unlawful retroactive application of the law

The Department of Finance argues that the current definition of a reasonable reimbursement methodology should not be applied retroactively to these requests to amend parameters and guidelines. Finance states the following:

The current definition of a Reasonable Reimbursement Methodology (RRM) (Chapter 329, Statutes of 2007 (AB 1222)) should not be applied to any Ps&Gs amendment request filed prior to the statutory change to the definition of an RRM. A statute should not be applied retroactively unless it is very clear from extrinsic sources that the Legislature intended a retroactive application. (*Bates v. Franchise Tax Board* (2004) 124 Cal.App.4th 367.)

The Department of Finance’s argument is misleading and wrong. The Commission had the authority to adopt an allocation formula or uniform allowance for reimbursement at the time San Diego filed its request to amend the parameters and guidelines in 1996. Government Code section 17557, subdivision (b) (as amended by Stats. 1995, ch. 945) stated the following:

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

⁴³ Exhibit R, page 15.

This authority was broad and contained no limitation on the Commission’s adoption of an allocation formula or uniform allowance. Thus, the argument, that the adoption of a formula for reimbursement of state-mandated costs incurred before 2007 is an unlawful retroactive application of the law, is wrong.

Today, the Commission’s authority to adopt a formula for reimbursement is *limited* by Government Code section 17518.5, which requires the Commission to find the following two elements in order to ensure that the formula is cost-efficient and representative of costs statewide: (1) the methodology must consider the variation of costs among local agencies and school districts to implement the mandate, and (2) the methodology must reimburse local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) Those elements are being analyzed and considered here.

The proposed formula provides reimbursement in a cost-efficient manner

Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner based on its estimate of statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million if the Commission adopted the proposed reasonable reimbursement methodology. Finance argues that: “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”

There is evidence of actual teacher salary costs incurred as a result of this program. As a result of the two lawsuits on *Graduation Requirements* that are summarized in the Background section of this analysis, reimbursement for actual teacher salary costs for 22 school districts for fiscal years 1984-1985 through fiscal year 1995-1996 totaled \$59,005,383. This number represents the original amount claimed by these school districts for teacher salary costs as a result of the mandated program. The Controller’s revised audits complied with the court’s writ and showed that there was no evidence of offsetting savings or revenues specifically intended to fund the cost of the *Graduation Requirements* program that would reduce the amounts claimed. After these lawsuits were resolved, another six incorrect reduction claims were filed, covering fiscal years 1999-2000 through 2001-2002. Five of these claims were dismissed at the Commission’s January 2008 hearing because the districts received full payment for teacher salary costs in the amount of \$14,991,452. Thus, there is sufficient evidence of actual teacher salary costs incurred as a result of the *Graduation Requirements* program.

In addition, the court held that the state is required to reimburse school districts for increased teacher salary costs incurred for the new mandated science class pursuant to article XIII B, section 6. The court’s judgment is final and binding on the state. Reimbursement is also required if no changes in a district’s instructional service is shown as a result of the mandate. The Legislature, in Government Code section 17565, has determined that “[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.” Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted in 1983, the district would still be entitled to reimbursement under article XIII B, section 6.

It is true that not all school districts in the state have filed reimbursement claims for this program. If the Commission adopts the proposed methodology, these school districts would now be able to file reimbursement claims, signed under penalty of perjury, for teacher salary costs going back to fiscal year 1995-1996. If a district exercised its authority under Education Code section 44955 by terminating teachers of courses not mandated by the state as a “direct result” of the second science course mandated by the test claim statute, resulting in cost savings to the district, reimbursement would not be required for teacher salary costs. As described in the next section below, under the court’s ruling the Controller’s Office has broad authority to seek documentation when evaluating these claims. The court held that its conclusion does not prevent the Controller, when auditing and reevaluating the claims “from requiring the districts to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course.” (Emphasis added.)⁴⁴ The proposed “one quarter class load method” does not prevent the Controller from auditing the claims in this manner.

Although there may be a cost to the state if the parameters and guidelines are amended to add a formula for reimbursing teacher salaries, the proposed methodology uses *actual* enrollment and salary data from the school district to calculate the cost. Staff is also recommending that the Commission adopt the proposal of the State Controller’s Office requiring school districts to retain documentation supporting the data used in the calculation for teacher salary costs.

The proposed parameters and guidelines allow the State Controller’s Office to determine if a school district experiences offsetting savings under Education Code section 44955

Finance argues that the proposed methodology does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. Finance states the following:

It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.

The court acknowledged the possibility that the second science class would not result in an increase in the number of classes provided and teachers required for those classes during the school day and year *if* a school district exercised its discretion under Education Code

⁴⁴ Exhibit M, Ruling, pages 17-18.

section 44955 by terminating the services of permanent employees of courses offered by a school district when the state modified the mandated curriculum.⁴⁵

The use of the authority under Education Code section 44955 is discretionary, however. The court held that “there is no suggestion ... of legislative intent to supply the district with an offset mechanism to reallocate teaching staff resources and avoid actual increased costs for teachers’ salaries otherwise reimbursable under section 6 whenever the district adds a newly state-mandated course to its curriculum.”⁴⁶ The court further held that such an intent would directly conflict with subdivision (a) of the test claim statute, recognizing the district’s right to specify and provide courses for graduation in addition to the state-mandated courses, and would defeat the purpose of article XIII B, section 6. Education Code section 51225.3 mandates school districts to add a second science course without requiring school districts to replace or eliminate its existing course offerings.⁴⁷ In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.⁴⁸

Although, under the court’s ruling, the Controller cannot require a school district to show an offset pursuant to Education Code section 44955 in order to receive reimbursement, the Controller “can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.”⁴⁹ The court’s judgment and writ further stated that “the State Controller may require the petitioner to submit cost data and documentation to demonstrate whether it experienced any savings to offset the teachers’ salary costs as a *direct result* of providing the second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.” (Emphasis added.) This finding is binding on the State Controller’s Office when auditing other reimbursement claims for teacher salary costs for this program under principles of collateral estoppel. In this respect, when the *San Diego* cases came back to the Commission on remand, the Commission determined that the State Controller’s Office may properly request the following documentation when auditing the claim for teacher salaries:

- Documentation supporting cost savings by reducing course offerings.
- Documentation showing the year the district began to implement the additional science course to satisfy the mandate.
- Documentation that the second science course increased the number of classes provided during the school day and year.

⁴⁵ Exhibit M, Ruling, pages 16-18.

⁴⁶ *Id.* at page 16.

⁴⁷ *Id.* at pages 15-16.

⁴⁸ *Id.* at page 15.

⁴⁹ *Id.* at page 18.

- Documentation showing the number of teachers required for the classes provided.
- Documentation showing whether the second science course resulted in an overall increase in the number of classes taken by students.
- Documentation justifying the lack of offsetting savings.

As described below under Issue 10, staff recommends that the language from the court’s ruling, judgment, and writ be added to the offset language of the parameters and guidelines beginning fiscal year 2004-2005. The proposed language states the following:

Pursuant to the court’s ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers’ salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

Thus, if a district exercises its authority under Education Code section 44955 as a “direct result” of the second science course mandated by the test claim statute that resulted in cost savings, reimbursement is not required for teacher salary costs.⁵⁰ The proposed “one quarter class load method” does not prevent the Controller from requiring the claimants to show that they have not experienced any cost savings.

Furthermore, the claimants are not required to show that the number of classes provided during the school day and year along with the number of teachers required for the classes provided has increased in order to receive reimbursement for teacher salary costs, as suggested by the Department of Finance. Reimbursement is also required if no changes in a district’s instructional service is shown. The Legislature, in Government Code section 17565, has determined that “[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.” Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, the district would still be entitled to reimbursement under article XIII B, section 6.

⁵⁰ There is no evidence in the record on the *Graduation Requirements* incorrect reduction claims that any of the school districts used their authority under Education Code section 44955 for cost savings.

The proposed formula takes into account dropout rates using CBEDs data to calculate total secondary enrollment

Finance further argues that the formula does not take into account dropout rates. The formula, however, does require districts to report total secondary enrollment for the claim year. Each year, school districts report total enrollment, which, by definition does not include students that have dropped out of school, to the Department of Education for the California Basic Educational Data System (or CBEDS) on “Information Day.”⁵¹ CBEDS Information Day has historically been a date in October when the CBEDS coordinator for each school district submits the requested data to the Department of Education. School enrollment, which is determined by an unduplicated count by grade, gender, and racial/ethnic designation of students enrolled on Information Day, is reported to the state. The CBEDS Manual defines a dropout as a student “*not* enrolled and attending school as of Information Day ...”⁵² Thus, in order to capture total enrollment that does not include students that drop out, staff recommends that the proposed formula identify total secondary enrollment by using the number reported to the state on the CBEDS Information Day for the claim year. Moreover, the CBEDS manual states that CBEDS data is used by school districts to determine certificated employee ratios, curriculum offerings, course enrollments, and identification of areas of teacher needs – information a school district uses to determine the number of teachers required to teach mandated courses.⁵³

In this respect, Finance argues that if the Commission adopts the proposed methodology, that it should use the average daily attendance (ADA) of pupils rather than CBEDS data to calculate total secondary enrollment, since ADA is primarily used for funding purposes. ADA is used for purposes of school funding under Proposition 98 pursuant to Education Code sections 41000, et seq. The ADA number, however, does not include student absences.⁵⁴ Thus, even though a student may be enrolled in school, the ADA enrollment figures may be lower than the enrollment data reported to the state under the CBEDS program on the CBEDS Information Day. Despite student absences, a school district is still required to teach and provide the science course mandated by the test claim statute. The costs incurred in a claim year to provide the science course are *not* affected, or lowered, by student absences. Article XIII B, section 6 of the California Constitution requires reimbursement for the increased costs mandated by the state. Staff finds that the ADA of pupils in a school district does not provide the accurate enrollment data necessary to determine the increased costs incurred by school districts for teacher salary costs as a result of this mandated program.

Finance also argues that the formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.” However, there is no evidence in the record to support Finance’s argument. As indicated above, the test claim statute requires that the second science course be taken in one of the four years from

⁵¹ A copy of 2004 CBEDS Manual is in Exhibit C to Item 19, page 151, of the July 28, 2006 Commission hearing.

⁵² *Id.* at page 159.

⁵³ 2007 CBEDS Manual, page 4.

⁵⁴ Education Code sections 41601, 46010.

grades 9-12. The court concluded that the class constitutes an additional class required to be provided by the school district.

Revenue limit apportionments made to school districts cannot be considered offsetting revenue under article XIII B, section 6

Finally, Finance opposes the adoption of the proposed formula because it does not take into consideration “significant increases” in school district revenue limits, or general purpose funding provided to school districts, since the mandate went into effect. Finance states that revenue limit apportionments are the primary source of general purpose funding for school districts and that Education Code section 41372 requires high school districts to expend 50% of their current expense of education for the payment of teacher salaries. Finance contends that the general purpose funding applied toward the salaries of teachers teaching the second science course should be identified as an offset.

The school districts and their Litigation Group disagree. The school districts contend that identifying revenue limit apportionments as offsetting revenue violates the purpose of article XIII B, section 6. The Litigation Group argues as follows:

However, the revenue limit apportionments which are the subject of the spending requirements [in Education Code sections 41372 and 41374] are specifically excluded by the Constitution as being considered as meeting the State’s financial obligation to reimburse districts for the cost of implementing new mandates. That is the underlying intention of the Gann Limitation from Proposition 4 – to limit the expenditure of tax revenue and to require the State to fund new mandates from sources other than from revenue limits paid out of state and local taxes. To find that such revenue limit dollars constitute offsetting revenue against the costs imposed by a new mandate is in direct conflict with the California Constitution, Article XIII B, §§ 6 [state mandates and 9(b) [mandates of the courts or federal government]].

Based on the history and purpose of article XIII B, section 6, staff finds that the revenue limit apportionments cannot be considered offsetting revenue under article XIII B, section 6 of the California Constitution and, thus, the receipt of the apportionment funding does not affect reimbursement through the proposed reasonable reimbursement methodology as argued by Finance.

Articles XIII A and XIII B were enacted by the voters in 1978 and 1979 to limit the power of state and local governments, including school districts, to adopt and levy taxes, and to further limit government spending by these entities for public purposes. Article XIII B establishes an appropriations limit for both state and local governments and allows no appropriations subject to limitation in excess of the spending limit.⁵⁵ Article XIII B defines the relevant “appropriations subject to limitation” as “any authorization to expend during a fiscal year the [entity’s] proceeds of taxes ...”⁵⁶ “Proceeds of taxes” include *all* tax revenues of the entity; “[P]roceeds of taxes’

⁵⁵ Article XIII B, section 2.

⁵⁶ Article XIII B, section 8, subdivision (b).

generally contemplates only those impositions which raise the general tax revenues for the entity.”⁵⁷

The courts have recognized that articles XIII A and XIII B “severely” restricted the taxing and spending powers of local government entities.⁵⁸ In light of these restrictions, article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.⁵⁹ The courts have found that article XIII B, section 6 “provide[s] local entities with the assurance that state mandates would not place additional burdens on their increasingly limited revenue resources,”⁶⁰ and that “section 6, ... is expressly concerned with ‘costs’ incurred by local government as a result of state-mandated programs, particularly when the costs of compliance with a new program restrict local spending in other areas.”⁶¹

The proceeds of taxes for school districts are different than those of other local government entities, such as counties and cities, because the general purpose revenue of school districts has always been partially provided by the state’s general fund. Since 1849, article XVI, section 8 of the California Constitution has required a State School Fund for support of the public school system: “[f]rom all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.” Before Proposition 13 limited the power of school districts to levy additional tax revenue, school districts received a large percentage of their financial support from local property taxes, which was then supplemented by the State School Fund. “Specifically, in this ... pre-Proposition 13 period, 55.7 percent of school revenues came from local property taxes and 35.3 percent came from state aid.”⁶² State aid was provided in two forms; basic aid, which consisted of a flat dollar amount per pupil, and equalization aid, which was distributed in inverse proportion to the wealth of the district.⁶³ In 1971, the California Supreme Court, in *Serrano v. Priest*, determined that the system of public school financing in California created an unconstitutional equal protection disparity in funding based on the reliance on the wealth of a school district’s real estate. The court held that public school financing that failed to equalize school spending for each student was unconstitutional.⁶⁴ In response to *Serrano*, the Legislature enacted Senate Bill 90 in an attempt to equalize school funding. Senate Bill 90 increased state funding for school districts and created “revenue limits,” which limited the expenditures per pupil in school districts with

⁵⁷ Article XIII B, section 8, subdivision (c); *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 983.

⁵⁸ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

⁵⁹ *Ibid.*

⁶⁰ *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6.

⁶¹ *County of Sonoma, supra*, 84 Cal.App.4th at page 1284.

⁶² *Id.* at page 1271.

⁶³ *Id.* at page 1272, fn. 6.

⁶⁴ *Serrano v. Priest* (1971) 5 Cal.3d 584, 598, 614-615.

ample local funding.⁶⁵ But Senate Bill 90 created special exceptions to the revenue limits that still allowed wealthier districts to raise more local revenue. The court found that Senate Bill 90 was also unconstitutional.⁶⁶ Before the Legislature could resolve the equal protection problems with school funding, Proposition 13 was enacted in 1978 and significantly reduced and capped the property tax revenues used to fund school districts. “Proposition 13 ensured that the state, rather than local school districts, would control funding for public schools.”⁶⁷ In 1979, the Legislature reduced the share of local property tax revenues allocated to schools from approximately 53 percent to approximately 35 percent and made up the difference with state funds.⁶⁸ Joint state and local funding responsibility for school districts existed when article XIII B, section 6 became effective on July 1, 1980.⁶⁹

The proceeds of taxes or general purpose revenue for school districts remain jointly funded with state and local revenues today. Education Code section 14002 requires the State Controller’s Office, each fiscal year, to transfer from the General Fund to that portion of the State School Fund restricted for elementary and high school purposes, a total amount per pupil in average daily attendance (ADA) during the preceding fiscal year credited to all elementary, high school, and unified school districts, and to county superintendent of schools, of \$180. This money is allocated through base revenue limit apportionments to each school district based on the district’s ADA pursuant to Education Code sections 41300 and 42238 et seq. Generally, pursuant to Education Code section 42238, each school district receives the state aid share of the revenue limit minus the sum of local revenues that count toward the revenue limit of the district. Local revenues include the district’s share of the 1% maximum property rate on secured and unsecured property tax rolls under article XIII A, supplemental secured roll taxes, timber yield taxes, and property tax revenue shifted under the Educational Revenue Augmentation Fund (ERAF) from cities, counties, and special districts to schools.⁷⁰

The money apportioned to the school districts through revenue limit apportionments is unrestricted, unless otherwise provided by law, and can be used for any purpose. (Ed. Code, § 41370.) One of the limitations for use of the revenue limit apportionments is provided in Education Code sections 41372 and 41374. These sections require high school districts (except small districts as specified in section 41374) to expend 50%, and unified school districts to expend 55%, of the district’s current expense of education on the salaries of classroom teachers for grades 9 through 12. The “current expense of education” is specifically defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.

Although Education Code sections 41372 and 41374 direct the expenditure of a portion of the district’s revenue, the amount spent by the district on teacher salaries cannot be considered

⁶⁵ *Belanger v. Madera Unified School Dist.* (1992) 963 F.2d 248, 251.

⁶⁶ *Ibid.*, citing *Serrano v. Priest* (1976) 18 Cal.3d 728 (*Serrano II*).

⁶⁷ *Ibid.*

⁶⁸ *County of Sonoma, supra*, 84 Cal.App.4th at page 1274.

⁶⁹ *Ibid.*

⁷⁰ “Revenue and Revenue Limits, A Guide to School Finance in California,” by Paul M. Goldfinger, 2006 Edition, page 72.

offsetting revenue for purposes of the *Graduation Requirements* mandated program. Such an interpretation would require school districts to use their proceeds of taxes on a state-mandated program. This violates the purpose of article XIII B, section 6. As indicated above, article XIII B, section 6 was specifically designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues and restrict local spending in other areas.⁷¹

Therefore, staff finds that a school district's receipt of apportionment funding does not affect the reimbursement required by article XIII B, section 6, or the proposed reasonable reimbursement methodology.⁷²

Moreover, there is no evidence that the state has appropriated funds specifically intended to fund the cost of providing the second science course mandated by Education Code section 51225.3, as required by Government Code section 17556, subdivision (e). If funds are specifically appropriated for this program in the future, the parameters and guidelines already require school districts to identify such funds as offsetting revenue. The offset paragraph currently provides in relevant part the following:

In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

The proposed "one quarter class load method" does not alter these potential future offsets.

Accordingly, staff finds the "one quarter class load method" satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below.

D. Staff's proposed modifications to the methodology

San Diego Unified School District recommends that the methodology use the average teacher salary for claiming costs, while the State Controller's Office proposes the use of the average *science* teacher salary. Staff recommends that the Commission adopt the proposal using the average teacher salary because school districts are already reporting that number to the state Department of Education (Form J-90). School districts voluntarily report to the state the salary

⁷¹ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d at page 836, fn. 6; *County of Sonoma*, *supra*, 84 Cal.App.4th at page 1284.

⁷² The Department of Finance argues in its October 17, 2008 filing that "to disallow revenue limit funding as an available offset to teacher salaries is inconsistent with the Commission's Reconsideration of Prior Statement of Decision for School Accountability Report Cards [SARC] (No 04-RL-9721-11, 05-RL-9721-03) wherein the Commission recognized revenue limit funding as not unavailable for teacher salaries." The Commission's decision on reconsideration of the SARC test claim denied the claim on multiple grounds, including no new program or higher level of service and no increased costs mandated by the state based on Government Code sections 17556, subdivision (f), and the funding provisions of Proposition 98 that created the SARC program. School districts have challenged the SARC decision, and other reconsideration decisions, alleging multiple constitutional violations in *California School Boards Association, et al. v. State of California, et al.*, Third District Court of Appeal, Case No. C055700. The case remains pending.

and benefits of their certificated personnel on state Form J-90, and in fiscal year 2005-2006, 84% of the school districts in the state (representing 98% of the state's ADA) reported the average teacher salary to the state.

Staff further recommends that the last step in the proposed formula, which reduces the increased teacher cost by the portion of science teachers funded by restricted resources, be identified in the offset paragraph of the parameters and guidelines and not included in Section IV, Reimbursable Activities. Leaving the offset language in the formula in Section IV of the parameters and guidelines, and having a separate paragraph for offsetting revenues in Section VII, is confusing. All potential offsetting revenue should be identified in one location of the parameters and guidelines. Thus, staff recommends that the offset paragraph be amended to add the following language: "total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual shall be identified and deducted from this claim."

In addition, the San Diego and Castro Valley proposals discuss the application of the indirect cost rate in the last step of the formula and apply the indirect cost rate to the direct costs before deducting teacher salary costs by the amount of revenue received for salaries from restricted resources. The Controller's Office does not agree with this language. Staff notes that the current claiming instructions issued by the State Controller's Office in its School Mandated Cost Manual for the *Graduation Requirements* program requires claimants to calculate indirect costs before applying the offsets. Staff recommends that the indirect cost language remain in the boilerplate language and not be included in the proposed formula.

Finally, the State Controller's Office requests the addition of language in the parameters and guidelines to state that supporting documentation shall be retained to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average teacher salary and benefits, and costs funded by restricted resources. This request is supported by the Court's judgment and ruling in the *San Diego Unified School District* case. The Court held that a documentation requirement for the costs incurred under a mandated program "has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9)."⁷³ As described below, staff proposes that the Commission add record retention language to the parameter and guidelines consistent with the Controller's request.

The Department of Finance wants the Commission to go farther if it adopts the one quarter class load method, and require school districts to retain documentation on science courses offered by a school district that are not mandated by the state and on the number of students completing more than the two science courses mandated by the state. Finance states the following:

We note that while [the draft staff analysis] acknowledges, for purposes of calculating instructional material costs, that the San Diego Unified School District requires three years of science instruction for graduation and the Grossmont Union High School District offers several science courses that do not meet the state's science course requirements for biological and physical sciences, the staff's proposed Record Retention section does not include language requiring districts to retain this information. According to the State Department of

⁷³ Ruling, page 18.

Education, not all science courses offered in California high schools meet the state's high school graduation requirements for physical and biological sciences. We contend that retention of these two data elements, science courses offered with relevant CBEDS course code and number of students completing more than two science courses, is relevant and necessary for an accurate cost calculation. Teacher salaries and other instructional costs related to science courses not meeting the state standard for graduation and science classes provided beyond the state's graduation requirement do not qualify as state-mandated reimbursable activities and should be included in the calculation of reimbursable costs.⁷⁴

The Commission does not have the authority to require school districts to retain documentation regarding science courses that are *not* mandated by the state, or students taking these non-mandated courses. These courses are not reimbursable, and are not included in the proposed one quarter class load method for determining teacher salary costs for the mandated science course. Thus, Finance's request goes beyond the scope of this mandate.

In its October 17, 2008 filing, the Department of Finance further requests that the parameters and guidelines require claimants *to submit with their claim* the same documentation the trial court stated the State Controller could require in an audit. This request defeats the purpose of a reasonable reimbursement methodology, which "balances accuracy with simplicity" and is used in lieu of filing detailed documentation of actual costs. The State Controller's Office has the authority, pursuant to Government Code section 17561, subdivision (d)(2) and the court's decision in the *San Diego* case, to audit the application of the reasonable reimbursement methodology and to request additional documentation from a claimant.

Accordingly, staff recommends that the following record retention language be included in the parameters and guidelines:

RECORD RETENTION

Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter⁷⁵ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size,

⁷⁴ Exhibit Q.

⁷⁵ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

Accordingly, staff recommends that the following reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs be added to the parameters and guidelines beginning in fiscal year 1995-1996:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

The parameters and guidelines adopted on January 24, 1991, would be amended for costs incurred beginning in fiscal year 1995-1996 to include a section on “Claim Preparation and Submission: Reasonable Reimbursement Methodology to clarify the claiming methods for the reimbursable activities.

Issue 8: Should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of “other science instruction personnel”?

Castro Valley requests reimbursement for the salaries and benefits of “other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants)” for grades 9-12. Castro Valley argues that the Statement of Decision and the first parameters and guidelines indicate as a matter of law that reimbursement was not limited to science teachers and, thus, there is no need to determine if other personnel, such as lab assistants, are reasonably necessary within the context of the parameters and guidelines.

The Department of Finance and the State Controller’s Office oppose this request, contending that any increased costs incurred for science instruction personnel other than teachers has not been mandated by the state.

For the reasons below, staff disagrees with Castro Valley and recommends that the Commission not adopt this proposal.

The test claim statute mandates school districts to provide a second science course, either biological or physical, in order for students to graduate from high school. The statute is silent with respect to how a school district is to provide the course. Thus, the test claim statute, on its face, does not mandate school districts to hire science instruction personnel, such as lab assistants. It is clear, however, that certificated teachers are required to teach this science course.

Since the 1943 Education Code, school districts have been required to conform their educational program to state standards. (Ed. Code, § 51041.) Section 51041 states the following:

The governing board of every school district shall evaluate its educational program, and shall make such revisions as it deems necessary. *Any revised educational program shall conform to the requirements of this division* [Division 4, Instruction and Services, Elementary and Secondary Education]. (Emphasis added.)

The test claim statute, Education Code section 51225.3, is within Division 4 of the Education Code and describes the state-mandated courses of instruction required for high school graduation, including the science course at issue here. Education Code section 44805, enacted before the test statute, further states that “every teacher in the public schools shall enforce the course of study . . . prescribed for schools.”

Moreover, despite Castro Valley’s assertion that the Commission has already determined that reimbursement is not limited to science teachers, neither the Statement of Decision nor the original parameters and guidelines make a finding that reimbursement is required for “other science instruction personnel.” The Statement of Decision states in relevant part that “[s]ome of the Santa Barbara High School District’s increased costs resulting from compliance with Education Code Section 51225.3 are costs mandated by the State,” but the decision provides no specificity with regard to the reimbursable activities.⁷⁶ (Emphasis added.) The parameters and guidelines authorize reimbursement for the “increased cost to school district for staffing . . .,” but do not specifically authorize reimbursement for instructional personnel or lab assistants.⁷⁷ Accordingly, staff finds that hiring science instruction personnel, other than teachers, is not mandated by the state.

Thus, pursuant to section 1183.1, subdivision (a)(4), of the Commission’s regulations, the issue is whether using science instruction personnel other than teachers to help provide the science course is reasonably necessary to comply with the mandate to provide the second science course to high school students.

There is no evidence in the record or the law to support the claim that using science instruction personnel other than teachers is reasonably necessary to comply with the mandate to provide the second science course. Therefore, staff recommends that the Commission deny this request for amendment.⁷⁸

Issue 9: Should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies, and include a reimbursement methodology for the cost of the activity?

⁷⁶ Exhibit A.

⁷⁷ Exhibit B.

⁷⁸ Since staff recommends that the Commission deny the request for reimbursement for instructional personnel other than teachers, staff will not address the requestors’ proposed reimbursement methodology for this alleged cost.

The parameters and guidelines authorize reimbursement for “supplying” the new mandated science course. This reimbursable activity is currently in the same paragraph as the activity for “staffing,” or teaching, the science course.

Castro Valley requests that the Commission amend the parameters and guidelines to identify the reimbursement of supplying the science course in a separate paragraph than staffing for purposes of clarity. The requestors further propose the following reimbursement methodology for supplying science instruction materials.

Increased cost to school district for ~~staffing~~ and supplying the new science classes mandated.

In the absence of more precise cost accounting documentation, the calculated cost of “increased science instruction materials (textbooks, materials and supplies)” shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated costs of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.

The State Controller’s Office opposes the reimbursement methodology proposed by Castro Valley on the ground that the methodology is arbitrary. Instead, the State Controller’s Office and San Diego Unified School District propose another formula similar to the one-quarter class load method for teacher salary costs. Although San Diego has not proposed a specific formula or any language for the proposed reasonable reimbursement methodology, the Controller’s Office has proposed the following language for materials and supplies for the science course.

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the “one quarter class load method”].
3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes’ material and supply costs funded by restricted resources.

The Controller’s Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.

- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Department of Finance is opposed to the adoption of a reimbursement methodology for instructional materials. Finance states the following:

Finance is opposed to adopting a cost methodology for instructional materials that uses total costs for all science materials as its basis. The claims submitted for any instructional materials costs should be based on actual procurement costs, which are offset by any State Instructional Materials Fund (commencing with CA Education Code Section 60240) resources provided by the state directly on a per pupil basis, or indirectly as expenditures out of a local instructional materials account which received its revenue from the state fund, or any revenue limit or discretionary funding provided by the state which local education agencies use for purchasing the required materials.

By assuming one-half of science instructional materials costs should be reimbursed by the state, the proposed methodology precludes the possibility that state funds may be sufficient to fund all one-time costs for all classes including science.

The Annual Budget contains funding specifically dedicated to offset costs for instructional materials. The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.

First, staff finds that a separate paragraph for supplying the mandated science course helps to clarify the reimbursable activities. Thus, with respect to supplying the science course, staff recommends that the Commission amend the parameters and guidelines, beginning in fiscal year 2006-2007, with the following language:

~~Increased cost to school district for staffing and~~ supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).

Staff finds, however, that the proposed formulas for reimbursing science instructional materials do not satisfy the requirements of a “reasonable reimbursement methodology” and, thus, recommends that the Commission not adopt the proposed formulas.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for

reimbursing local agencies and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

There is no evidence in the record that the proposed methodologies reimburse school districts for implementing the mandate in a cost-efficient manner. Both formulas begin by using the actual total costs for science materials and supplies. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, “other coursework as the governing board of the school district may by rule specify.” Thus, the actual total costs for science materials and supplies for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, reduced by 50% of the restricted funding received for materials) could result in reimbursement for materials and supplies for courses that are not mandated by the state. Although the proposal of the State Controller’s Office uses the average material cost per science class offered in their formula, which is then multiplied by the increased science classes (total enrollment divided by four), the average cost per science class may also include costs for courses that are not mandated by the state. For example, San Diego Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.⁷⁹ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.⁸⁰

Moreover, staff disagrees with the assumption that the proposed formula for reimbursing materials and supplies is based on the same assumption as the formula for reimbursing teacher salary costs. The proposed formulas are very different. The one quarter class load method for teacher salary costs starts with, and is based on, total enrollment in grades 9 to 12. Every student enrolled in high school is mandated by the state to take and complete the science course at issue in this case to graduate from high school. The proposed formula for materials and supplies, however, is based on the total science material and supply costs of a district, which as indicated above, includes costs that are not mandated by the state.

Thus, staff recommends that the Commission deny these proposed reasonable reimbursement methodologies because the proposed formula does not satisfy the requirements of a “reasonable

⁷⁹ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8).

⁸⁰ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3.

reimbursement methodology,” and continue to authorize reimbursement based on actual costs claimed.

In response to the draft staff analysis, Castro Valley argues that its proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring materials and supplies is based on actual costs.

Staff disagrees with Castro Valley’s argument. Government Code section 17518.5, subdivision (a), defines “reasonable reimbursement methodology” as a “formula” for reimbursing local agencies and school districts. Webster’s Dictionary defines “formula” to mean “[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”⁸¹ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”⁸² Staff finds that a proposed mathematical method of reimbursing school districts for acquiring 50 % of their science material and supply costs is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding.

Staff further recommends that the Commission amend the offsetting revenue and reimbursement section of the parameters and guidelines, beginning in fiscal year 1995-1996, to specifically identify the sources of revenue appropriated from the state and used by school districts for instructional materials for the second science course mandated by the test claim statute. The Schiff-Bustamante Instructional Materials Program (Ed. Code, §§ 60450 et seq.), a funding source identified by Finance, was in effect from August 19, 1998 until January 1, 2004, when the program was repealed for lack of funding. (Stats. 2002, ch. 1168 (AB 1818, § 71), eff. Jan. 1, 2004). These provisions provided a supplemental appropriation to school districts, apportioned according to the number of pupils enrolled in the preceding fiscal year as evidenced by CBEDS data, for instructional materials in core curriculum areas, including science, that were aligned with state content standards adopted in 1997 and 1998. The legislation does not prioritize the expenditure of funds, or require that the funding be used first for the *Graduation Requirements* mandate. The statutes require only that the money be used on purchasing instructional materials for core curriculum. Thus, staff recommends that the funding appropriated under the Schiff-Bustamante Instructional Materials Program (Ed. Code, §§ 60450 et seq.) be identified as an offset and deducted from the claim to the extent school districts used this funding for purchasing materials for the *Graduation Requirements* mandate.

Beginning in fiscal year 2002-2003, Education Code section 60240 et seq. provided funding for instructional materials from the State Instructional Materials Fund. Under these provisions, annual appropriations are made for instructional materials. There is no requirement in state law, however, that these funds must be used to pay the cost of the *Graduation Requirements* mandate. Rather, commencing with the 2002-2003 fiscal year, the State Controller is required to transfer from the General Fund to the State Instructional Materials Fund money to be allotted to school districts by the Board of Education for instructional materials for grades 9 to 12.⁸³ School

⁸¹ Webster’s II New College Dictionary (1999), page 440.

⁸² The New Oxford American Dictionary (2001), page 666.

⁸³ Education Code section 60247.5.

districts shall use the funds apportioned solely for the purchase of instructional materials for grades 9 to 12.⁸⁴ In addition, the Superintendent of Public Instruction may allocate to school districts funds that were recovered from publishers and deposited into the Instructional Materials Fund as a result of proceedings against the publisher.⁸⁵ In the 2006 Budget Act, \$403.5 million was appropriated to the State Instructional Materials Fund.⁸⁶ In the 2007 Budget Act, \$419.8 million was appropriated to the State Instructional Materials Fund.⁸⁷ See Issue 10 below, for the proposed language for the offsetting revenue and reimbursement section of the parameters and guidelines.

Issue 10: Should the Commission amend the Offset section of the parameters and guidelines?

As indicated above, staff recommends that the Commission amend the offset section of the parameters and guidelines, beginning fiscal year 1995-1996, to clarify that the direct and indirect science teacher salary costs incurred as a result of the test claim statute that are funded by restricted resources and program funding as identified by the California Department of Education School Accounting Manual be identified as an offset. In addition, beginning in fiscal year 1995-1996, staff recommends that the offset paragraph be amended to specifically identify funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004)) and the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used by school districts for supplying the second science course mandated by the test claim statute.

In addition to these proposals, Castro Valley requests that the Commission amend the offset section to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.

Staff recommends that the Commission deny Castro Valley's request. If the parameters and guidelines are amended by the Commission, the State Controller's Office will be required to issue revised claiming instructions pursuant to Government Code section 17558. Eligible claimants may be allowed to file new claims under the revised claiming instructions. If a claimant has received state mandate reimbursement, in whole or in part, for the claim year for an activity listed in the revised claiming instructions, the claimant would not be eligible to receive 100% reimbursement for the same activity for same claim year that has already been reimbursed.

Mountain View-Los Altos High School District further proposes to amend the "Offsetting Savings and Reimbursement" section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

⁸⁴ Education Code section 60248.

⁸⁵ Education Code section 60251.

⁸⁶ Statutes 2006, chapter 47, Item 6110-189-0001.

⁸⁷ Statutes 2007, chapter 171, Item 6110-189-0001.

The State Controller, when auditing school district's reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

With the exception of the second sentence, the language proposed by Mountain View-Los Altos High School District is consistent with the court's Judgment (paras. 1 and 2 (b)), and can also be found on pages 17 and 18 of the court's Ruling on Submitted Matter). The second sentence, as proposed, states the following: "The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided." The second proposed sentence, however, does not appear in the court's ruling or judgment, and is not consistent with Government Code section 17565; "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, and did not increase the school day or year with the addition of the second science course, the district would still be entitled to reimbursement under article XIII B, section 6.

The court's ruling, on page 18, does state the following: "Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do *not* increase the number of classes that they take overall." (Emphasis added.) Taken in context, the court's decision addresses potential cost savings in the school day or year with respect to a district's authority under Education Code section 44955 to eliminate courses and terminate teachers when the state mandates new curriculum. The court did not have facts before it to address Government Code section 17565 and the ability of a district to seek reimbursement when it did not increase the school day or year with the addition of the second science course.

Thus, staff recommends that the second sentence be deleted and a citation to the court case be added as follows:

Pursuant to the court's ruling and judgment in *San Diego Unified School District action* (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing school district's reimbursement claims under ~~section VI~~ of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired

for the second science course. ~~The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.~~ The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

Pursuant to Government Code section 17557, the reimbursement period for this request to amend the parameters and guidelines begins July 1, 2004.

The State Controller's Office is required to comply with the court's ruling when auditing and reimbursing teacher salary costs for the *Graduation Requirements* program under principles of collateral estoppel.⁸⁸ Collateral estoppel precludes a party from re-litigating the matters previously litigated and determined in a prior proceeding and makes the decision on the matter in the prior proceeding binding in the subsequent matter. Thus, even if the Commission does not amend the parameters and guidelines to include this language, it is still binding on the Controller. Staff recommends that the language be added for purposes of clarity and notice to all eligible claimants.

Staff further recommends that the offset section be amended to the current boilerplate language for claims filed beginning July 1, 2004. Staff's proposed amendments are as follows:

[Proposed Amendment to the parameters and guidelines adopted on January 24, 1991 for Costs Incurred Beginning in Fiscal Year 1995-1996]

VI. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be

⁸⁸ California Rules of Court, Rule 8.1115.

identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred from July 1, 1995 through June 30, 2004, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

[Proposed Amendment to the Parameters and Guidelines for Costs Incurred From July 1, 2004, until December 31, 2004]

X. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred from July 1, 2004, through December 31, 2004, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

XI. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

[Proposed Amendment to the parameters and guidelines adopted December 9, 2005 for Costs Incurred Beginning January 1, 2005)

VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; funds appropriated to school districts from the Schiff-Bustamante Standards-Based Instructional Materials Program (Ed. Code, §§ 60450 et seq., repealed by Stats. 2002, ch. 1168 (AB 1818, § 71, eff. Jan. 1, 2004) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials; funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for costs incurred beginning January 1, 2005, for an activity listed in the revised claiming instructions, and received reimbursement from the state for that activity, the amount already reimbursed shall be identified and deducted from the claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

XIII. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

Pursuant to the court's ruling and judgment in *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401), the State Controller, when auditing reimbursement claims under section V of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate

teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05, 06-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*
3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05, 06-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 69432.8, 69432.9, 69433, 69433.5, 69433.6, 69433.7, 69434, 69434.5, 69435, 69435.3, 69436, 69436.5, 69437, 69437.3, 69437.6, 69439, 69440, and 69514.5;

Statutes 2000, Chapter 403 (SB 1644)
Statutes 2001, Chapters 8 (SB 176) and 159 (SB 662);

California Code of Regulations, Title 5, Sections 30002, 30007, 30023, 30026, 30027 and 30032.

Filed on June 13, 2003, by

Long Beach Community College District,
Claimant.

Case No.: 02-TC-28

Cal Grants

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; TITLE 2,
CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted on March 27, 2009)

STATEMENT OF DECISION

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on March 27, 2009. Mr. Keith B. Petersen appeared for the claimant, Long Beach Community College District. Ms. Susan Geanacou appeared for the Department of Finance. Ms. Keri Tippins appeared for the California Student Aid Commission.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis at the hearing by a vote of 7 to 0 to partially approve this test claim.

Summary of Findings

This test claim involves the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, which was enacted by the Legislature in 2000 to address Cal Grant awards to students beginning in the 2001-2002 academic year. The Cal Grant program provides funding for California residents based on financial need and academic merit for public or private postsecondary education. The claimant, Long Beach Community College District, contends that the test claim statutes and regulations adopted by the California Student Aid Commission result in a reimbursable state-mandated program for community college districts.

The Commission finds that the following activities required by the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program in Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

The eligible period of reimbursement for this claim begins July 1, 2001.¹

The Commission further finds that all other statutes and regulations pled in this test claim do not mandate a new program or higher level of service and, thus, are not reimbursable.

BACKGROUND

The June 13, 2003 test claim filed by Long Beach Community College District alleges that community college districts have incurred costs mandated by the state, due to the enactment of eighteen Education Code sections by Statutes 2000, chapter 403, and later amendment by Statutes 2001, chapters 8 and 159. The test claim filing also alleges six title 5 regulations, issued by the California Student Aid Commission or its predecessor agency, the State Scholarship Commission.

Existing Law

Since 1977, the Cal Grant program, implemented through Education Code sections 69530 et seq. and the California Code of Regulations, title 5, sections 30000 et seq. (regulations adopted by the California Student Aid Commission), has provided grants to financially needy students to attend college.² Education Code sections 69530 et seq., has a projected sunset date of January 1, 2010,

¹ Government Code section 17557, subdivision (e).

² Statutes 1976, chapter 1010, operative April 30, 1977, derived from former Education Code section 40400 (added by Stats. 1975, ch. 1270).

and applies only to students receiving a Cal Grant award on or before December 31, 2000, before the period of reimbursement for this claim.

Under this existing law, four types of Cal Grant awards were available: Cal Grants A, B, C and T, with the maximum award in each category determined in the annual Budget Act. The Cal Grant A award was based on financial need and academic merit, and was available only for tuition and fees. Since community colleges do not charge tuition, the student awarded a Cal Grant A award who enrolled in a community college could elect to have the award held in trust by the Student Aid Commission for two academic years until the student transferred to a four-year college or university. (Ed. Code, § 69537.) The Cal Grant B award provided a living allowance, or “subsistence cost,” and sometimes tuition and fees for very low income, disadvantaged students. (Ed. Code, § 69538.) Except for certain five-year educational programs, Cal Grant A and B awards could be renewed by the student for a total of four years of full-time attendance in an undergraduate program, provided that financial need of the student continued to exist. The total number of years of eligibility was based on the student’s educational level, which was designated by the institution of attendance when the student initially received payment for a grant. (Ed. Code, § 69535.1, subd. (a).)

Cal Grant C provided tuition and fee grants, and funds for supplies to students training for vocational careers. (Ed. Code, § 69539.) As of the year 2000, the Cal Grant C program served approximately 3,700 students annually, primarily in community colleges.³ Cal Grant T provided one year grants to students in teacher credential training programs at institutions approved by the Commission on Teacher Credentialing. (Ed. Code, § 69540.)

An eligible applicant for a Cal Grant award is defined in section 30002 of the Student Aid Commission’s regulations as any person who has successfully met the requirements of the Education Code and submitted in proper form and prior to established deadlines the applications, supplements and transcripts of academic record, and financial and other information to the Student Aid Commission. (See also, Cal. Code Regs., tit. 5, § 30020.)⁴ To ensure that funds are available to the recipient of a Cal Grant award at the time the student enrolls, the Student Aid Commission was authorized to make an advance payment per term to “authorized postsecondary educational institutions” for eligible students who have indicated they were attending those institutions. Each “authorized” institution was required to disburse the funds in accordance with the provisions set forth in the “Institutional Agreement” between the Student Aid Commission and the institution. (Ed. Code, § 69535.5.)⁵ Refunds of unused award funds previously paid to a school or college were required to be based on the published regulations of the school or college concerned, as certified to the Student Aid Commission by the school or college. (Cal. Code Regs., tit. 5, § 30032.) In addition, the Student Aid Commission was authorized to provide for

³ Senate Third Reading, Senate Bill 1644 as amended August 24, 2000, 1999-2000 Legislative session.

⁴ The regulations cited in this section of the Background were first adopted by the Student Aid Commission in 1977 (Register 77, No. 24).

⁵ See, the Cal Grant Program Institutional Participation Agreement for 2008-09 and “Basics of the Institutional Participation Agreement Process for 2007-08 and 2008-09.”

reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use of the award. (Ed. Code, § 69535, subd. (j).)

Test Claim Statutes and Regulations

Statutes 2000, chapter 403⁶ created the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program, by adding chapter 1.7 to Part 42 of the Education Code, beginning with Education Code section 69430. This Cal Grant program is intended to replace the program established in Education Code sections 69530, et seq., and applies to students receiving Cal Grant awards beginning in the 2001-2002 academic year. The intent of the program is to guarantee a Cal Grant to every California high school student graduating in 2001 or after, who meets the minimum grade point average and eligibility requirements, has financial need, and applies for the Cal Grant by March 2 of the academic year of high school graduation, or by March 2 of the year following graduation.⁷ The guarantee also extends to California community college students transferring to a four-year college, who graduated from a California high school after June 2000, were California residents when they graduated, and who meet the Cal Grant requirements when they transfer to a four-year college. These grants are called “Entitlement” grants and consist of the following:

- Cal Grant A Entitlement awards cover tuition and fees at “qualifying” four-year colleges. Every high school senior graduating in 2001 or after who has at least a 3.0 high school grade point average, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year of graduation or the following year is guaranteed a Cal Grant award. (Ed. Code, § 69434.) A Cal Grant A recipient attending a California community college will not receive any payment, however, because community colleges do not charge tuition. Cal Grant eligible students attending a community college qualify for a Board of Governors fee waiver instead. The Cal Grant A award is held in reserve by the Student Aid Commission for two years (or three years upon request) for use when the student transfers to a tuition charging four-year qualifying institution. (Ed. Code, § 69434.5.)
- Cal Grant B Entitlement awards are for students from disadvantaged or low-income families and generally cover “access costs” such as living expenses, books, supplies, and transportation expenses in the amount of \$1,551 in the first academic year. In subsequent years, the award includes an additional amount to pay for tuition and fees. Every graduating high school senior who has at least a 2.0 high school grade point average, meets all the Cal Grant requirements, is a California resident at the time of graduation, and applies by March 2 either the year of graduation or the following year is guaranteed a Cal Grant B entitlement award. A limited number of first-year students who have exceptional financial need and a high grade point average may receive both the living allowance and the tuition and fee award. (Ed. Code, §§ 69435, 69435.3; Cal. Code Regs., tit. 5, § 30024.)

⁶ Urgency legislation operative September 12, 2000.

⁷ Statutes 2000, chapter 403 (SB 1644), section 2; see also, Student Aid Commission’s publication entitled “Cal Grants.”

- Cal Grant Transfer Entitlement awards are for community college students transferring to a four-year college and did not receive a Cal Grant within one year of graduating from high school. To qualify, students must have graduated from a California high school after June 30, 2000, and be a California resident when they graduated. Students must also have a 2.4 community college grade point average (of at least 24 semester units or the equivalent), meet the Cal Grant eligibility requirements, be under 24 years old, and apply by the March 2 deadline before the fall term when they plan to transfer. (Ed. Code, §§ 69436, 69436.5.)

Other students who are eligible for a Cal Grant, but are not high school seniors or recent graduates may compete for Cal Grant A or B Competitive awards. These awards are the same as the Cal Grant Entitlement awards except that they are not guaranteed. A limited number of Competitive awards are available (22,500 awards). Half of the Competitive awards are set aside for students who apply by the March 2 deadline and meet the requirements, and half are for California community college students who meet the requirements and apply by September 2. The eligibility requirements for the Competitive awards are focused on the nontraditional students and take into account grade point average, time out of high school, family income, parent’s educational levels, high school performance standards, whether the student comes from a single-parent household or was a foster youth. A student selected for a Cal Grant A Competitive award who enrolls in a California community college has the award for tuition held in reserve until the student transfers to a four-year institution. (Ed. Code, §§ 69437 - 69437.7; Cal. Code Regs., tit. 5, § 30025.)

Except for certain five-year educational programs, Cal Grant A and B awards may be renewed for a total of the equivalent of four years of full-time attendance in an undergraduate program provided that financial need continues to exist. The total number of years of eligibility is based on the student’s educational level, which is designated by the institution of attendance when the student initially receives payment for a grant. (Ed. Code, § 69433.6.)

The Cal Grant C and T awards for students in vocational training and teacher credential training are also included in the Ortiz-Pacheco-Poohigian-Vasconcellos Cal Grant Program. Except for a supplemental application for Cal Grant C applicants, which is described below, the Cal Grant C and T awards remain unchanged.⁸

To be eligible for a Cal Grant, a student is required to complete and submit a Free Application for Federal Student Aid (FAFSA) and a certified grade point average on or before the statutory deadline. (Ed. Code, §§ 69432.9, 69433; Cal. Code Regs., tit. 5, §§ 30007, 30008.) The FAFSA is mailed or electronically submitted to the U.S. Department of Education’s central processor. The central processor sends FAFSA records for California students to the Student Aid Commission. The grade point average is verified by the school (either high school or community college) and submitted by either the student or the school.⁹ Each report of grade point average is required to include a certification, executed under penalty of perjury, by a school official, that the

⁸ See also, Senate Third Reading, Senate Bill 1644 as amended August 24, 2000, 1999-2000 Legislative session, where the analysis states the following: “This bill does not affect the current configuration of the Cal Grant C and T programs.”

⁹ See also, Cal Grant Manual, chapter 4.1, “The Cal Grant Application Process.”

grade point average reported is accurately reported. (Ed. Code, § 69432.9, subd. (c).) The Student Aid Commission may accept the submission of a grade point average from an applicant or reporting school after the statutory deadlines if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average. Such circumstances must be shown by a certification from the reporting school and the student applicant. In addition, applicants or officials who submit a timely but incomplete or incorrect grade point average shall have a grace period of ten days after the mailing of notice by the Student Aid Commission to file a corrected or completed grade point average. (Cal. Code Regs., tit. 5, § 30023.)

With respect to the Cal Grant C award for vocational training, the applicant receives a supplemental application to be completed that requires information about the student's "occupational talents."¹⁰ Section 30027 of the Student Aid Commission's regulations allows an application to establish "occupational talents" by submitting the applicant's work history and/or recommendation from teachers or persons working in the applicant's occupational or technical field.

A Cal Grant Program award may be utilized only at a qualifying institution. (Ed. Code, § 69433.5, subd. (i).) "Qualifying institutions" include public postsecondary educational institutions that complete a Cal Grant "Institutional Participation Agreement" for each participating campus in the district. (Ed. Code, § 69432.7, subd. (l)(3).)¹¹ To ensure that funds are available to the recipient of a Cal Grant award at the time the student enrolls, the Student Aid Commission is authorized to make an advance payment per term to "authorized postsecondary educational institutions" for eligible students who have indicated they are or will be attending those institutions. Each "authorized" institution is required to disburse the funds in accordance with the provisions set forth in the Institutional Participation Agreement between the Student Aid Commission and the institution. (Ed. Code, § 69432.8.) Before disbursing any Cal Grant funds, the qualifying institution "shall be obligated, under the terms of the Institutional Participation Agreement," to resolve any conflicts that may exist in the data the institution possesses relating to the recipient student. (Ed. Code, § 69432.7, subd. (k).) In addition, the Student Aid Commission is authorized to provide for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use of the award. (Ed. Code, § 69433.5, subd. (h).)

Finally, Statutes 2000, chapter 403 added section 69514.5 to the Education Code, establishing the Community College Student Financial Aid Outreach Program. This program, which is required to be developed and administered by the Student Aid Commission, is to provide workshops regarding "financial aid opportunities available to community college students, with a particular focus on students who plan to transfer to a four-year college or university."

The statutory and regulatory changes to the Cal Grant program, as alleged by the claimant, as well as the new Community College Student Financial Aid Outreach Program, will be analyzed below for the imposition of a reimbursable state-mandated program on community college districts.

¹⁰ Cal Grant Manual, chapter 4.7, "Cal Grant C Supplement."

¹¹ Cal Grant Manual, chapter 2.1, "Institutional Eligibility."

Claimant's Position

Long Beach Community College District's June 13, 2003¹² test claim filing alleges the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program constitutes a reimbursable state-mandated program, and requires community colleges to perform the following activities:¹³

- enact and implement, and periodically update, policies and procedures to implement the Cal Grant program;
- provide official financial aid and award renewal applications, as well as Cal Grant award forms for each of the entitlement and competitive Cal Grant programs, and assist students who have questions regarding completion of any of the forms, pursuant to Education Code sections 69432.9, subdivision (a), 69433, subdivision (a), 69434, subdivision (b)(1), 69434.5, 69435, 69435.3, 69436, 69437, 69437.3, 69437.6, subdivision (f), 69439, and 69440;
- accept supplemental information and academic transcripts from applicants and submit them to the Student Aid Commission, pursuant to California Code of Regulations, title 5, sections 30002 and 30027;
- certify grade point averages upon student request and submit them to the Student Aid Commission, pursuant to Education Code section 69432.9, subdivision (c), and California Code of Regulations, title 5, sections 30007 and 30023;
- receive, account for, and disburse advance payments of Cal Grant funds from the Student Aid Commission, designate a student's educational level when the student first receives a grant payment, return unused awards, and produce accounting reports and other statements to the Student Aid Commission, as required by district agreement or regulation, pursuant to Education Code 69432.8, 69433.5, subdivision (h), 69433.6, subdivision (a), 69436.5, and California Code of Regulations, title 5, section 30032;
- train community college counselors and student advisors who work with students planning to attend community college or transfer from a community college to a 4-year college or university on financial aid opportunities for such students, and subsequently conduct workshops for students and their families regarding financial aid, pursuant to Education Code section 69514.5.

The claimant acknowledges that “[f]unds may be available for financial aid and student outreach programs. To the extent these funds are appropriated and actually received specifically for the administration of the Cal Grant program, those funds would reduce the costs mandated.”¹⁴

The claimant filed comments on the draft staff analysis as follows:

- Community colleges are legally required to participate in the Cal Grant program. Education Code section 69432.7, subdivision (l), defines “qualifying institution” to

¹² The potential reimbursement period begins no earlier than July 1, 2001, based upon the filing date for this test claim. (Gov. Code, § 17557.)

¹³ Test Claim Filing, pages 36-41.

¹⁴ Test Claim Filing, page 43.

include any California postsecondary educational institution. By statute, there are no additional acts required of community colleges in order to be considered a participant in the Cal Grant program. Although the Cal Grant Manual published by the Student Aid Commission provides that a community college can choose to enter into an Institutional Participation Agreement to be considered a qualifying institution, the Cal Grant Manual has not been adopted as a regulation, does not cite the source of its guidance, and therefore cannot be relied on as a source of law.

- Community colleges are practically compelled to participate in the Cal Grant program because students have a statutory right to the award when they demonstrate financial need and comply with the requirements of the program. According to the California Community Colleges Chancellor's Office, over \$74 million was provided to community college students during the 2006-07 year via Cal Grant B and C awards. This amounts to substantial assistance and places the Cal Grant program as the second largest source of aid for community college students.
- All activities required by the test claim statutes and regulations constitute a new program or higher level of service. The Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant program is a separate and new program, and did not repeal the previous Cal Grant program.

State Agency's Position

California Student Aid Commission

The comments on the test claim filing from the California Student Aid Commission, received October 15, 2003, dispute the test claim allegations. The comments state that the test claim statutes impose requirements on the Student Aid Commission, but "participation by a postsecondary institution is voluntary." The Student Aid Commission cites several parts of the Cal Grant program that "make it clear that participation by a postsecondary institution is voluntary; institutions electing to participate in the Cal Grant program do it to attract financially needy students to their institution while providing a financial benefit to students already in attendance and an incentive to remain at the institution." The provisions in the Education Code cited by the Student Aid Commission in support of its contention are as follows:

- Education Code section 66021.2, subdivision (f), states that "An institution of higher education in this state that participates in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not reduce its level of per capita need-based institutional financial aid to undergraduate students, excluding loans, below the total level awarded in the 2000-01 academic year." The Student Aid Commission argues that this section "makes clear the policy that Cal Grant Awards supplement rather than replace existing institutional student aid. 'Participates' clearly connotes the voluntary nature of the program for institutions. Any institution which disagrees with the program parameters or requirements need not participate in the program, albeit to the detriment of its students."
- Citing Education Code section 69432.8, the Student Aid Commission states that "[q]ualifying institutions do not automatically receive Cal Grant funds for students with awards attending their institution. They must enter into a contract (Institutional Participation Agreement or IPA) with the Commission before they receive any funds for their students. The IPA is an institutional agreement (entered into with the Commission)

that they will comply with the statutory requirements of the program and maintain records for the Commission to audit for program compliance. Any institution not wishing to voluntarily participate in the Cal Grant program for its students will not sign an IPA. The Commission does not disburse funds to an institution that has not signed an IPA even though it is a ‘qualifying’ institution pursuant to statute and regulation. That institution has elected not to participate in the program even though it could participate.

- Education Code section 69432.7, subdivision (l), defines “qualifying institution.” The Student Aid Commission argues that “[t]he use of the word ‘qualifying’ is intentional and significant. It also demonstrates the voluntary nature of the Cal Grant program for institutions.”

The Student Aid Commission also states that the community colleges receive funds for student aid administration, including a budget augmentation in 2003-04, with a minimum additional allocation of \$50,000 per campus (6870-101-0001) for outreach and support services for “potential and current financial aid applicants.”

On December 11, 2008, the Student Aid Commission filed comments on the draft staff analysis arguing that calculating a grade point average, certifying the grade point average under penalty to perjury, and resubmitting an incomplete or incorrect grade point average to the Student Aid Commission do not mandate a new program or higher level of service or impose costs mandated by the state for the following reasons:

- The Cal Grant program is an entirely voluntary program. Community colleges that chose to participate in the program execute an Institutional Participation Agreement, establishing the roles and responsibilities of the institution electing to participate and the Student Aid Commission. Article II, paragraph J of the agreement requires the institution to comply with all current and applicable laws and regulations. Noncompliance may result in termination of the agreement. If the Student Aid Commission terminated the contract for a community college district, the community college district would not be required to undertake the activities relating to calculating a grade point average.
- Each of the community college districts participating in the Cal Grant program electronically submit grade point averages through the Student Aid Commission’s Webgrants program. Therefore, community college districts are not required to fill out the paper form and certification outlined in Education Code section 69432.9, subdivision (d), and are not required to correct or complete the GPA form pursuant to section 30023, subdivision (d), of the Student Aid Commission’s regulations. “Although specific numbers are not available, the number of college or community college grade point averages being submitted in a paper-format instead of electronically is de minimis, constituting less than 1% of all grade point averages being received by [the Student Aid Commission] from the community college districts.”

Department of Finance

On February 3, 2009, the Department of Finance filed comments on the draft staff analysis, arguing that the test claim should be denied since the program is voluntary. The Department of Finance further argues that the community college general apportionment funding has increased from approximately \$1.6 billion in 2000-01 to approximately \$3 billion in 2008-09, and that this funding should be used for serving their students, including calculating a grade point average to

obtain a Cal Grant award. Finance states that “[w]e believe that calculating a GPA that allows students to further their education is a basic activity that should not be considered a higher level of service since helping students achieve their academic goals strikes at the core mission of community colleges.” Finance also contends that community colleges receive approximately \$50 million annually for student financial aid administration pursuant to the Budget Act (Item 6870-101-0001) and, thus, there should be no costs mandated by the state. Finance states that:

This funding was added to the annual budget act shortly after the implementation of the Ortiz-Pacheco-Poochigian-Vasconsellos Cal Grant program. The legislative intent of this funding is to provide community colleges with additional resources to help students obtain financial aid. Although the Cal Grant Program is not specifically mentioned as part of the intent of this augmentation, it does not mean its related activities are not funded. The lack of specificity with regard to financial aid programs was intentional to allow flexibility at the local level since there are multiple financial aid programs available to community college students.

Finally, Finance argues that any cost to the program is de minimis given the current electronic processes utilized by community colleges. “In fact, we believe the implementation of the [test claim statutes and regulations] is cost neutral considering that community colleges no longer perform activities such as submitting transcripts to the Student Aid Commission as performed under the previous Cal Grant Program. Such activities should be considered a cost reduction against any de minimis costs related to the staff’s findings.”

COMMISSION FINDINGS

The courts have found that article XIII B, section 6, of the California Constitution¹⁵ recognizes the state constitutional restrictions on the powers of local government to tax and spend.¹⁶ “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹⁷ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or

¹⁵ Article XIII B, section 6, subdivision (a), provides: (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

¹⁶ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

¹⁷ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

task.¹⁸ In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.¹⁹

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.²⁰ To determine if the program is new or imposes a higher level of service, the test claim statutes and executive orders must be compared with the legal requirements in effect immediately before the enactment.²¹ A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”²²

Finally, the newly required activity or increased level of service must impose costs mandated by the state.²³

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.²⁴ In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”²⁵

Issue 1: Do the test claim statutes and regulations implementing the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Ed. Code, § 69430 et seq.) mandate a new program or higher level of service on community college districts within the meaning of article XIII B, section 6 of the California Constitution?

¹⁸ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹⁹ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878, (*San Diego Unified School Dist.*); *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

²⁰ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; see also *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.)

²¹ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

²² *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

²³ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

²⁴ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

²⁵ *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

A. Several test claim statutes and a regulation address requirements imposed on students and the Student Aid Commission, but do not mandate community college districts to perform any activities.

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds.” This constitutional provision was specifically intended to prevent the state from forcing programs on local government that require expenditure by local governments of their tax revenues.²⁶ To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

Thus, in order for a statute to be subject to article XIII B, section 6 of the California Constitution, the statutory language must require a community college district to perform an activity or task. If the statutory language does not mandate community college districts to perform a task, then compliance with the test claim statute is within the discretion of the local agency and a reimbursable state mandated program does not exist.

There are several statutes and a regulation pled in this test claim that are helpful in understanding the Cal Grant program, but they do not impose any requirements on community college districts or address any activities performed by community college districts. The statutes and regulation are Education Code sections 69433²⁷, 69433.7²⁸, 69434²⁹, 69434.5³⁰, 69435³¹, 69435.3³²,

²⁶ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

²⁷ Education Code section 69433 states that a Cal Grant award is based on the financial need of the applicant. The statute requires the Student Aid Commission to prescribe the use of a standardized student financial aid application for the Cal Grant program and allows the use of supplemental application information.

²⁸ Education Code section 69433.7 requires the Student Aid Commission to adopt regulations to implement the program.

²⁹ Education Code section 69434 describes the Cal Grant A Entitlement award and the eligibility requirements for the award.

³⁰ Education Code section 69434.5 authorizes a Cal Grant A recipient enrolled in a community college to reserve the award until the recipient transfers to a tuition charging institution. The grant is held in reserve by the Student Aid Commission.

³¹ Education Code section 69435 describes the Cal Grant B Entitlement award.

³² Education Code section 69435.3 describes the eligibility criteria for a Cal Grant B Entitlement award.

69436³³, 69436.5³⁴, 69437³⁵, 69437.3³⁶, 69439³⁷, 69440³⁸, and section 30002 of the Student Aid Commission's regulations.³⁹

Although the claimant alleges that these statutes and regulation require community college districts to provide official financial aid and award renewal applications, as well as Cal Grant award forms for each of the entitlement and competitive Cal Grant programs, and assist students who have questions regarding completion of any of the forms, these activities are not required by the plain language of the statutes or regulations pled in the claim. The primary form used for the Cal Grant application process is the Free Application for Federal Student Aid, or FAFSA, which is available to students through the U.S. Department of Education, as well as through the Student Aid Commission. Both the Student Aid Commission and the U.S. Department of Education maintain detailed websites and toll-free phone numbers to assist students with completing financial aid applications.⁴⁰ Awards are then made by the California Student Aid Commission, not by the colleges.

Accordingly, the Commission finds that Education Code sections 69433, 69433.7, 69434, 69434.5, 69435, 69435.3, 69436, 69436.5, 69437, 69437.3, 69439, 69440, and section 30002 of the Student Aid Commission's regulations do not mandate a new program or higher level of service on community college districts.

B. Activities performed pursuant to the Institutional Participation Agreement

The claimant contends that Education Code sections 69432.8, 69433.5, subdivision (h), 69433.6, subdivision (a), and California Code of Regulations, title 5, section 30032 impose a new state-mandated duty on community college districts to receive, account for, and disburse advance payments of Cal Grant funds from the Student Aid Commission, designate a student's

³³ Education Code section 69436 addresses the Cal Grant Transfer Entitlement award and the eligibility requirements for the award. The statute further requires to the Student Aid Commission to require the four-year institution where the student is transferring to verify that the recipient meets the requirements.

³⁴ Education Code section 69436.5 requires the four-year institution where students transfer and receive a Cal Grant Transfer Entitlement award to report to the Student Aid Commission the number of students determined to be independent.

³⁵ Education Code section 69437 describes the Cal Grant Competitive awards.

³⁶ Education Code section 69437.3 describes the application and enrollment requirements for the Cal Grant Competitive award.

³⁷ Education Code section 69439 describes the Cal Grant C award for occupational and technical training, and contains the same language as existing law in Education Code section 69539.

³⁸ Education Code section 69440 describes the Cal Grant T award for teacher credential training.

³⁹ Section 30002 of the Student Aid Commission's regulations describes an eligible applicant under the existing Cal Grant program in Education Code sections 69530 et seq. This regulation does not apply to the test claim statutes.

⁴⁰ See, Student Aid Commission's publication "Cal Grants", which refers to <<http://www.calgrants.org>> and <www.fafsa.ed.gov>.

educational level when the student first receives a grant payment, return unused awards, and produce accounting reports and other statements to the Student Aid Commission, as required by district agreement or regulation.

The Student Aid Commission and the Department of Finance assert that these statutes and regulation do not impose a state-mandated program because participation of a college in the Cal Grant program is voluntary.

The plain language of the statutes and regulation pled by the claimant require community colleges to perform the following activities:

- Each authorized institution is required to disburse the funds in accordance with the provisions set forth in the Institutional Participation Agreement between the Student Aid Commission and the institution. (Ed. Code, § 69432.8.)
- The Student Aid Commission may require, by the adoption of rules and regulations, the production of reports, accounting, documents, or other necessary statements from the college pertaining to the use or application of the award by a recipient student. (Ed. Code, § 69433.5, subd. (h).)
- When a student recipient initially receives payment for a grant, designate the total number of years of eligibility for grants based on the student’s educational level in his or her course of study. (Ed. Code, § 69433.6, subd. (a).)
- Refund unused award funds based on published regulations of the community college, as certified to the Student Aid Commission by the community college. (Cal Code Regs., tit. 5, § 30032.)

The receipt, accounting, and disbursement of Cal Grant funds required by these statutes and regulation apply to community college districts only with respect to community college students receiving Cal Grant B Entitlement awards, Cal Grant B Competitive awards, and Cal Grant C awards for vocational training. As indicated in the background, Cal Grant A awards are held in reserve until the student transfers to a four-year college, and Cal Grant Transfer Entitlement awards are released only by four-year colleges.

For the reasons below, the Commission finds that community college districts are not legally or practically compelled by the state to comply with these requirements. Rather, each community college is given a choice to participate in the Cal Grant program and administer the award funds to their recipient students. Thus, the activities required that follow the community college’s decision to participate in the Cal Grant program are not mandated by the state.

Education Code section 66021.2 addresses the Legislature’s long-term Cal Grant policy and refers, in subdivision (f), to “[a]n institution of higher education that *participates* in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.” (Emphasis added.) Education Code section 69433.5, subdivision (i), states that a Cal Grant program award may only be utilized at a “qualifying institution.” “Qualifying institutions” are defined in Education Code section 69432.7, subdivision (l), to include public postsecondary educational institutions, which includes community college districts. The plain meaning of the words “participates” and “qualifying” in these statutes demonstrates the voluntary nature of a community college’s

participation in the program. “Participates” is defined as “[t]o join or share or share with others; take part.”⁴¹ “Qualify” is defined as “[t]o make eligible or competent for a task or position.”⁴²

This conclusion is supported by the Student Aid Commission’s Cal Grant Manual. The Student Aid Commission is the state agency required to administer and implement the Cal Grant program and their Manual describes the Cal Grant process.⁴³ Chapter 2.1 of the Cal Grant Manual states that “qualifying institutions” include public postsecondary educational institutions that complete a Cal Grant “Institutional Participation Agreement” for each participating campus in the district.⁴⁴ Chapter 2.1 further states the following: “To be eligible to release Cal Grant funds to participating students, a school location must be providing instruction in California, complete a Cal Grant *Institutional Participation Agreement*, and be a public postsecondary educational institution.” In addition, “[t]he school must also demonstrate the ability to administer the Cal Grant funds and must meet such other standards as are adopted by regulation by the Commission in consultation with the State Department of Finance.”⁴⁵ A school’s eligibility to participate in the Cal Grant program is approved for the specific locations included in the agreement and does not automatically carry over to branch campuses or other off-site classroom locations. A qualifying institution “shall be deemed disqualified if it no longer possesses all of the requirements for a qualifying institution.”⁴⁶ Chapter 2.1 of the Cal Grant Manual details how an institution can participate in the program as follows:

To initiate institutional participation in the Cal Grant program, a school official must contact the Grant Operations Branch of the Commission, complete, then sign and submit a Cal Grant IPA. This document specifies the requirements for institutional participation in the Cal Grant programs. The IPA is periodically revised to encompass regulatory, policy and processing changes to the Cal Grant programs.

To document eligibility, the Commission reviews institution data from the Postsecondary Education Participants System (PEPS), along with information provided by the school. The following outlines the items that are reviewed. From PEPS data, a copy of:

- the Detailed School Report from the USED [U.S. Department of Education]
- the school’s Eligibility & Certification Approval from USED
- the institution’s state legal accreditation

⁴¹ Webster’s II New College Dictionary (1999), page 801.

⁴² *Id.* at page 905.

⁴³ Education Code sections 69430, et al., 69510, 69514.

⁴⁴ Education Code 69432.7, subdivision (1)(3); Cal Grant Manual, chapter 2.1, “Institutional Eligibility.”

⁴⁵ Cal Grant Manual, chapter 2.1, “Institutional Eligibility.”

⁴⁶ *Ibid.*

Sent by the school:

- the school’s existing disbursement and institutional refund policies, as outlined in Chapter 9 [of the Cal Grant Manual]
- audited financial statements (for at least the two most recently completed fiscal years)
- an audited balance sheet showing the financial condition of the institution at the time of application for participation
- the school’s final authorization notice of funding for allocation of the federal campus-based student aid programs
- a statement of account from the USED or a general ledger showing that funds are being expended on federal campus-based student aid programs
- the institution’s current catalog or resource document describing the course lengths of the institution’s program(s).⁴⁷

The claimant urges the Commission to ignore the Manual since it has not been adopted as a regulation and, thus, does not have the force of law. However, the courts have made it clear that the interpretation of the meaning and legal effect of a statute by an agency charged with the administration and implementation of a statute is entitled to consideration, even when the interpretation has not been adopted as a regulation. In *Yamaha Corporation v. State Board of Equalization* (1998) 19 Cal.4th 1, the California Supreme Court determined the legal effect courts must give to annotations relied on by the Board of Equalization in supporting its position in taxpayer litigation. The annotations were not regulations and, therefore, not binding on the taxpayer, the Board, or the court. But the annotations were digests of opinions written by the legal staff of the Board and the administrative interpretation of the Sales and Use Tax Law.⁴⁸ The California Supreme Court reversed the lower court’s ruling that the Board’s legal interpretation of the tax law in their annotations was entitled to great weight and would not be overturned unless clearly erroneous or unauthorized.⁴⁹ The court held, however, that courts were entitled to consider the Board’s annotations in context of the circumstances.

An agency interpretation of the meaning and legal effect of a statute is entitled to consideration and respect by the courts; however, unlike quasi-legislative regulations adopted by an agency to which the Legislature has confided the power to “make law,” and which, if authorized by the enabling legislation, bind

⁴⁷ If a community college participates in the program, the Cal Grant Manual and the Institutional Participation Agreement lay out several requirements, including maintaining standards of administrative capacity and financial responsibility, providing a clear audit trail of fiscal records, maintaining grant funds in a designated account identified as the property of the state, retaining records to document the accuracy of the grant payments for three years, and adopting a refund policy. (Cal Grant Manual, chapters 2, 8, 9.) The claimant has not pled the Cal Grant Manual in this test claim and has not requested reimbursement for these activities.

⁴⁸ *Yamaha Corporation v. State Board of Equalization* (1998) 19 Cal.4th 1, 15.

⁴⁹ *Id.* at page 6.

this and other courts as firmly as statutes themselves, the binding power of an agency's *interpretation* of a statute or regulation is contextual: Its power to persuade is both circumstantial and dependent on the presence or absence of factors that support the merit of the interpretation. ...

Courts must, in short, independently judge the text of the statute, taking into account and respecting the agency's interpretation of its meaning, of course, whether embodied in a formal rule or less formal representation. Where the meaning and legal effect of a statute is the issue, an agency's interpretation is one among several tools available to the court. Depending on the context, it may be helpful, enlightening, even convincing. It may sometimes be of little worth. [Citation omitted.] Considered alone and apart from the context and circumstances that produce them, agency interpretations are not binding or necessarily authoritative. To quote the statement of the Law Revision Commission in a recent report, "The standard for judicial review of agency interpretation of law is the *independent judgment* of the court, giving *deference* to the determination of the agency *appropriate* to the circumstances of the agency action." [Citation omitted, emphasis in original.]⁵⁰

The Student Aid Commission's interpretation that participation in the Cal Grant program is voluntary is consistent with the plain meaning of the statutes. Thus, community colleges are not legally compelled to perform the activities required by Education Code sections 69432.8, 69433.5, subdivision (h), 69433.6, subdivision (a), and California Code of Regulations, title 5, section 30032. The decision to participate in the Cal Grant program is made at the local level and is not compelled by the state.⁵¹

Absent such legal compulsion, the courts have ruled that at times, based on the particular circumstances, "practical" compulsion might be found. The claimant argues that community colleges are practically compelled to participate in the Cal Grant program because students have a statutory right to the award when they demonstrate financial need and comply with the requirements of the program. According to the California Community Colleges Chancellor's Office, over \$74 million was provided to community college students during the 2006-07 year via Cal Grant B and C awards. Thus, the claimant states that this amounts to substantial assistance and places the Cal Grant program as the second largest source of aid for community college students.

The Supreme Court in *Kern High School Dist.* addressed the issue of "practical" compulsion in the context of a school district that had participated in optional funded programs in which new requirements were imposed. In *Kern*, the court determined there was no "practical" compulsion to participate in the underlying programs, since a district that elects to discontinue participation in a program does not face "certain and severe ... penalties" such as "double ... taxation" or other "draconian" consequences.⁵²

⁵⁰ *Id.* at pages 7-8.

⁵¹ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 880.

⁵² *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 754.

Here, although students meeting the financial and grade point average criteria may be guaranteed a Cal Grant B Entitlement Award, community colleges are not required to participate in the program. Moreover, there is no evidence in the law or in the record that community colleges that elect not to participate in the Cal Grant program and administer grant funds to their students face certain and severe penalties such as double taxation or other draconian consequences. As acknowledged by the Student Aid Commission, students that need financial aid may be affected by a community college's decision not to participate in the program. However, the Cal Grant program is intended to supplement and not replace the federal Pell Grant program and other existing institutional student aid. Education Code section 66021.2 specifically states the following:

(f) An institution of higher education in this state that participates in the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program shall not reduce its level of per capita need-based institutional financial aid to undergraduate students, excluding loans, below the total level awarded in the 2000-01 academic year.

[¶]

(h) It is the policy of the State of California that the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program supplement the federal Pell Grant program.

Thus, the Commission finds that Education Code section 69432.8, 69433.5, subdivision (h), 69433.6, subdivision (a), and California Code of Regulations, title 5, section 30032 do not impose a state-mandated duty on community college districts to receive, account for, and disburse advance payments of Cal Grant funds from the Student Aid Commission, designate a student's educational level when the student first receives a grant payment, return unused awards, and produce accounting reports and other statements to the Student Aid Commission, as required by district agreement or regulation.

Moreover, the activities required of a community college that participates in the Cal Grant program were required before the enactment of the test claim statutes and regulations and, thus, do not constitute a new program or higher level of service. Under the existing Cal Grant program in Education Code section 69530 et seq. for students receiving awards before December 31, 2000, the Student Aid Commission was authorized to make an advance payment per term to "authorized postsecondary educational institutions" for eligible students who indicated they were attending those institutions. Each "authorized" institution was required to disburse the funds in accordance with the provisions set forth in the "Institutional Agreement" between the Student Aid Commission and the institution. (Ed. Code, § 69535.5.) Refunds of unused award funds previously paid to a school or college were required to be based on the published regulations of the school or college concerned, as certified to the Student Aid Commission by the school or college. (Cal. Code Regs., tit. 5, § 30032, enacted in 1977 (Register 77, No. 24).) When a student recipient initially received payment for a grant, the institution of attendance was required to designate the total number of years of eligibility for grants based on the student's educational level in his or her course of study. (Ed. Code, § 69535.1, subd. (a).) In addition, the Student Aid Commission was authorized to provide for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use of the award. (Ed. Code, § 69535, subd. (j).) Although the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant program may be new, the activities required of institutions participating in the program by Education Code section 69432.8, 69433.5,

subdivision (h), 69433.6, subdivision (a), and California Code of Regulations, title 5, section 30032, are not new.⁵³

Accordingly, Education Code section 69432.8, 69433.5, subdivision (h), 69433.6, subdivision (a), and California Code of Regulations, title 5, section 30032 do not mandate a new program or higher level of service on community colleges.

C. Calculation, certification, and submittal of grade point averages to the Student Aid Commission

In order to complete the Cal Grant application process, the Student Aid Commission must receive the Free Application for Federal Student Aid (FAFSA) and a certified grade point average.⁵⁴ With respect to the grade point average, the claimant contends that Education Code section 69432.9, and sections 30007, 30023, and 30026 of the Student Aid Commission's regulations require community college districts to:

- Certify, under penalty of perjury, grade point averages upon student request and submit them to the Student Aid Commission.
- Submit facts to the Student Aid Commission showing circumstances beyond the control of the applicant when requesting leave to file the grade point averages after the statutory deadline.
- Resubmit corrected or completed grade point averages within ten days after notice from the Student Aid Commission that the district has submitted a timely, but incomplete or incorrect grade point average.
- Provide a grade point average computed pursuant to section 30007, subdivision (c), of the Student Aid Commission's regulations for at least 16 academic units when requested by a student seeking to reestablish his or her grade point average.

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.⁵⁵ For a Cal Grant Transfer Entitlement award, the student must show that he or she has earned a community college grade point average of at least 2.4 on a 4.0 scale and is eligible to transfer to a qualifying institution that offers a baccalaureate degree.⁵⁶ To compete for a Competitive Cal Grant A award, the student may submit a community college or college grade point average of at least 2.4 on a 4.0 scale, in lieu of submitting a high school grade point average.⁵⁷ To compete for a Competitive Cal Grant B award, a student may submit a reestablished or improved grade point

⁵³ *Lucia Mar Unified School Dist. v. State of California* (1988) 44 Cal.4d 830, 835.

⁵⁴ Cal Grant Manual, chapter 4.1.

⁵⁵ Cal Grant Manual, chapter 4.1.

⁵⁶ Education Code section 69436, subdivision (b)(3).

⁵⁷ Education Code section 69437.6, subdivision (b).

average, instead of submitting a high school grade point average, by completing at least 16 cumulative units of credit for academic coursework at an accredited California community college, with at least a 2.0 community college grade point average.^{58, 59}

Calculating and certifying the grade point average to the Student Aid Commission

Education Code section 69432.9, subdivision (b)(3)(C), requires the Student Aid Commission to “require that a grade point average be submitted for all Cal Grant A and B applicants”⁶⁰ Section 30023, subdivision (a), similarly states that “[a]ll Cal Grant A and B applicants shall submit a grade point average” Education Code section 69432.9, subdivision (b)(3)(C), further requires the Student Aid Commission to “require that each report of a grade point average include a certification, executed under penalty of perjury by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.”

Section 30007 of the Student Aid Commission’s regulations provides instructions on how to calculate a “college grade point average” and a “community college grade point average” when applying for a Cal Grant. Both the “college grade point average” and “community college grade point average” are defined in section 30007, subdivision (a)(1), as follows:

... a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree. A college grade point average or a community college grade point average must be computed for a minimum of 24 semester units or its equivalent regardless of the grade received.

The phrase “for all college work completed” includes all coursework for which grades are known to the official reporting the grade point average and that are accepted for credit at the school reporting the grade point average.⁶¹

The definitions of “nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” differ, however, for a college grade point average and a community college grade point average. For purposes of computing a college grade point average by a postsecondary institution that grants associate degrees, section 30007, subdivision (b)(2), defines “nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” as “those courses which do not earn credit for an associate degree at the reporting institution.”

For purposes of computing a community college grade point average, section 30007, subdivision (c), defines “nontransferable units and courses not counted in the computation for

⁵⁸ Education Code section 69437.6, subdivision (c).

⁵⁹ High school grade point averages are required for the Cal Grant A and B Entitlement awards. (Ed. Code, §§ 69434, 69435.3.)

⁶⁰ Statutes 2000, chapter 403.

⁶¹ California Code of Regulations, title 5, section 30007, subdivision (a)(2).

admission to a California public institution of higher education that grants a baccalaureate degree” as “all courses except “Associate Degree Credit Courses” as defined by Title 5, Chapter 6, Article 1, Section 55002(a) of the California Code of Regulations.” Section 55002, subdivision (a), defines “degree-applicable credit courses” as a “course which has been designated as appropriate to the associate degree in accordance with the requirements of section 55062, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students.”

Section 30007, subdivision (d), requires that the grade point average include a certification under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee.

Section 30026 of the Student Aid Commission’s regulations governs reestablished grade point averages for students competing for a Competitive Cal Grant award. That section provides that an applicant seeking to reestablish his or her grade point average may do so by providing a community college grade point average computed pursuant to section 30007 for at least 16 academic semester units or its equivalent from an accredited California community college.”

Sections 30007, 30023, subdivision (a), and 30026 of the regulations all state the following: “It is the responsibility of the applicant to have a grade point average or test score reported.”

Although these regulations provide that “[i]t is the responsibility of the student applicant to have his or her college or community college report a grade point average,” the Commission finds that community college districts are required by Education Code section 69432.9 and sections 30007, 30023, subdivision (a), and 30026 of the Student Aid Commission’s regulations to calculate and certify the grade point average under penalty of perjury when requested by a student. When interpreting a statute, the courts will look at the objective to be achieved and the legislative history of the statute if the statutory language is ambiguous. The court will “select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences.”⁶² In this case, a certified college or community college grade point average is required in order to be eligible for a Transfer Entitlement or Competitive Cal Grant award. Cal Grant Transfer Entitlement awards are *guaranteed* by the Legislature to students who meet the eligibility requirements.⁶³ Only the community college has access to the records required to calculate the grade point average and the community college official must certify under penalty of perjury that the grade point average is accurately reported.

The Student Aid Commission and the Department of Finance filed comments on the draft staff analysis, arguing that calculating and certifying a grade point average is not mandated by the state since the Cal Grant program is an entirely voluntary program. The Student Aid Commission states that community colleges that choose to participate in the program execute an Institutional Participation Agreement, establishing the roles and responsibilities of the institution electing to participate and the Student Aid Commission. Article II, paragraph J of the agreement

⁶² *Day v. City of Fontana* (2001) 25 Cal.4th 268, 272.

⁶³ Education Code sections 69436, 69436.5; Statutes 2000, chapter 403 (SB 1644), section 2.

requires the institution to comply with all current and applicable laws and regulations. Noncompliance may result in termination of the agreement. If the Student Aid Commission terminated the contract for a community college district, the community college district would not be required to undertake the activities relating to calculating and certifying a grade point average.

The Student Aid Commission further asserts that each of the community college districts participating in the Cal Grant program electronically submit grade point averages through the Student Aid Commission's Webgrants program. Therefore, community college districts are not required to fill out the paper form and certification outlined in Education Code section 69432.9, subdivision (d).

The Commission disagrees with the arguments of the Student Aid Commission and the Department of Finance. There is no indication in the law or evidence in the record that a college's execution of the Institutional Participation Agreement is required before calculating and certifying a grade point average for a student applying for a Cal Grant award. According to Chapter 2.1 of the Cal Grant Manual, a community college's decision to execute the Institutional Participation Agreement and comply with the terms of the agreement triggers the community college's eligibility "to *release* Cal Grant funds to participating students." In this respect, the duties required of participating institutions that sign the Institutional Participation Agreement govern the disbursement, maintenance, accounting, and release of the funds to the students. These duties include maintaining standards of administrative capacity and financial responsibility, providing a clear audit trail of fiscal records, maintaining grant funds in a designated account identified as the property of the state, retaining records to document the accuracy of the grant payments for three years, and adopting a refund policy. The Agreement, in Article II governing General Provisions, does require the institution to comply with all current and applicable laws and regulations, as argued by the Student Aid Commission. But this provision is limited to compliance with the law "in [the college's] implementation of the terms of this Agreement." The terms of the Agreement address the disbursement, maintenance, and accounting of funds that are held in trust by the college for the state until the funds are disbursed to an eligible student.⁶⁴ The remaining General Provisions in Article II of the Agreement address these duties. They require the institution to use and retain program and fiscal records that demonstrate institutional and student eligibility and that document the accuracy of the grant payments, to maintain written policies and procedures governing the administration and processing of Cal Grant funds, and to use the Cal Grant funds transferred to it solely for the purposes specified.

Moreover, the argument of the Student Aid Commission and the Department of Finance, that calculating and certifying a grade point average is required only if a community college executes the Institutional Participation Agreement, does not make sense. As indicated above, if a community college wants to release Cal Grant funds to its own students, the community college is required to execute the Institutional Participation Agreement. Community colleges, however, calculate and certify grade point averages for students that apply for Cal Grant Transfer Entitlement awards and Competitive Cal Grant A awards. These award funds are not used at

⁶⁴ Institutional Participation Agreement, Article III, Paragraph D.

community colleges, but can only be used and disbursed by qualifying four year colleges.⁶⁵ Thus, even if a community college signs the Institutional Participation Agreement, that agreement has nothing to do with the disbursement of Cal Grant funds by a four year college.

Finally, the assertion that calculating and certifying grade point averages is not mandated by the state because community colleges are electronically submitting grade point averages through the Student Aid Commission's WebGrants program, is not correct. Chapter 4.4 of the Cal Grant Manual describes the WebGrants program as follows:

The most efficient way to submit GPAs is through the Commission's GPA Collection System via WebGrants. The WebGrants' GPA function provides immediate feedback on the number of GPAs that have been accepted, it also identifies any errors in the school's upload file. Through the online GPA function, GPAs are certified electronically, thus eliminating the need to fax or mail a GPA Verification Form.

Grade point averages are still certified, electronically, when submitted under the Student Aid Commission's WebGrant program. Moreover, colleges may choose to submit batched verified student grade point averages online through the Student Aid Commission's WebGrants program, but they are not required by the state to do so.⁶⁶

Thus, there is nothing in the law, the Cal Grant Manual, or the Institutional Participation Agreement that expressly requires a community college to execute the Institutional Participation Agreement before calculating and certifying a grade point average for students that apply for a Cal Grant award.

Therefore, the Commission finds that calculating and certifying grade point averages, pursuant to Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivision (a), and 30026 of the Student Aid Commission's regulations, when requested by the student, is mandated by the state.

The Commission further finds that these activities impose a new program or higher level of service on community colleges. Under existing law, California Code of Regulations, title 5, section 30020, which implemented Education Code section 69544 under the earlier Cal Grant program, provides that the Student Aid Commission "may require applicants to submit transcripts of high school and college academic records or other evidence of potential." Academic merit under the test claim statutes and regulations is now evaluated by the Student Aid Commission through a certified grade point average, rather than through copies of academic transcripts. Although prior law requires community colleges to average grades on the basis of point equivalencies using a 4.0 scale to determine a student's grade point average, and allows students to receive verified student records, such as a grade point average, from the community college,⁶⁷ prior law does not require or identify specific courses that may not be counted in the

⁶⁵ Education Code sections 69436, 69436.5, 69437.6, subdivision (f); Cal Grant Manual, Chapter 3.2.

⁶⁶ Cal Grant Manual, chapter 4.4.

⁶⁷ Education Code sections 76210, subdivision (c), 76220, and 76230; California Code of Regulations, title 5, sections 54610, 55023.

calculation of the grade point average and does not require a school official to certify under penalty of perjury that the calculation is accurate. The specific calculation and certification of the grade point average are activities newly required by the test claim statute and regulations.⁶⁸

Therefore, the Commission finds that the following activities required by Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivision (a), and 30026 of the Student Aid Commission's regulations, constitute a state-mandated new program or higher level of service on community colleges:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007.
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee.

Submitting the grade point average to the Student Aid Commission

The activity of the community college submitting the grade point average to the Student Aid Commission is an activity not mandated by the state, however. Rather, the Cal Grant applicant can fill in the top of a one-page verification form from the Student Aid Commission and take it to a school officer (registrar's desk, counselor, etc.) who then fills in the bottom third of the form with a school code, the student's grade point average, contact information for the official, and a signature.⁶⁹ The applicant then returns the form to the Student Aid Commission by the financial aid application deadline. Colleges may choose to submit batched verified student grade point averages online through the Student Aid Commission's "WebGrants grade point average Collection System," but they are not required by the state to do so.⁷⁰ Moreover, the plain language of sections 30007, 30023, subdivision (a), and 30026 provides that "[i]t is the responsibility of the applicant to have a grade point average or test score reported." Thus, the activity of submitting the grade point average to the Student Aid Commission is not a state-mandated requirement.

Grade point averages submitted after the statutory deadline

Section 30023 of the regulations further addresses grade point averages that are submitted to the Student Aid Commission after the statutory deadlines. Section 30023, subdivision (c), states in relevant part the following:

- (c) The Commission may, on a case-by-case basis, accept the submission of grade point average(s) from an applicant or reporting institution after the March 2

⁶⁸ See also, *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 173, where the court found a higher level of service within the meaning of article XIII B, section 6 in a statute that required specific action to alleviate segregation in schools. Existing law required school districts to take steps to alleviate racial imbalance, but did not require specific action to be taken.

⁶⁹ See, "Operations Memo, Update of the California Student Aid Commission," GOM 2008-24, dated October 31, 2008, and the attached Cal Grant GPA Verification Form.

⁷⁰ Cal Grant Manual, chapter 4.4.

or September 2 deadline if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average(s) by the applicant or reporting institution(s) by the March 2 or September 2 deadline.

(1) Such circumstances must be shown by a certification: (i) from the reporting institution of the circumstances beyond the control of the applicant that delayed or prevented the timely submission of the grade point average by the reporting institution by the March 2 or September 2 deadline; (ii) from the applicant or reporting institution with proof that the grade point average was originally mailed by the applicant or reporting institution before the deadline; or (iii) from the applicant with a written description, under penalty of perjury, of the facts showing that circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average.

The claimant argues that section 30023, subdivision (c), mandates community colleges to submit facts to the Student Aid Commission showing circumstances beyond the control of the applicant when requesting leave to file the grade point averages after the statutory deadline.

The Commission finds that the state has not mandated community colleges to perform any activities when grade point averages are submitted late. Section 30023, subdivision (c), authorizes the Student Aid Commission to accept late submittals if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average by the applicant or reporting institution. However, a certification of the facts from the community college justifying the late submittal is not required by the plain language of section 30023. Rather, the applicant can show the circumstances for the late submittal by submitting proof that the grade point average was originally mailed by the applicant or reporting institution before the deadline; or with a written description, under penalty of perjury, of the facts showing that circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average.

Grade point averages submitted incomplete or incorrect

Section 30023 of the regulations also addresses grade point averages that are submitted incomplete or incorrect. Section 30023, subdivision (d), states the following:

Applicants or officials who submit a timely but incomplete or incorrect grade point average shall have a grace period of ten (10) days after the mailing of notice by the Commission to file a corrected or completed grade point average. A corrected or completed submission postmarked within the 10 day period shall be deemed to comply with this requirement.

The claimant contends that section 30023, subdivision (d), requires community colleges to resubmit corrected or completed grade point averages within ten days after notice from the Student Aid Commission that the district has submitted a timely, but incomplete or incorrect grade point average.

The Commission finds that community colleges are required to complete or correct a grade point average upon notice that the original submitted grade point average was not complete or correct. As indicated above, only the community college has access to the records required to calculate the college or community college grade point average and the community college official must

certify under penalty of perjury that the grade point average is accurately reported. Since grade point averages are newly required to complete the Cal Grant application process, the Commission finds that completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct, pursuant to section 30023, subdivision (d), constitutes a state-mandated new program or higher level of service.

Issue 2: Does the Community College Student Financial Aid Outreach Program in Education Code section 69514.5 mandate a new program or higher level of service on community colleges districts within the meaning of article XIII B, section 6 of the California Constitution?

The claimant alleges Education Code section 69514.5 mandates a new program or higher level of service by requiring community colleges to train “community college counselors and advisors who work with students ... planning to transfer to a four-year college,” and to conduct “workshops that provide general information about financial aid and technical assistance in completing financial aid forms.”⁷¹

Education Code section 69514.5, as added by Statutes 2000, chapter 403, follows:

a) The Community College Student Financial Aid Outreach Program is hereby established. The commission shall, in consultation with the office of the Chancellor of the California Community Colleges, develop and administer this program for the purpose of providing financial aid training to high school and community college counselors and advisors who work with students planning to attend or attending a community college. This training shall also address the specific needs of all of the following:

- (1) Community college students intending to transfer to a four-year institution of higher education.
- (2) Foster youth.
- (3) Students with disabilities.

(b) The program shall provide specialized information on financial aid opportunities available to community college students, with a particular focus on students who plan to transfer to a four-year college or university. The commission shall work in collaboration with the Chancellor of the California Community Colleges and other segments of higher education to develop and distribute this specialized information to assist community college students who are planning to transfer to a four-year college or university. Each year, the program shall offer financial aid workshops for high school and community college counselors, targeted for students planning to attend a community college or to transfer from a community college to a four-year institution of higher education. The program shall assist community college counselors in conducting student and family workshops that provide general information about financial aid and technical assistance in completing financial aid forms.

⁷¹ Test Claim Filing, page 40.

(c) The program shall concentrate its efforts on high schools and community colleges that are located in geographic areas that have a high percentage of low-income families.

The Commission finds that Education Code section 69514.5 does not mandate the participation of community college counselors, but rather requires that the Student Aid Commission, in conjunction with the Chancellor's Office, to "offer financial aid workshops" to such counselors, and "assist community college counselors in conducting ... workshops." The requirements of Education Code section 69514.5 are consistent with a Student Aid Commission program called "Cash for College." Through the Cash for College workshop program, the Student Aid Commission provides free training materials and resources for public and private organizations to offer financial aid workshops. Such workshops are then conducted on a voluntary basis as a public service by local high schools, colleges, or community organizations.⁷²

There is no evidence in the law or the record that individual community college districts have been required to provide staff to receive financial aid training, or to offer financial aid workshops to students. Therefore, pursuant to the plain language of the test claim statute, the Commission finds that Education Code section 69514.5 does not mandate a new program or higher level of service on community college districts.

Issue 3: Do Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514?

As indicated above, the Commission finds that the following activities required by the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program in Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a state-mandated new program or higher level of service on community colleges:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

⁷² See, "Frequently Asked Questions" regarding Cash for College workshop registration, issued by the Student Aid Commission.

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

The claimant has submitted a declaration from Toni Du Bois, Dean of Financial Aid and Veteran Affairs for Long Beach Community College District, which estimates increased costs of \$1,000 in staffing and other costs in excess of any funding provided for fiscal year 2001-2002.

The Student Aid Commission and the Department of Finance contend that the community colleges have received funds for student aid administration, including a budget augmentation in 2003-04, with a minimum additional allocation of \$50,000 per campus (6870-101-0001) for outreach and support services for “potential and current financial aid applicants.” The Department of Finance further argues that the community college general apportionment funding has increased from approximately \$1.6 billion in 2000-01 to approximately \$3 billion in 2008-09, and that this funding should be used for serving their students, including calculating a grade point average to obtain a Cal Grant award.

Thus, the issue is whether the activities listed above impose costs mandated by the state. Government Code section 17514 defines “costs mandated by the state” as any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute or executive order enacted on or after January 1, 1975, that mandates a new program or higher level of service of an existing program.

Government Code section 17556, subdivision (e), states that there are no costs mandated by the state if the statute, executive order, or an appropriation in a Budget Bill “includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.”

Although community colleges may have received funds appropriated for the “administration of student financial aid,” the Commission finds that the exception to reimbursement in Government Code section 17556, subdivision (e), does not apply here. The line item identified by the Student Aid Commission (item 6870-101-0001, schedule (5)), is for local assistance to the Board of Governors of the California Community Colleges (Proposition 98) for “Student Financial Aid Administration.”⁷³ The funds appropriated are for transfer by the State Controller to Section B of the State School Fund, and can be used on the administration of other student financial aid programs that are not included in this test claim. For example, the funds can be used for expenses incurred under title 5 of the California Code of Regulations, sections 58600 et seq., which have not been pled in this claim, that govern Student Financial Aid grants allocated by the Board of Governors to community college districts for students with financial need. The appropriations made in the Budget Acts do not require community colleges to use the funds specifically for the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program. Thus, the funds appropriated in line item 6870-101-0001 were not specifically intended to fund the costs of the

⁷³ See Statutes 2001, chapter 106; Statutes 2002, chapter 379; Statutes 2003, chapter 157; Statutes 2004, chapter 208; Statutes 2005, chapter 38; Statutes 2006, chapter 47; Statutes 2007, chapter 171; and Statutes 2008, chapter 269.

test claim statutes and regulations. In addition, general apportionment funding to community colleges is not specifically intended to fund the Cal Grant program.

Moreover, while the statute that enacted the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Stats. 2000, ch. 403, § 10 (SB 1644)) appropriated funds to the Student Aid Commission for the administration of the program, the test claim statutes did not appropriate any funds to community college districts.

Therefore, the Commission finds that Government Code section 17556, subdivision (e), does not apply to deny this claim. However, the appropriation in line item 6870-101-0001 of the Budget Act will be identified as potential offsetting revenue, for deduction by community colleges that use that revenue for the activities of calculating and certifying a grade point average and completing and correcting a grade point average pursuant to the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program.

The Department of Finance further argues that any cost to the program is de minimis given the current electronic processes utilized by community colleges. “In fact, we believe the implementation of the [test claim statutes and regulations] is cost neutral considering that community colleges no longer perform activities such as submitting transcripts to the Student Aid Commission as performed under the previous Cal Grant Program. Such activities should be considered a cost reduction against any de minimis costs related to the staff’s findings.”

While the Commission does not disagree that the new activities that result in increased levels of service may be small, there is nothing in Government Code section 17500 and following, or mandates case law to support a denial of this claim based on a finding that the newly mandated activities result in only de minimis costs.

In *San Diego Unified School District*, the Supreme Court addressed a narrowly drawn situation where there was a de minimis increase in the level of service for new activities that were treated by the court as part and parcel of an underlying federal mandate. There, school districts were seeking reimbursement for activities that exceeded federal due process requirements in relation to discretionary school expulsions.⁷⁴ The court denied the claim based on another case, *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, which had found that procedural requirements enacted to comply with a general federal mandate, which were reasonably articulated to make the underlying federal right enforceable and to set forth necessary procedural details, and which did not significantly increase the cost of compliance with the federal mandate, were not reimbursable. The *San Diego Unified* court held that:

[F]or purposes of ruling upon a request for reimbursement, challenged state rules or procedures that are intended to implement an applicable federal law – and whose costs are, in context, de minimis – should be treated as part and parcel of the underlying federal mandate.⁷⁵

Similarly, the Third District Court of Appeal recently held, pursuant to the *San Diego Unified School Dist.* case, that challenged state rules or procedures that are intended to implement ballot

⁷⁴ *San Diego Unified School District v. Commission on State Mandates*, *supra*, 33 Cal.4th 859, 888.

⁷⁵ *Id.* at 890.

measure mandates, and whose costs are, in context, de minimis, should be treated as part and parcel of the underlying ballot measure mandate.⁷⁶

Here, the Cal Grant requirements are not intended to implement an existing law and cannot be likened to the *San Diego Unified* circumstances. Thus, neither *San Diego Unified* nor *County of Los Angeles* is applicable.

In addition, Government Code section 17564 sets the minimum amount of costs incurred in order to file a test claim or reimbursement claim at \$1,000. The claimant has filed a declaration estimating increased costs of \$1,000 in staffing and other costs in excess of any funding provided. There is nothing in the record to dispute that estimate. Beyond requiring a claimant to assert a minimum amount for test claims and for actual reimbursement claims, the mandates process does not provide for a denial of a claim based on a de minimis increase in the level of service where the test claim statutes are intended to be treated as part and parcel of an underlying federal law or ballot measure.

Accordingly, the Commission finds that there are costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities mandated by the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program in Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)
- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

CONCLUSION

The Commission concludes that the following activities required by the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program in Education Code section 69432.9, subdivision (b)(3)(C), and sections 30007, 30023, subdivisions (a) and (d), and 30026 of the Student Aid Commission's regulations, constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514:

- Calculating a college or community college grade point average pursuant to the instructions in California Code of Regulations, title 5, section 30007. (Ed. Code,

⁷⁶ *California School Boards Association et al., v. State of California, et al.* (March 9, 2009, C055700) __ Cal.App.4th __ (p. 51).

§ 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007, 30023, subd. (a), and 30026.)

- Certifying under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported and that it is subject to review by the Student Aid Commission or its designee. (Ed. Code, § 69432.9, subd. (b)(3)(C), as added by Stats. 2000, ch. 403; Cal. Code Regs, tit. 5, §§ 30007 and 30026.)
- Completing or correcting a grade point average upon notice that the original submitted grade point average was not complete or correct. (Cal. Code Regs., tit. 5, § 30023, subd. (d).)

These activities apply to community colleges only when: (1) a community college student applies for a Cal Grant Transfer Entitlement award for use at a four year college; (2) a community college student competes for a Competitive Cal Grant A to be held in reserve until the student attends a four year college; or (3) a community college student competes for a Competitive Cal Grant B award, which can be used at the community college.

The eligible period of reimbursement for this claim begins July 1, 2001.⁷⁷

The Commission further concludes that all other statutes and regulations pled in this test claim do not mandate a new program or higher level of service and, thus, are not reimbursable.

⁷⁷ Government Code section 17557, subdivision (e).

No. A148606
(Alameda County Superior Court No. RG11554698)
(The Honorable Evelio M. Grillo)

RECEIVED
October 07, 2016
*Commission on
State Mandates*

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA**

FIRST APPELLATE DISTRICT, DIVISION 5

CALIFORNIA SCHOOL BOARDS ASSOCIATION, et al.
Appellants and Petitioners

vs.

STATE OF CALIFORNIA, et al.
Appellees and Respondents.

APPELLANTS' OPENING BRIEF

Deborah B. Caplan [SBN 196606]
Richard C. Miadich [SBN 224873]
OLSON, HAGEL & FISHBURN, LLP
555 Capitol Mall, Suite 1425
Sacramento, CA 95814
Telephone: 916.442.2952
Facsimile: 916.442.1280

Counsel for Appellants/Petitioners

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INTRODUCTION

The California Constitution provides that whenever the State requires a local government to provide a new program or higher level of service, “the State shall provide a subvention of funds to reimburse the local government for the costs of the program. . .” (Cal. Const., art. XIII B, § 6.) The Commission on State Mandates (“Commission”) has determined that several dozen state actions impose mandates on local education agencies (“education mandates”), and it determined long ago that the State’s provision of general education funding does not relieve it of its specific obligation to reimburse for state-imposed mandates. Despite these decisions, the State has used various legislative approaches to limit or avoid payment for education mandates.

In 2010, the State made its most direct attempt to date to eliminate mandate payments to schools. A new Government Code section 17557(d)(2)(B) allows the State to identify “offsetting revenues” that will reduce or eliminate its mandate debt even if no new or additional funds are actually provided, and a new Government Code section 17570(c) allows the State to direct the Commission to revisit previous mandate decisions whenever there is a “change in law” – including changes such as the 2010 legislation.

These procedural changes were accompanied by the legislative designation of certain funding as mandate payments which had historically been provided for other purposes. The most far-reaching provision was Education Code section 42238.24, which directs that “state funding” for education provided to all local education agencies on the basis of attendance be used to pay for the costs of the *High School Science Graduation Requirements* (“*Graduation Requirements*”) Mandate, despite prior Commission

decisions holding that the State could not direct such funding to be used for mandate costs. The State also amended Education Code section 56523 to direct that funding appropriated for special education also be used to pay the costs of the *Behavioral Intervention Plans (“BIP”) Mandate* – even though that funding is demonstrably inadequate to cover even special education costs.

This combination of statutes represented a transparent attempt to eliminate approximately \$300 million annually of the State’s mandate obligations, but it also created the blueprint for the eventual elimination of the State’s mandate obligations for schools. It is not an exaggeration to say that, if the State’s approach is accepted, it would effectively end mandate reimbursement for education agencies, contrary to decades of established law interpreting article XIII B, section 6.

The trial court concluded that the State’s “plenary authority” over education permits it to designate both existing *state* funding and *local* revenues as offsetting revenues for its own mandate debt. (JA II:1076.)¹ The court also refused to consider which “state funding” could be directed by the State in Education Code section 42238.24 or the constitutionality of Government Code section 17570(c) in a series of rulings which present several procedural issues for appeal.

Petitioners/Appellants (“Petitioners”) include the California School Boards Association, a statewide organization of school board members, and several school districts and county offices of education. Petitioners urge this Court to reverse the trial

¹ The Joint Appendix is designated “JA” followed by the volume and page number. Transcripts are differentiated by date.

court and declare Government Code section 17557(d)(2)(B) unconstitutional to the extent it allows the State to avoid mandate reimbursement by identifying “offsetting revenues” that simply represent funding already apportioned to school districts for other purposes as provided in Education Code sections 42238.24 and 56523. Petitioners also urge this Court to reverse the trial court’s procedural rulings and remand the case for further proceedings on the causes of action precluded from consideration by the trial court.

STATEMENT OF APPEALABILITY

Petitioners appeal from the judgment entered April 13, 2016, which is a final appealable judgment under Code of Civil Procedure section 904.1(a)(1). Notice of entry of judgment was served on April 21, 2016 and Petitioners filed a timely notice of appeal on May 10, 2016. (JA V:1263, 1309.)

FACTUAL AND LEGAL BACKGROUND

The State’s Constitutional Obligation to Reimburse for Mandates Under Article XIII B, Section 6

The right to mandate reimbursement grows out of several constitutional changes to California’s tax system adopted by voters in the 1970’s. Proposition 13 limited the power of state and local governments to impose new taxes, and Proposition 4 imposed spending limits on the same entities. (Cal. Const., art. XIII A & XIII B.) Together, articles XIII A and XIII B restrict the power of local agencies to levy and spend public revenues. Education agencies are subject to the same limitations. (*Id.*)

In order to prevent the State from shifting the cost of state programs to local governments, article XIII B, section 6 requires that if the State imposes a new program or

higher level of service on a local government, it “shall provide a subvention of funds to reimburse the local government for the costs. . .”. (Cal. Const., art. XIII B, § 6.) The purpose of section 6 is “to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.” (*County of San Diego v. State* (1997) 15 Cal.4th 68, 81.) School districts and county offices of education are “local governments” protected by section 6. (Cal. Const., art. XIII B, § 8.)

In 1984, the Legislature created a new, independent administrative process for mandate determinations. (*Kinlaw v. State* (1991) 54 Cal.3d 326, 331; Gov. Code, §§ 17500 *et seq.*) Local agencies file “test claims” for review by the Commission on State Mandates (“Commission”), a quasi-judicial body comprised of State and local representatives that determines which programs or services constitute a mandate that triggers the right to reimbursement. (*Id.* at §§ 17551, 17514, 17553.) If the Commission determines that a mandate exists, it issues “parameters and guidelines” for reimbursement, which identify the costs that may be reimbursed. (*Id.* at § 17557.) The State is then required to reimburse those costs. (*Id.* at § 17561(a).) Both the State and local agencies have the right to seek review of the Commission’s decisions in the Superior Court. (*Id.* at § 17559(b).) Over time, the Commission has adjudicated dozens of state mandates that cost education agencies hundreds of millions of dollars annually – costs which have largely been unpaid. (JA II:520.)

Government Code section 17561(a) requires the State to reimburse local agencies

for all “ ‘costs mandated by the state’ as defined in Section 17514.” Government Code section 17556 defines several circumstances (sometimes called mandate “exceptions”) in which the State has imposed a new program or service but “costs” are nevertheless not reimbursable. Of relevance here is subdivision (e), which provides that a mandate is not created if the State provides “*additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate...*” (Gov. Code, § 17556(e), emphasis added.) In other words, if the mandated program or service is accompanied by additional, adequate State funding, it does not impose “costs” subject to reimbursement.

The Graduation Requirements and BIP Mandates

The *Graduation Requirements Mandate* was created in 1987, when the Commission determined that new science requirements imposed by Education Code section 51225.3(a)(1) constituted a mandate requiring reimbursement for additional teachers, laboratory space, and equipment. (JA II:495-496.) The State refused to pay for additional teacher costs, claiming that districts could use existing resources. The court rejected the State’s argument in 2004, concluding that it would “defeat the purpose of section 6, to protect local agencies ... from a state mandate that forces the district to shift its limited revenues to the state mandate from existing local programs for which the revenues have been budgeted.” (JA II:562-563.)

On remand, the Commission decided that a “reasonable reimbursement methodology” should be used for teacher costs. The State argued that costs should be offset by the districts’ revenue limit funding, *i.e.*, a methodology for distributing

unrestricted state education funding developed in the late 1970's. (JA II:620-623; see *County of Sonoma v. Comm. on State Mandates* (2000) 84 Cal.App.4th 1264, 1271-75.)

Although education funding had always been a mix of local property tax funding and state funding (including a minimum funding provision in article IX, section 6), the Supreme Court declared in the early 70's that exclusive reliance on property taxes violated equal protection principle. (*Serrano v. Priest* (1971) 5 Cal.3d 584.) In response, the State developed a "revenue limit" for each district (an upper limit on the entity's funding entitlement) in an effort to equalize funding between districts. Shortly thereafter, Proposition 13 reduced available property tax revenues and gave the State authority to allocate those revenues between cities, counties and schools. (Cal. Const., art. XIII A.) The State chose to allocate most of the reduced property tax revenues to cities and counties and "backfill" the loss of property tax revenues to schools with state funding. (See *County of Sonoma, supra*, 84 Cal.App.4th at 1271-75.)

In order to calculate the State's funding obligation, the revenue limit for each district or county office of education was used as the upper limit of each entity's unrestricted funding entitlement.² Districts whose property tax receipts (and other local revenue offsets) were equal to or higher than their revenue limit – referred to as "basic aid districts" – received only nominal state funding. If the district's local revenues were insufficient to meet the revenue limit, the State provided the difference. When article XIII B limited spending from "proceeds of taxes," this unrestricted funding from the State

² "Categorical funding," *i.e.*, restricted funding provided for specified purposes, was calculated and appropriated separately.

was treated as a component of the education agencies' "proceeds of taxes" (along with local revenues). (Gov. Code, § 7906.) This system of funding was in place in 1988 when voters adopted Proposition 98, which established minimum funding formulas for K-14 education. (Cal. Const., art. XVI, § 8.)

The Commission rejected the State's argument that these funds were offsetting revenues under section 17556(e), concluding that this approach "would require school districts to use their proceeds of taxes on a state-mandated program." (JA II:623.) It also rejected the argument that Education Code section 41372 created any offsetting revenue.³ (*Id.*) The Commission also offered a lengthy rationale for its decision in the subsequent judicial review proceeding. (JA II:654-664.) The State abandoned the argument, and the trial court affirmed the Commission on other grounds. (JA II:649-650.)

While the Superior Court action was pending, the Legislature enacted Education Code section 42238.24, which provides that teacher costs related to the high school science requirements "shall be offset by the amount of state funding apportioned to the district pursuant to this article..."⁴ At that time, state funding was apportioned pursuant to revenue limits – the very funding previously rejected by the Commission as offsetting revenues under section 17556(e).

³ Section 41372 requires districts to spend a percentage of their education expenditures on teacher salaries. The Commission found that it does not appropriate any actual money for those salaries.

⁴ Section 42238.24 also provides that the percentage of funding required to be allocated for teacher costs under section 41372 "shall first be allocated to fund the teacher salary costs incurred to provide the courses required by the state." As the Commission found, section 41372 does not appropriate any new funding.

In 2013-14, revenue limit entitlements were replaced with LCFF entitlements. The LCFF combines each district's 2012-13 revenue limit entitlement and some categorical funding to create a new base, and then provides additional funding for districts with large numbers of low income students and English learners. But the formulas function similarly in that each district has an upper LCFF funding entitlement, and the State provides the difference, if any, between local property tax receipts (and other offsets) and the LCFF funding amount. (Ed. Code, §§ 42238.02-42238.03.)⁵ Whether referring to revenue limit or LCFF funding, section 42238.24 thus requires education agencies to use their own funds to pay for state-imposed mandates. The State acknowledged as much. (JA III:777.)⁶

The State's efforts to eliminate its *BIP Mandate* obligation have a similar history. California first adopted special education requirements in the 1980's, and litigation over the *Special Education Mandate* extended over many years. (See *Hayes v. Comm. on State Mandates* (1992) 11Cal.App.4th 1564, 1576.) In 2001, the State and local education agencies settled with an agreement that the State would pay education agencies \$100 million annually for that mandate. (Ed. Code, § 56836.156(f)&(g).) However, because many special education activities are not included in that mandate, this funding does not come close to covering special education costs, which have been chronically

⁵ County offices of education have a similar formula, adjusted for the fact that they provide both administrative and direct educational services.

⁶ In 2011, the State moved to amend the P&Gs pursuant to section 42238.24. (<http://www.csm.ca.gov/pendingclaims/docs/gr5/doc2.pdf> .) That request was suspended pending resolution of this case.

underfunded for many years. (JA II:748-751.) The State Legislative Analyst acknowledged that “a combination of increasing special education costs and relatively flat state and federal special education funding has resulted in local budgets covering an increasing share of these costs.” (JA II:740.) In 2010-11, state and federal payments for special education fell short of actual costs by approximately \$3.4 billion. (JA II:749.)

In 1993, the Legislature directed various state officers to require education agencies to establish “behavioral intervention plans” for students with serious behavior problems. (Ed. Code, § 56523.) In the test claim proceedings, the State argued that funding for special education also constituted offsetting revenues for the *BIP Mandate* under Government Code section 17556(e); the Commission rejected this argument in 2000. (JA II:683-684.) The State sought review.

While that case was pending, the original *Special Education Mandate* case was settled, but the settlement and implementing legislation made clear that the \$100 million annual payment *specifically excluded payment for the BIP Mandate*, then still subject to judicial review. (Ed. Code, § 56836.156(f)&(g).) In 2009, the parties settled the *BIP Mandate* litigation, with the State agreeing to provide \$65 million annually for that mandate in addition to the \$100 million for the *Special Education Mandate*. (JA II:689; 694-703.) Ultimately, the State failed to enact legislation to fund the settlement, and the case was dismissed, rendering the Commission’s 2000 mandate decision final and sending the case back to the Commission for parameters and guidelines. (JA II:707-710.)

Before dismissing its Superior Court case, the State amended Education Code section 56523 to direct that funding “provided for purposes of special education...shall

first be used” to pay for the costs of the *BIP Mandate*. When the matter returned to the Commission for parameters and guidelines, it acknowledged that the amendment was intended to “negate” its earlier determination and “end reimbursement beginning in fiscal year 2010-11” (JA II:715-717), but it was required to presume the constitutionality of section 56523 under article III, section 3.5. (JA II:726.) Since special education is already significantly underfunded and no surplus revenues are available, section 56523 effectively requires districts to pay for *BIP Mandate* costs out of their own revenues.⁷

The 2010 Legislative Changes to the Mandate Process

The State’s 2010 changes to the mandate process and the Education Code provisions were made in budget “trailer bills” without any public review or participation. (JA II:457-463 [SB 856]; JA II: 473, 485 [AB 1610].)

At that time, Government Code section 17556(e) provided that a mandate was not created if the statute or executive order that created the mandate also provided “additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate...” (Gov. Code, § 17556(e).) It originally required the funding to be identified in the legislation imposing the mandate; the 2010 amendment allowed funding to be provided subsequent to the enactment of the mandate, but it maintained the requirements that the funding be “additional,” “specifically intended” for the mandate, and “sufficient to pay the costs of the mandate.” (JA II:457; Gov. Code, § 17556(e).)

⁷ In 2013, the State repealed the regulations that were the basis of the *BIP Mandate* decision; the offsetting revenue issue for this mandate therefore extends only through 2012-13. (See Ed. Code, § 56523(a).)

However, the 2010 legislation also added new “offsetting revenues” language to section 17557. (JA II:458.) Unlike section 17556, which determines whether a mandate exists in the first instance, section 17557 governs the “parameters and guidelines” for reimbursement once the Commission has determined that a mandate requires reimbursement. The parameters and guidelines typically identify the actual costs to be reimbursed and the basis for reimbursement (e.g., a standardized reimbursement methodology, time-based costs, actual costs for equipment or salaries, etc.). The amendment to section 17557(d) allows the parameters and guidelines to be “updated” to reflect “offsetting revenues and offsetting savings” that “do not require a new legal finding that there are not costs mandated...pursuant to...section 17556.” (Gov. Code, § 17557(d)(2)(B).) In other words, funding that would be insufficient to defeat the creation of a mandate under section 17556(e) may nonetheless defeat the right to reimbursement for that mandate under section 17557(d)(2)(B).

Also enacted in 2010 was Government Code section 17570, which gives the Commission authority to “adopt a new test claim decision to supersede a previously adopted test claim decision” based on a “subsequent change in law.” (JA II:459; Gov. Code, § 17570(c).) Having previously been told that it could not constitutionally direct the Commission to reconsider or set aside its prior final decisions (*CSBA I, supra*, 171 Cal.App.4th 1183), the State created a new statutory procedure for doing just that whenever there is a “change in law.” (Gov. Code, § 17570(a)(1)-(2).) In order to revisit a final mandate decision, the Commission need only find that the State’s liability has been “modified based on a subsequent change in law.” (Gov. Code, § 17570(b).) A

triggering “modification” would include statutory changes to the mandate process – changes that are completely subject to legislative control. New Government Code section 17570.1 also provided the Legislature with authority to initiate the new test claim process (JA II: 463), and Finance was directed to seek a new test claim determination for the *BIP Mandate*. (JA II:485-486.)

The 2010 budget package also added Education Code section 42238.24, which provides that teacher costs related to the *Graduation Requirements Mandate* “shall be offset by the amount of state funding apportioned to the district pursuant to this article...” and it amended Education Code section 56523 to state that funding “provided for purposes of special education...shall first be used to directly offset any mandated costs... [for the BIP Mandate].” These provisions thus identified pre-existing education funding as mandate payment for the *Graduation Requirements* and *BIP Mandates*. It is undisputed that the identified funding did not provide “additional” funding “specifically intended” to pay the costs of the mandates within the meaning of Government Code section 17556(e). Both were clearly intended to be used either in combination with new Government Code section 17556 to provide a “change in law” for purposes of a new test claim under section 17570, or to provide offsetting revenues which could defeat the right to reimbursement for the mandate under section 17557(d)(B)(2). Either way, the clear intent was to override the Commission’s final decisions in the *Graduation Requirements* and *BIP Mandates*. This legislative goal was confirmed by the Legislative Analyst, who stated that “the [2010-11] budget package eliminated two of the state’s costliest K-12 mandates – related to the high school graduation requirement and behavioral intervention

plans...” (www.lao.ca.gov/reports/2010/bud/spend_plan/spend_plan_110510.pdf, at p. 21.)⁸

STATEMENT OF THE CASE

The Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief in this case was filed in 2011 (JA I: 23-50), and was amended shortly after to add several petitioners. (JA I:58-89.) It was subsequently amended again in Fall, 2012 and Fall, 2013 to reflect statutory changes in the mandate process that were enacted in the 2012 and 2013 budget packages. Discovery that was originally served 2011 was withdrawn by agreement of the parties with deadlines to start over. (See JA I:128, 131; JA I:134 [Second Amended Petition]; JA I:272, 279, 285-316 [Third Amended Petition].)

The 2013 Petition contained four causes of action. The First Cause of Action sought to invalidate Education Code sections 42238.24 and 56523 as contrary to article XIII B, section 6 and article III, section 3 of the Constitution because they purported to identify existing funding as mandate payment without providing any additional funding and because the legislation violated separation of powers principles. (JA I:307.) The Second Cause of Action alleged that Government Code section 17557(d)(2)(B) violated article XIII B, section 6 on its face or as applied in Education Code sections 42238.24 and

⁸ There have also been statutory changes since 2010, most notably the creation of a new block grant “alternative” for education mandates which requires participating districts to waive the right to reimbursement of actual costs in return for an annual “grant.” (Gov. Code, § 17581.6.) The amount of the grant is unrelated to actual costs and has represented a fraction of actual claims filed. Since the State has refused to pay for education mandates, the block grant forces them to choose between accepting a greatly reduced (but certain) payment or declining it in the hope that their actual mandate claims will be paid at some point in the future.

56523 to the extent it allowed the State to identify offsetting revenues without providing actual funding for mandates. (JA I:308.) The Third Cause of Action alleged that Government Code section 17570(c) violated article XIII B, section 6 and article III, section 3 because it would allow the State to re-open and reverse virtually any final mandate decision based on new legislative declarations. (JA I:310.) The Fourth Cause of Action addressed the current statutory framework for reimbursement as a whole and alleged that statutory changes to the mandate reimbursement process over the past decade deprived education agencies of reimbursement under article XIII B, section 6. (JA I:313.)

The parties stipulated to bifurcate the claims and brief the first two causes of action first; the stipulation was rejected without prejudice to a written motion. (JA II:359, 366.) The subsequent motion was granted, but the precise terms of the bifurcation is one of the procedural issues before this Court. On its face, the court's October, 2014 order limited bifurcation to the Second Cause of Action. (JA II:393.)

The request for a writ of mandate declaring section 17557(d)(2)(B) unconstitutional was briefed (JA II:396 – III:998) and heard on May 7, 2015. (JA II:999.)⁹ The court denied the writ on July 9, 2015, concluding that section 17557(d)(2)(B) was constitutionally permissible by virtue of the State's plenary authority over education, both facially and as applied in the Education Code provisions. (JA III:1055-1084.) The ruling also allows the State to direct "local" revenues to be used for mandate costs. (JA III:1076.)

⁹ The Petition was opposed by State Respondents other than the Commission, which provided information about the mandate process and its role, but took no position on the merits. (JA III:798.)

The court's ruling re-affirmed that it was "limited to the claims in the Second Cause of Action" (JA III:1057) and it did not address certain issues regarding the scope of Education Code section 42238.24. As detailed *infra*, this ruling was followed with a request to amend or for further briefing with respect to the scope of that provision. After an order denying this request and a subsequent motion for clarification, the trial court ruled on December 16, 2015 that the ruling on the Second Cause of Action had "resolved the issues raised in the First Cause of Action" and that its denial of the motion to amend made it unnecessary to address any issues related to section 42238.24. (JA IV:1189.)

The State then moved to dismiss the remaining two causes of action because the case had not been "brought to trial" within five years as required by Code of Civil Procedure section 583.310. (JA IV:1194-1232.) The court granted the motion, concluding that the proceedings on the writ did not constitute commencement of the trial. (JA V:1250.) Judgment was subsequently entered on all causes of action. (JA V:1263.)

ARGUMENT

I. GOVERNMENT CODE SECTION 17557(d)(2)(B IS CONTRARY TO ARTICLE XIII B, SECTION 6

Article XIII B, section 6 is unambiguous: If the State requires local governments, including education agencies, to provide a program, it is constitutionally required to pay for the costs of the program. The State has nonetheless routinely attempted to avoid this constitutional obligation. Initially, the State tried to legislatively "disclaim" its mandate obligation, which was rejected by the courts. (*City of Richmond v. Comm. on State Mandates* (1998) 64 Cal.App.4th 1190, 1201-02.) It later directed the Commission to

“reconsider” several mandate decisions in light of new legislative findings, which was invalidated based on separation of powers. (*California School Boards Ass’n v. State* (2009) 171 Cal.App.4th 1183, 1200 [“CSBA I”].) Separately, the State began appropriating only \$1,000 per mandate annually and carrying the remainder as a “debt” owed to local governments and education agencies. This practice was ended for cities and counties by a voter-approved constitutional amendment in 2004 (Cal. Const., art. XIII B, § 6(b)(1)-(4)), and was declared unlawful for education agencies in *California School Boards Ass’n v. State* (2011) 192 Cal.App.4th 770 [“CSBA II”].)

The State has also used the administrative and judicial processes to delay payment for as long as possible. For example, *Graduation Requirements* was determined to constitute a mandate in 1987, yet litigation over this mandate was still ongoing when the State took its new approach to “offsetting revenues” in 2010. When this case was briefed, the State’s mandate debt to education agencies was more than \$5 billion. (JA II: 515.)¹⁰

The 2010 changes reflect the latest efforts to avoid mandate payment. Section 17557(d)(2)(B) essentially allows the State to identify money given to education agencies for other purposes as mandate reimbursement without any requirement that the local entity actually receive any new or additional money for the mandated program.

The trial court concluded that section 17557(d)(2)(B) was facially valid and that no limiting construction was necessary, reasoning that “the State’s plenary power over

¹⁰ Some payments have been made since that time, but have generally been made on the basis of attendance rather than the claims-based reimbursement process, and the State has simultaneously directed education agencies to use the same funds for non-mandate purposes. (See, e.g., Gov. Code, §§17581.8, 17581.9.)

school financing, and the case law upholding the State’s right to allocate funds for specific educational needs, precludes the court from issuing an order that would, in essence, require the State to provide additional funding to school districts to allow them to meet other educational needs.” (JA III:1076.)

Petitioners’ argument is not about funding for “other” educational programs; their argument is that article XIII B, section 6 requires the State to provide *actual* funding in order to reimburse schools *for those programs and services which the State imposes and the Commission has determined to be state mandates*. The State’s general education funding – originally through revenue limits and now LCFF – has long been defined as local funds rather than state funds. If the State is allowed to direct this funding to be used in lieu of actual mandate reimbursement, article XIII B, section 6 would be rendered meaningless for education agencies.

The proper interpretation of the constitutional requirements of article XIII B, section 6 is a question of law subject to *de novo* review in this Court. (See *Prof. Engineers in Cal. Gov’t v. Kempton* (2007) 40 Cal.4th 1016, 1032.) The courts have stricken legislation contrary to section 6 on several occasions. (See, *e.g.*, *CSBA I, supra*, 171 Cal.App.4th 1183 [invalidating legislation directing reconsideration of Commission decisions and impermissibly expanding exception for mandates imposed by initiative]; *County of Los Angeles v. Comm. on State Mandates* (2007) 150 Cal.App.4th 898 [invalidating legislation that exempted actions by water quality control districts from reimbursement]; *Carmel Valley Fire Protection Dist. v. State* (1987) 190 Cal.App.3d 521 [invalidating budget control language negating mandate].)

A. The Constitutional Subvention Requirement in Article XIII B, Section 6 Requires That Agencies Be Made Whole

The trial court’s opinion never directly discusses the underlying purpose of article XIII B, section 6, or its requirements. The statutory mandate process requires local education agencies to comply with mandated programs from their inception and file a “test claim” to establish the right to reimbursement. (Gov. Code, § 17500 *et seq.*) Adjudication of these claims typically takes many years; sometimes (as in the *Graduation Requirements Mandate*) it can literally take decades. Once a mandate is determined, the State is required to provide funding or the local government can be relieved of the obligation. (Gov. Code, §§ 17561(a); 17612(c).)

Section 6 requires the State to “provide a *subvention* of funds to *reimburse* the local government for the *costs* of the program.” To “reimburse” is “to pay someone an amount of money equal to an amount that person has spent,” “to make restoration or payment of an equivalent to,”¹¹ or “repay (a person who has spent or lost money).”¹² “Subvention” means “provision of assistance or financial support.”¹³ In the case of section 6, reimbursement must be made “for the costs” of the program or service. The plain meaning of section 6 is therefore that the State must make the local government entity whole for any costs incurred to provide the mandated program or service.

¹¹ [http://www.merriam-webster.com/dictionary/reimburse.](http://www.merriam-webster.com/dictionary/reimburse)

¹² [http://www.oxforddictionaries.com/us/definition/american_english/reimburse.](http://www.oxforddictionaries.com/us/definition/american_english/reimburse)

¹³ [http://www.merriam-webster.com/dictionary/subvention.](http://www.merriam-webster.com/dictionary/subvention)

“[T]he constitutional rule of state subvention provides that the state is required to pay for any new governmental programs...that it imposes upon local agencies.” (*Hayes, supra*, 11 Cal.App.4th at 1577.) Its purpose is “to require each branch of government to live within its means and to prohibit the entity having superior authority (the State) from circumventing this restriction by forcing local entities such as school districts to bear the State’s cost. . .” (*CSBA II, supra*, 192 Cal.App.4th at 787.) “Under article XIII B, section 6, if the State wants to require the local school districts to provide new programs or services, it is free to do so, but not by requiring the local entities to use their own revenues to pay for the programs.” (*Ibid.*)

The legislative implementation of section 6 confirms that it was understood to require actual, additional funding. The original administrative scheme included an “offsetting savings” provision, but no “offsetting revenues” provision. (Former Gov. Code, § 17556(e).) In 1989, the Legislature expanded this provision to provide that no mandate was created if the statute or executive order “includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.” (Gov. Code, § 17556(e), as amended by stats. 1989, ch. 589.) Legislative reports explained that this provision applied where the statute or executive order “generated” additional revenues resulting in “no net costs.” (JA II:489.) Thus, since 1989, it has been well understood that reimbursable “costs” are imposed under section 17514 unless the State provides *additional* revenues that are *sufficient* to make the local government whole, *i.e.*, the offsetting savings or revenues must result in “no net costs.” (Gov. Code, § 17556(e).)

In resolving ambiguities in a constitutional provision, the courts may refer to the “contemporaneous construction of the Legislature or of the administrative agencies charged with implementing the new enactment.” (*Heckendorn v. City of San Marino* (1986) 42 Cal.3d 481, 487, citing *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 245.) A contemporaneous statutory enactment “represents a considered legislative judgment as to the appropriate reach of the constitutional provision . . . [and] enjoys significant weight and deference by the courts.” (*Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180.) Here, the longstanding construction of the requirements of article XIII B, section 6 represents “a considered legislative judgment” about that provision and should be accorded great weight. (*Ibid.*)

With respect to existing mandates, each mandate determination necessarily required the Commission to conclude that “costs [are] mandated by the state” under section 17514 and that none of the exceptions in 17556 – including 17556(e) – applied. Despite these determinations, the State now asserts that section 17557(d)(2)(B) allows the very same funding that did not qualify as offsetting revenue under section 17556(e) to be declared offsetting revenue under section 17557; it can then request an “update” to the parameters and guidelines to eliminate the right to reimbursement for the very costs that would have been the basis of the Commission’s mandate determination. In other words, notwithstanding the *existence* of a mandate, the right *to reimbursement* for that mandate may be extinguished by designating exactly the same funding as “offsetting revenues” in the parameters and guidelines.

B. Government Code Section 17557(d)(2)(B) Is Contrary to Article III B, Section 6 As Applied In Education Code Sections 42238.24 and 56523 Because Actual Funding Is Not Provided

The Commission determined in 1987 that new science requirements imposed a mandate that required state reimbursement (*Graduation Requirements Mandate*). After years of litigation, in 2008, the Commission re-affirmed that general education funding from the State did not defeat the mandate, concluding that the State’s argument “would require school districts to use their proceeds of taxes on a state-mandated program.” (JA II:623.) The Commission reviewed the constitutional history of state funding (JA II:620-623) and concluded that “the proceeds of taxes for school districts are different than those of other local governments. . .because the general purpose revenue of school districts has always been partially provided by the state’s general fund.” (JA II:621.) The Commission indicated that attempting to use general education funding and section 17556(e) to defeat the mandate would “violate[] article XIII B, section 6.” (JA II:623.)

Because of the limitations of articles XIII A and XIII B, education agencies are required to provide their local education program with fixed revenues. As the Commission observed, the State has long been involved in funding for education; when it implemented Proposition 13, it became even more involved by virtue of its decision to allocate most property tax revenues to non-education agencies and backfill the difference to schools. Both the Commission and the courts have long considered general education funding “local revenues” or local “proceeds of taxes.” (See, *e.g.*, Gov. Code, § 7906.)

This general education funding, along with local tax revenues, constitutes the unrestricted funding that must be used by education agencies to operate the educational program, *i.e.*, hire teachers and other personnel, pay for utilities, maintenance and supplies, provide supplemental and tutorial services, etc. There is no other unrestricted money to fund the local education program and implement local education choices.

It is undisputed that section 42238.24 provides no actual payment for mandates; rather, it requires education agencies to divert spending away from their own programs and priorities in order to pay for the State's mandates – contrary to article XIII B, section 6. “Under article XIII B, section 6, if the State wants to require the local school districts to provide new programs or services, it is free to do so, but not by requiring the local entities to use their own revenues to pay for the programs.” (*CSBA II, supra*, 192 Cal.App.4th at 787.)

For most education agencies, general education funding will exceed not only the cost of the *Graduation Requirements Mandate* but all mandates. If the State's approach is allowed, it could potentially designate general education funding as payment for virtually all education mandates and effectively eliminate the right to reimbursement under section 6 for education agencies despite the express inclusion of these agencies in article XIII B.¹⁴ The State effectively conceded this point, but argued that the State's plenary authority over education would allow such a result. (JA III:822-23.)

¹⁴ In addition, the State's approach in Education Code section 56523 suggests that funding can be designated for *multiple* purposes. Indeed, that State has already taken somewhat similar actions. (See, *e.g.*, Gov. Code, §§17581.8, 17581.9.)

Moreover, the State's position would mean that "basic aid districts," *i.e.*, districts that receive only nominal state funding, would continue to be entitled to receive reimbursement while districts receiving state funding would not. The trial court viewed this as simply an equal protection argument (JA III:1076), but it is really a question about the interpretation and application of article XIII B, section 6 to education agencies because the State's position would necessarily mean that article XIII B, section 6 requires reimbursement for some districts but not others.

The State responded that Education Protection Account ("EPA") funds are received by all schools, so every agency would have offsetting revenues. But EPA funding is committed exclusively to schools by the Constitution itself and is therefore local funding, not state funding. (Cal. Const., art. XIII, § 36(e)(6).) The trial court declined to resolve this issue but, however the EPA funding issue is resolved, there is no question that the purpose and effect of section 42238.24 is to force education agencies to use their own revenues to pay for state mandates; shifting financial responsibility to the local education agencies not only adversely impacts other aspects of their educational program (JA II:414; JA III:783-791), but also contravenes article XIII B, section 6.

Like the *Graduation Requirements Mandate*, the *BIP Mandate* was established long ago and unpaid in 2010. Shortly after the Legislature failed to fund the settlement agreement for this mandate, it directed that funding "provided for purposes of special education" be used to pay any *BIP Mandate* costs. When the matter came before the Commission for parameters and guidelines, it acknowledged that the new legislation provided no new or additional revenue, but observed that new section 17557(d)(2)(B) did

not include the limitations of section 17556, *i.e.*, it did not require that offsetting revenue must be “additional” and “specifically intended” to pay for the mandate (JA II:723, 727), and that it was required to presume the constitutionality of section 56523. (JA II:726.)

It was undisputed that special education is already significantly underfunded. (JA II:748-751.) In fact, at the time section 56523 was amended, education agencies were already spending approximately \$3.4 billion of their own revenues to cover unreimbursed special education costs. (JA II:749.) The adverse financial impact of adding the *BIP Mandate* costs to already underfunded special education costs was detailed below. (JA II:418; JA III:783-787, 792-795, 967-970.)

Like section 42238.24, the amendment to section 56523 represents an attempt to eliminate the reimbursement obligation without providing any actual funding. The State’s identification of non-existent funds as offsetting revenues has precisely the same effect as directing districts to use their own local revenues to pay for that mandate. The State’s approach allows it to “force [this program] on local governments without the state paying for [it],” which section 6 was designed to prohibit. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.)

C. The State’s Plenary Authority Over Education Does Not Permit It to Disregard its Obligations under Article XIII B, Section 6

Rather than attempting to reconcile section 17557(d) with the requirements of article XIII B, section 6, the State and trial court relied heavily on the State’s “plenary authority” over education, citing *California Teachers Association v. Hayes* (1992) 6 Cal.App.4th 1513, 1518 (“*CTA*”). In *CTA*, the Court considered the Legislature’s

authority to include certain childcare expenditures in determining the State’s education funding obligation under Proposition 98, the minimum funding provision adopted in 1988. (Cal. Const., art. XVI, § 8.) It concluded that Proposition 98 did not “divest the Legislature of its traditional authority” to define the educational program. (*CTA, supra*, 6 Cal.App.4th at 1535.) However, the Court also observed that, while the State’s authority over education is broad, it remains subject to constitutional constraints. (*Id.* at 1524.) One such constraint is that imposed by article XIII B, section 6 – a provision that *does* impose a limitation on the Legislature in that it requires state reimbursement for any programs or services imposed.

The State characterized Petitioners’ position as arguing that the Legislature must “hold all other funding to the local government steady while also providing a subvention.” (JA III:819.) Petitioners have not argued that the State cannot adjust funding; it does so each year (within the parameters of Proposition 98), and adjusted funding downward between 2008 and 2011. (Fry, et al., *Revenues and Revenue Limits*, 2016 edition, pp. 29-30.) Petitioners’ argument is that reimbursement for the costs of mandates as required by article XIII B, section 6 is distinct from other education funding and must specifically be accounted for separately.

This is fundamentally because general education funding is part of the education agencies’ “proceeds of taxes” which are protected by article XIII B, section 6 and therefore outside the State’s “plenary authority.” Like local property tax revenues, they represent the agencies’ *unrestricted* revenues that must be used to provide the local education program. By directing that a portion of these revenues be used for mandates,

the State is imposing its own restrictions on the use of funds that have long been defined as local funds and forcing local education agencies to use *their own funds* to provide programs required by the State – precisely what section 6 was designed to prevent.

The State argues that even if it pays for mandates, there would be no net increase in education funding because Proposition 98 defines the spending limit and the State would simply reduce other spending. (JA III:820.) But Proposition 98 imposes a minimum, not a maximum. Moreover, whether mandate spending is properly included in the Proposition 98 calculations has never been litigated and may well be excluded by the separate requirements of article XIII B. That issue is not before the Court.

On a practical level, when the State treats general education funding and mandate funding interchangeably, it renders the “exclusive” procedures for mandate reimbursement irrelevant. The cost-based system *set up by the Legislature* reimburses local entities for monies already expended on the mandated program or service. (Gov. Code, § 17500 *et seq.*) Not all districts file requests for reimbursement and all claims must adequately document allowable expenses in order to obtain payment. In contrast, general education funding is primarily based on enrollment (average daily attendance or “ADA”). While the LCFF formula varies somewhat from revenue limit funding, it is still fundamentally attendance-based. (Ed. Code, § 42238.03.) Under section 42238.24, schools that complied with all mandate claims requirements would not receive any different funding than those districts that chose not to file claims at all. For example, two districts may each be entitled to \$3 million in LCFF funding, but only one may have mandate claims related to the *Graduation Requirements* in the amount of \$300,000.

Under the State’s approach to section 42238.24, both would receive exactly the same amount of LCFF money, but one has spent an additional \$300,000 on a state-imposed program. That district is not made whole as required by article XIII B.

D. Neither *Fresno* Nor *Kern* Supports the State’s Position

The trial court’s discussion of the requirements of article XIII B, section 6 was limited to *County of Fresno, supra*, 53 Cal.3d 482, 487 (“*Fresno*”) and *Dept. of Finance v. Comm. on State Mandates* (2003) 30 Cal.4th 727 (“*Kern*”).) Neither supports the State’s position or the trial court’s ruling.

Fresno involved a challenge to Government Code section 17556(d). Section 17556 generally defines certain circumstances that do not impose “costs” requiring reimbursement. Section 6 provides three categories of non-reimbursable expenditures: legislative mandates requested by the local agency; legislation defining new crimes; and mandates enacted prior to 1975. (Cal. Const., art. XIII B, § 6(a)(1)-(3).) The Legislature added several “non-cost” scenarios by statute: mandates affirming existing law declared by the courts; mandates imposed by federal law; mandates that result in “no net costs” because additional revenue is sufficient to pay for the mandate is provided (discussed above); mandates necessary to implement voter-adopted initiatives; and mandates for which the local agency is authorized to impose fees. (Gov. Code, § 17556 (a)-(g).) In these circumstances, the State has imposed a new program or service on the local entity, but the costs are not deemed to be reimbursable.

Fresno involved certain state-imposed hazardous waste activities for which the State authorized the counties to impose fees. The County implemented the requirements

but did not want to impose fees, preferring state reimbursement. When the Commission denied the request based on section 17556(d), the County challenged the State's authority to add to the exceptions specifically provided in article XIII B, section 6.

The Supreme Court observed that article XIII B was intended to provide "discipline in tax spending at state and local levels" by imposing an "appropriations limit" for each governmental entity. The appropriations limit was defined as "any authorization to expend during a fiscal year the proceeds of taxes." (*Fresno, supra*, 53 Cal.3d at 486, citing Cal. Const., art. XIII B, § 8(b).) The Court observed that section 6 was intended to prevent the State from forcing local governments from using their tax revenues (subject to limitation) to pay for State-imposed programs and services. (*Id.* at 487.) Based on this legislative purpose, the Court concluded that the Legislature had the authority to construe "costs" as used in article XIII B, section 6 as "excluding expenses that are recoverable from sources other than taxes" because those other sources were not limited by article XIII B in the way that tax revenues were limited. (*Id.*)

Relying on *Fresno*, the State argued – and the trial court agreed – that "if the mandate has been satisfied by funds provided by the State, rather than local taxes, Art. 13B, sec. 6 is not implicated." (JA III:1075.) This reads *Fresno* too broadly.

Although *Fresno* discussed local "taxes" and "tax revenues," in context, it is apparent that the Court was referring to local "proceeds of taxes," because the appropriations limit of each local entity is based on the authorization to spend "proceeds of taxes." (Cal. Const., art. XIII B, § 8 (b).) When the court concluded that certain costs reimbursable through regulatory fees could be excepted because they did not functionally

require agencies to use their “taxes,” it was essentially using “taxes” as a shorthand for “proceeds of taxes.” (*Fresno, supra*, 53 Cal.3d at 486-87; see also, *Redevelopment Agency v. Comm. on State Mandates* (1997) 55 Cal.App.4th 976, 986.)

However, some state payments are also “proceeds of taxes:” “With respect to any local government, ‘proceeds of taxes’ shall include subventions received from the state, other than pursuant to Section 6. . .” (Cal. Const., art. XIII B, § 8(c).) Section 8(b) likewise defines appropriations subject to limitation to include not only “proceeds of taxes” but also state subventions other than section 6 (*i.e.*, mandate) subventions. The article XIII B implementation legislation also states that “revenues and appropriations shall also include subventions,” defined as “money received by a local agency from the state, the use of which is unrestricted by the statute providing the subvention.” (Gov. Code, § 7901(h); see also *Hayes, supra*, 11 Cal.App.4th at 1577 [defining subvention].)

For school districts, Government Code section 7906 defines “proceeds of taxes” to include basic aid subventions and state apportionments up to the district’s “foundation program level” minus “local revenues as defined in Section 42238 of the Education Code.” (Gov. Code, § 7906(c).) The “foundation program level” is the district’s appropriations limit (minus some local revenues not included in section 42238). (*Id.*, at § 7906(b)(5).) The implementation provisions thus define all unrestricted state funding – up to the districts’ XIII B spending limit – as “proceeds of taxes.” This means that, for article XIII B purposes, unrestricted revenue limit or LCFF funding is part of the agencies’ local “proceeds of taxes;” state mandates that require districts to spend these funds trigger the protection of article XIII B, section 6 to the same extent as if they

required the expenditure of local tax revenues. As the Commission’s 2008 decision acknowledged, this has long been understood to be the law. (JA II:620-623.)

Neither the State nor the trial court addressed this issue, focusing instead on the *Kern* case. (*Kern, supra*, 30 Cal.4th at 747.) Like *Fresno*, *Kern* is not analogous and does not support the trial court’s conclusion.

Kern involved several state *categorical* programs. (*Id.* at 732.) Categorical funding is by definition restricted rather than unrestricted and would not be considered “proceeds of taxes.” (See Gov. Code., § 7906.) In addition, each categorical program in *Kern* was accompanied by a specific funding stream which could be used for “administrative costs.” (*Kern, supra*, 30 Cal.4th at 744.) From their inception, the programs at issue had required the participation of various advisory councils, but the State subsequently required the meetings of these advisory councils to include public notice and agendas. School districts filed a claim for reimbursement for the costs of the notice and agendas. The Supreme Court held that no mandate was created because the costs were *de minimis* and the programmatic funding could be used to pay those costs.

Moreover, most categorical programs are voluntary – a factor discussed at length by the Court. The Court discussed the voluntary nature of participation in most of the programs and specifically noted that it was *not* addressing the imposition of additional requirements when the local entity was not free to terminate participation. (*Id.* at 745, fn. 15.) By definition, state mandates such as the high school science requirements are not mandatory; a local education agency cannot terminate its participation if it deems the requirements too onerous or funding insufficient to cover costs.

Finally, the Court observed that even if a program were arguably mandatory, the actual notice and agenda costs at issue were *de minimis* (approximately \$100/meeting) and could reasonably be absorbed within program funding already provided. In contrast, the annual cost of the *Graduation Requirements Mandate* was over \$200 million annually and the cost of *Behavioral Intervention Plans Mandate* was \$65 million annually.

Kern is thus a case about whether education agencies can be required to use a *de minimis* portion of restricted categorical funding for state-specified administrative tasks in a voluntary program. The case cannot be extended to justify the State’s direction to education agencies to use their unrestricted funds for mandatory state programs and services in violation of article XIII B, section 6.

E. Government Code Section 17557(d)(2)(B) Must Be Narrowly Construed to Include the Limitations of Section 17556(e)

Although the Legislature may establish reasonable procedures for the implementation of constitutional rights, such procedures may not unduly limit or restrict the underlying right. (*Kinlaw, supra*, 54 Cal.3d at 334.) It is “elementary” that a legislative enactment “may not abrogate or deny a right granted by the Constitution.” (*Rose v. State of California* (1942) 19 Cal.2d 713, 725.) “[A]ll such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it.” (*Chesney v. Byram* (1940) 15 Cal.2d 460, 463-34; see also *Fresno, supra*, 53 Cal.3d at 493-94 [conc. op].)

Government Code section 17557(d)(2)(B) allows the parameters and guidelines to be “updated” to reflect “offsetting revenues and offsetting savings” that “do not require a

new legal finding that there are not costs mandated...pursuant to...section 17556.” (Gov. Code, § 17557(d)(2)(B).) Since section 17556(e) requires that costs are not imposed if the State provides “*additional* revenue that is *specifically intended* to fund the costs of the state mandate *in an amount sufficient to fund the cost of the state mandate,*” the language in section 17557(d)(2)(B) is susceptible to two possible constructions.

It could be narrowly read to apply where funding is less than “sufficient” but otherwise incorporating the limiting language of section 17556(e) that funding must be “additional” and “specifically intended to fund the costs of the state mandate.” Read that way, funding that would be insufficient to defeat a mandate as contemplated in section 17556 would nonetheless be reflected in the parameters and guidelines and reduce the amount owed. Viewed that way, section 17557(d)(2)(B) would simply require that available state revenues be subtracted out in the claims process.¹⁵

The other interpretation is that section 17557(d)(2)(B) allows the State to identify revenues that are not “additional” or “specifically intended” to fund the mandate, *i.e.*, it allows the State to identify existing revenues, or revenues made available for other purposes, as “offsetting revenues.” Read this way, section 17557(d)(2)(B) contains no limiting standards; in fact, the State has offered none and insists that it be construed broadly to allow the State to identify *any* source of state funding as offsetting revenue – even though it is not new or additional revenue.

¹⁵ In fact, that was already the practice prior to 2010. (See, *e.g.*, JA II:580 offsetting revenues in 2008 *Graduation Requirements* parameters and guidelines.)

If a statute is susceptible of two constructions, one of which renders it constitutional (or raises serious and doubtful constitutional questions), the court will adopt the construction which will render it free from doubt as to its constitutionality. (*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1373; *In re Marriage Cases* (2008) 43 Cal.4th 757, 800, fn. 21; see also *CSBA I, supra*, 171 Cal.App.4th at 1215-16 [limiting scope of section 17556(f)].)

Petitioners submit that section 17557(d)(2)(B) as broadly construed by the State runs afoul of article XIII B, section 6 and it should therefore be judicially limited in a way that would make it constitutional. “The interpretation of statutory language is a judicial function... While legislative declarations and characterizations are a factor we may consider in construing legislation, they are not binding... This is particularly true when the characterization is the product of an attempt to avoid the imposition of a financial responsibility.” (*City of Sacramento v. California* (1984) 156 Cal.App.3d 182, 196-97, internal citations omitted, disapproved on other grounds in *County of Los Angeles v. State* (1987) 43 Cal.3d 46.)

F. The Trial Court’s Ruling That the State Can Direct the Use of Local Funds Is Clearly Erroneous

The trial court concluded that the State could not only direct *state* revenues but also *local* tax revenues: “Petitioners have not shown State cannot lawfully utilize these provisions [Ed. Code, §§ 42238.24, 56523] to force school districts to use *local revenues* to fund state-mandated programs.” (JA III:1076, emphasis added.) Assuming this to be a clerical error, Petitioners offered the trial court several opportunities to correct or amend

this statement, raising it both in their motion to amend and at the hearing in an attempt to demonstrate why additional briefing was necessary on this important issue, but the trial court suggested that any error could be corrected on appeal. (JA IV:1122, fn. 3; TR 4:13-5:24; 9:1-10:6 [8/31/15].)

The entire purpose of article XIII B, section 6 is to prevent the State from forcing local governments to pay for the costs of state programs and services out of their limited local revenues. (See, e.g., *County of San Diego, supra*, 15 Cal.4th at 81 [purpose of section 6 is to preclude the state from shifting financial responsibility to local agencies, “which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose”]; see also (*Fresno, supra*, 53 Cal.3d at 487 [section 6 intended to prevent the State from forcing local governments from using their tax revenues (subject to limitation) to pay for State-imposed programs and services].) Any argument that the State can direct purely local revenues to pay for state mandates would be prohibited by article XIII B and directly contrary to the *Fresno* decision. This error requires correction by this Court, even if Government Code section 17557(d)(2)(B) is otherwise upheld as constitutional.

II. THE STATE’S USE OF GOVERNMENT CODE SECTION 17557(d)(2)(B) WITH EDUCATION CODE SECTIONS 42238.24 AND 56523 VIOLATES SEPARATION OF POWERS PRINCIPLES

The State Constitution provides: “The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.” (Cal. Const., art. III, § 3.)

The purpose of is to keep any one branch or individual from gaining too much power. (*Carmel Valley Fire Protection Dist. v. State of California* (2001) 25 Cal.4th 287, 297.) “[N]one of the coordinate branches of our tripartite government may exercise power vested in another branch.” (*Cirone v. Cory* (1987) 189 Cal.App.3d 1280, 1286.)

When the Legislature attempts to override a judicial determination, it “disrupts the judicial system by retaining a selective power to override individual adjudication.” (*Mandel v. Myers* (1981) 29 Cal.3d 531, 548-49.) This principle applies equally to the Commission – a quasi-judicial body with the sole and exclusive authority to adjudicate whether a state mandate exists. (*CSBA I, supra*, 171 Cal.App.4th at 1200.) In *CSBA I*, the Court invalidated the Legislature’s directives to the Commission to set aside or reconsider several final decisions, describing the legislation as “an unlawful collateral attack” on the Commission’s quasi-judicial decisions. (*Id.* at 1198-1200.)

Legislative acts disclaiming a mandate have been struck down by the courts, as have legislative acts directing the Commission to come to specific results. (See, e.g., *City of Richmond v. Comm. on State Mandates* (1998) 64 Cal.App.4th 1190, 1201-02 [invalidating legislative declaration that mandate was not created]; *County of Los Angeles v. Comm. on State Mandates* (1995) 32 Cal.App.4th 805, 818 [same].) Legislative declarations that certain funding eliminates the State’s mandate reimbursement obligation despite final Commission decisions to the contrary represent comparable similar attempts to legislatively override final Commission mandate determinations.

With respect to the *Graduation Requirements Mandate*, the Commission and courts have previously rejected the argument that the State’s general funding for the

education program can lawfully “offset” its reimbursement obligations. The administrative decision and judicial review are both final. Education Code section 42238.24 is therefore a transparent attempt to overturn these final administrative and judicial decisions by legislatively *declaring* that general education funding offsets (*i.e.*, eliminates) the State’s reimbursement obligation for this mandate.

Similarly, the Commission’s 2000 *BIP Mandate* determination concluded that special education funding did not defeat the mandate because such funding was not intended for the *BIP Mandate*.¹⁶ That decision is final and the subsequent judicial review proceeding was dismissed by the State. As the Commission stated, section 56523 was intended to “negate” this determination. (JA II:715.) It is also clear that special education funding would not be “sufficient” to pay the costs of the mandate, given the uncontested state of special education funding and the lack of any surplus funds.

The trial court concluded that there was no violation of separation of powers because these were merely “funding statutes” and “the Legislature did not direct the Commission to set aside or reconsider specific decisions.” (JA III:1079.) But a legislative declaration negating reimbursement *is* a disregard of the Commission’s decision. *CSBA I* discussed *Carmel Valley Fire Protection Dist. v. State* (1987) 190 Cal.App.3d 521, in which the Commission made a final mandate determination and the State refused to pay. (*CSBA I, supra*, 171 Cal.App.4th at 1201-02.) The court analogized the reconsideration legislation to an outright refusal to pay, saying, “[a]s in *Carmel*

¹⁶ The separate settlements of the *Special Education Mandate* litigation and, later, the *BIP Mandate* litigation, also made clear that these two mandates were not considered to involve the same costs.

Valley, the State. . .is not entitled to nullify the finality of the prior Commission decisions, whether *by refusing to fund a mandate* or directing the Commission to reconsider.” (*Id.* at 1202, emphasis added.)

While it is true that the legislation at issue did not directly seek to set aside the original mandate determinations made by the Commission, it had exactly the same practical effect by precluding reimbursement for those mandates – even though the Commission’s prior decisions found that the exact same funding did not prevent the imposition of the mandate. To paraphrase *CSBA I*, “the *effect* of the [legislative] direction . . . was to nullify the finality of specific Commission decisions.” (*Id.* at 1201, emphasis added.) It represents “[a] transparent attempt[] to do indirectly that which cannot lawfully be done directly.” (*Fresno, supra*, 53 Cal.3d at 493.)

Although *CSBA I* left open the possibility that the Legislature could create a procedure for allowing reconsideration of final mandate decisions, neither section 42238.24 nor 56523 purports to deal with the original mandate decision; these statutes merely defeat *payment* for those mandates, using legislative directions that are specifically designed to override the very basis of the mandate decisions.¹⁷ The use of section 17557(d)(2)(B) in this manner violates separation of powers principles.

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¹⁷ Government Code section 17570, the focus of Petitioners’ Third Cause of Action, purports to provide the legal basis for reconsidering a final test claim. The State chose not to initiate the new test claim procedure for these mandates, instead attempting to defeat payment through the offsetting revenue language of section 17557. (See JA II:715-720 [Commission explaining procedural distinctions between these provisions].)

III. THE TRIAL COURT'S REFUSAL TO ALLOW PETITIONERS TO AMEND OR BRIEF THE FIRST CAUSE OF ACTION WAS AN ABUSE OF DISCRETION

Although Petitioners requested leave to bifurcate and brief the First and Second Causes of Action together, the trial court granted bifurcation only as to the Second Cause of Action. (JA II:393.) Petitioners therefore focused their briefing on the Second Cause of Action, *i.e.*, the constitutionality of Government Code section 17557(d)(2)(B), facially and as applied in Education Code sections 42238.24 and 56523. (See JA II:396, 398.)

Section 42238.24 directs that certain “state funding” be used for the *Graduation Requirements Mandate*, but it does not define that term. Shortly before Petitioners’ opening brief was filed, the State disclosed for the first time that it considered section 42238.24 to include not only revenue limit/LCFF funding, but also funding from the Education Protection Account (“EPA”).¹⁸ When Proposition 30 imposed certain temporary income taxes commencing in 2013, it placed a percentage of those revenues into the EPA for distribution to schools. (Cal. Const., art. XIII, § 36.) The funds are “continuously appropriated” to schools, who “shall have sole authority to determine how the moneys received from the Education Protection Account are spent.” (*Id.*, § 36(e)(3)&(6).) While Proposition 30 and LCFF both commenced in 2013, they are unrelated except that the LCFF identifies EPA funds with other local offsets in the LCFF formula. (Ed. Code, § 42238.03(c)(8).)

Although the opening brief generally described section 42238.24, it did not

¹⁸ The State’s assertion came in a discovery response that the State had refused to provide for almost a year. (JA IV:1109.)

address the scope of section 42238.24 in detail; for purposes of the Second Cause of Action, the legally significant fact was that it was intended to refer to existing funding and provided no new or additional funding. In response to Petitioners' argument that differences in state funding among districts would result in different applications of article XIII B, section 6 (JA II:414), the State argued that since all districts received EPA funding, they would all have offsetting revenues that would eliminate mandate payment. (JA III:822.) Petitioners replied that EPA funding was local funding, not state funding, and its use could not be directed by section 42238.24. (JA III:960.)

The court's May 6, 2015 tentative ruling stated it was only addressing the Second Cause of Action. During oral argument, the EPA issue was addressed briefly; Petitioners explained why it was not "state funding" and suggested additional briefing on the scope of section 42238.24. (TR 21: 21-23:18 [5/7/15].) The State argued that any differences in funding between districts was an equal protection issue outside the pleadings. (TR 27:7-18 [5/7/15].) The court did not respond and the matter was submitted.

While EPA funding had commenced when Petitioners filed their amended Petition in November, 2013, it did not appear relevant to Education Code section 42238.24 which identified "state funding" appropriated pursuant to that article.¹⁹ The "article" was the article containing the revenue limits formula, and the state had long claimed that revenue limit funding was offsetting revenue. It was not until just before Petitioners' opening brief was due on the Second Cause of Action that the State first claimed the right to direct

¹⁹ EPA funds are currently scheduled to expire in 2018 unless extended. (Cal. Const., art. XIII, § 36(f).)

EPA funds for mandate debt. Following the hearing, Petitioners requested leave to amend in order to allege that the use of EPA funds for mandates would violate article XIII, section 36 as well as article XIII B, section 6. (JA III:1001-1003.) No opposition was filed, and a joint case management statement filed July 1, 2015 indicated that only the Second Cause of Action had been briefed. (JA III:1047.)

While the motion to amend was pending, the court issued its ruling on the writ of mandate, which again stated it was limited to the Second Cause of Action. (JA III:1057, 1079.) While the ruling did not address the scope of section 42238.24, it suggested that the State could direct that both state and local revenues be used for mandates. (JA III:1076.) This position had never been asserted by the State, and the tentative ruling on the motion to amend reflected additional confusion. (JA IV:1137-1138.) The parties agreed to continue the motion to discuss the procedural issues (JA III:1053); during those discussions, questions were raised for the first time as to whether the First Cause of Action remained for briefing.

In light of the disagreements of counsel and the court's intervening July ruling, Petitioners supplemented their motion to amend to make clear that they were not attempting to re-litigate the ruling on the Second Cause of Action but that issues remained to be addressed in the First Cause of Action. (JA III:1085-1091; JA IV:1118-1122.) Petitioners again requested *either* that they be allowed to amend their Petition to address section 42238.24 because the First Cause of Action remained *or* that additional briefing be allowed on the scope of section 42238.24 and incorporated into the court's ruling on the Second Cause of Action. (JA III:1091.)

At the hearing, the court acknowledged that the First Cause of Action remained to be briefed. (TR 2:1-17; 6:13-21 [8/31/15].) It subsequently denied the motion to amend, however, asserting (erroneously) that Petitioners had been ordered to brief the First and Second Causes of Action together. (JA IV:1128.) It also concluded that it was “mak[ing] no ruling at this time about whether it has already resolved the issues that Petitioners seek to raise by their proposed amendment.” (JA IV:1129.) In response to a motion for clarification, the court stated that its earlier ruling had “resolved the issues raised in the First Cause of Action” and that the motion to amend was denied because the facts regarding EPA funding “were actually known when the Third Amended Complaint was filed and should have been included in the motion, and Respondents demonstrated prejudice.” (JA IV:1189-1191.)

The factual premise for the ruling – that the EPA claim was “known” when the amended Petition was filed in late 2013 – was indisputably incorrect. While EPA funding commenced in 2013, Petitioners were unaware that the State included EPA funding in section 42338.24 because that claim was not made until *February 2015*, as the State conceded. (JA IV:1109.) The State has never disputed this but has instead argued that Petitioners *should have* argued all issues related to the First and Second Cause of action together because that is what Petitioners requested in mid-2014. But Petitioners’ 2014 statements were made *before* the October, 2014 bifurcation order limited briefing to the Second Cause of Action, *before* the State made its claim to EPA funds in February 2015, and *before* the court’s ruling addressed only the Second Cause of Action.

Moreover, both the parties and the court contemplated further briefing on the First Cause

of Action following the writ hearing. (JA III:1047, 1049; JA IV:1138; TR 2:1-17 [8/31/15].)

Nor was there undue delay or actual prejudice. When the State raised the issue in briefing, Petitioners responded and sought leave to amend immediately after the hearing (approximately three months after the State first made its EPA claim), while the matter was still under submission. And the State’s primary claim of hardship (JA IV:1103-1104) was simply that it would be burdened by additional briefing – hardly actual prejudice if the First Cause of Action remained (as the parties agreed on July 1, 2015). The State also suggested that finality was needed for the efficient operation of the mandate system, although at least two causes of action remained and final judgment could not be entered for some time. Finally, the State claimed it needed “clarity” about the amount of money owed school districts for the *Graduation Requirements Mandate* so it calculate its mandate debt, but it did not explain why a debt unpaid since 1987 suddenly became urgent. (*Id.*; see also IV:1122-1125.)

An amendment to conform to proof and/or correct a mistake or imperfection in pleading will generally not be considered material unless the opposing party has been misled to his or her detriment. (5 Witkin, *Civil Procedure, Pleading* § 1206; see also Code of Civ. Pro. §§ 469, 470, 475 [court must disregard defect in pleading that does not affect substantial rights of the parties].) Here, the variance was actually raised by the State. Even a “material” variance may be cured by amendment, and the courts have been “extremely liberal” in allowing amendments to conform to proof. (5 Witkin, *supra*, *Pleading* § 1212; see, e.g., *Foster v. Keating* (1953) 120 Cal.App.2d 435 [amendment

allowed after argument and oral announcement of decision but before findings prepared].) In addition, where the evidence to support the cause of action in the amendment is already before the court, the opposing party cannot claim prejudice. (*County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1618 [amendment should have been allowed to assert violation of additional statute as matter was addressed in both administrative proceedings and judicial proceedings].)

The trial court's discretion to allow or deny an amendment will be upheld "unless a manifest or gross abuse of discretion is shown." (Code of Civ. Proc. § 473(a)(1); *Record v. Reason* (1999) 73 Cal.App.4th 472, 486.) However, great liberality in permitting amendments at any stage of the proceedings has long been the policy in California. (*Id.*; see also *Posz v. Burchell* (1962) 209 Cal.App.2d 324 [affirming amendment of complaint on the first day of trial where case had been pending five years].) "Discretion" must reflect the sound judgment of the court and "implies the absence of arbitrary determination, capricious disposition or whimsical thinking." (*In re Cortez* (1971) 6 Cal.3d 78, 85.)

In this case, the First Cause of Action challenged the use of "state funding" for mandates. It is undisputed that Petitioners were unaware until February, 2015 that the State included EPA funding in this phrase, and that additional briefing on the First Cause of Action was contemplated at the time the motion to amend was filed. Even if the First Cause of Action should have been included in the writ proceeding, the court's refusal to allow issues surrounding Education Code section 42238.24 to be addressed in some way was arbitrary and unreasonable in light of the confusion caused by the court's own

rulings regarding bifurcation and on the writ, the State's last-minute claim relating to EPA funding, and the absence of any true prejudice on the part of the State. If this Court affirms the trial court's ruling regarding the State's authority under Government Code section 17557(d)(2)(B), the trial court's actions require a remand for additional proceedings concerning the scope of Education Code section 42238.24.

IV. THE TRIAL COURT ERRED AS A MATTER OF LAW IN DISMISSING THE REMAINING CLAIMS

Shortly after the rulings regarding the First Cause of Action, the State moved to dismiss the remaining causes of action under Code of Civil Procedure ("CCP") section 583.310, arguing that the matter had not been "brought to trial" within five years. The Court concluded that although the mandatory dismissal provision did not apply to writ proceedings, it should be imposed as a matter of discretion in this case. (JA V:1250-1251, citing CCP § 583.120(b); *Oskooi v. Fountain Valley Regional Hospital* (1996) 42 Cal.App.4th 233, 238.) The court then concluded that dismissal was mandatory under CCP § 583.310 because the proceedings on the Second Cause of Action did not constitute the commencement of trial. (JA V:1251-1253.)

It is well established that section 583.310 requires only that the trial *commence* within five years, not that it be completed within that timeframe: "[O]nce trial commences, the statute no longer applies, 'even though proceedings amount only to a partial hearing'." (*In re Marriage of MacFarlane & Lang* (1992) 8 Cal.App.4th 247, 253-54.) "[A]n action has been brought to trial if there is a trial of issues of fact with the purpose of determining the case on the merits." (*Id.* at 254, citing *Berri v. Superior Court*

(1955) 43 Cal.2d 856, 861.)

“When a court hears and determines any issue of fact or law for the purpose of determining the rights of the parties, it may be considered a trial.” (*Patapoff v. Los Angeles* (1959) 171 Cal.App.2d 635, 644-45.) “Generally speaking, a ‘trial’ includes all rulings of a court in proceedings before it made in furtherance of the *decisions made upon the issues in the case which form the basis of the judgment.*” (*Bice v. Stevens* (1954) 129 Cal.App.2d 342,355, emphasis added.)

In this case, the writ proceeding on the Second Cause of Action (as well as the First, according to the trial court) was briefed, heard and resolved by July, 2015 – all well within the five-year statutory requirement. The trial court’s determination in that proceeding was a necessary part of any final judgment in this matter and it was therefore “an adversary proceeding for the determination of a contested issue arising out of pleadings.” (*Lakkees v. Superior Court* (1990) 222 Cal.App.3d 531.) It was a “trial” because the trial court “hear[d] and determine[d]” several “issue[s] of fact or law for the purpose of determining the rights of the parties.” (*Patapoff, supra*, 171 Cal.App.2d at 644-45.) Indeed, the court itself referred to the writ proceeding as “trial by writ of mandate” (JA II:393), and some local rules describe oral argument on the writ petition as “trial” notwithstanding the use of motions practice for scheduling. (See, e.g., L.A. Superior Court Local Rule 3.231(l) [“trial” of writ consists of oral argument].)

The trial court, relying on *Sagi Plumbing v. Chartered Construction Corp.* (2004) 123 Cal.App.4th 443, concluded that because the claims litigated in the First and Second Cause of Action were “sufficiently distinct” to warrant bifurcation, they were necessarily

“not precursors to the issues raised in the Third and Fourth Causes of Action” and therefore did not constitute the “commencement” of trial. (JA V:1253.) The trial court essentially concluded that if the issues are sufficiently distinct to allow bifurcation, the “trial” of the first claims cannot “commence” trial of the remaining claims.

The court implicitly rejected the reasoning of this Court in *MacFarlane*, *supra*, 8 Cal.App.4th at 255-56, which also involved bifurcation. Distinguishing the *Lakkees* case, *MacFarlane* concluded that where the bifurcated trial dealt with two *contested issues*, trial of the first matter within five years satisfied section 583.310. (*Id.* at 256-57 [dismissal in these circumstances would “subvert the purpose of bifurcation – to assist expeditious resolution of cases”]; see also *In re Marriage of Dunmore* (1996) 45 Cal.App.4th 1372 [also viewing *Lakkees*’ ruling on bifurcation issues as dicta and noting that the term “trial” has different meanings in different contexts].)

The *Sagi* court distinguished *MacFarlane* by pointing out that the first proceeding in *MacFarlane* involved “contested factual issues *that were pertinent to resolving the outstanding issues.*” (*Id.* at 448.) In contrast, *Sagi* concluded that the causes of action in that case (three separate contracts claims) were *unrelated* to one another, and that plaintiff conceded that the issues resolved in the first cause of action “were not relevant to the remaining two causes of action...Consequently, the bifurcation could not simplify or expedite their resolution.” (*Id.* at 449.) In fact, in *Sagi*, the remaining causes of action

had been severed from the first cause of action after trial *in order to allow a final judgment to be rendered on the first cause of action alone.* (*Id.*)²⁰

In contrast, the various causes of action in this case were interrelated and relevant to each other and to Petitioners' constitutional challenges. Petitioners attempted to explain both the interrelationship and the distinctions when they requested bifurcation. (JA II:372-385.) Although all claims in this case are related to reimbursement under article XIII B, section 6, each issue involved different statutory provisions, had different administrative and judicial histories, and would rely upon different documents. Petitioners pointed out that combining the causes of action would likely result in an overwhelming number of documents submitted to the Court, whereas bifurcating the causes of action would allow each set of pleadings to be more focused and more manageable for the litigants and the Court. (JA II:384.) In addition, decisions on the first three causes of action could potentially have affected the Fourth Cause of Action, *i.e.*, whether the current legislative and administrative procedures as a whole satisfy the Constitutional requirements of article XIII B, section 6. (*Id.*)

The trial court's conclusion that CCP section 583.310 requires all causes of action in a bifurcated case to be tried within the statutory time-frame was error. Where, as here, the first of several interrelated claims was heard and resolved within five years, the statute was satisfied as a matter of law.

²⁰ In addition, the five-year limit had already been tolled once by the parties, leading to a total of more than seven years by the time the motion to dismiss was filed.

CONCLUSION

Petitioners/Appellants respectfully request the following relief from this Court:

- 1) With respect to Government Code section 17557(d)(2)(B), Petitioners request that judgment of the trial court be reversed and this provision be narrowly construed to incorporate the limiting language of section 17556(e) and/or that it be declared invalid as applied in Education Code sections 42238.24 and 56523 to the extent those provisions provide no new or additional funding for mandates;
- 2) With respect to Education Code sections 42238.24 and 56523, Petitioners request that judgment of the trial court be reversed to the extent it found these provisions permissible under article XIII, section 6. If the trial court's judgment regarding the constitutionality of Government Code section 17557(d)(2)(B) and Education Code section 42238.24 are not reversed in their entirety, Petitioners request that the judgment be reversed insofar as it purports to allow "local" revenues to be directed to state mandate payment and that the matter be remanded for further proceedings on the scope and meaning of "state funding apportioned to the district" as that phrase is used in section 42238.24;
- 3) That the trial court's judgment dismissing the Third and Fourth Causes of Action be reversed and the matter remanded for further proceedings on those claims.

Dated: October 7, 2016

OLSON HAGEL & FISHBURN LLP

By: /s/ Deborah B. Caplan

Deborah B. Caplan

Attorneys for Appellants/Petitioners

CERTIFICATE OF COMPLIANCE

I hereby certify that APPELLANTS' OPENING BRIEF is proportionately spaced, has a typeface of 13-point, proportionately-spaced font, and contains 13,033 words including all the footnotes but not including the Table of Contents and Authorities, this certificate, the caption page, signature blocks, certificate of service, or attachments.

Dated: October 7, 2016

OLSON HAGEL & FISHBURN LLP

By: /s/ Deborah B. Caplan
DEBORAH B. CAPLAN

CERTIFICATE OF SERVICE

Case Name : *California School Boards Association, et al. v. State of California, et al.*
Case No : **A148606**
Court : **Court of Appeal, First Appellate District, Division 5**

I am a citizen of the United States, over the age of 18, and not a party to the within action. My business address is 555 Capitol Mall, Suite 1425, Sacramento, California, 95814. On October 7, 2016, I served a true and correct copy of the following entitled documents:

APPELLANTS' OPENING BRIEF

I certify that I caused a copy to be transmitted electronically by filing the foregoing with the clerk of the California 1st District Court of Appeal by using its True Filing system, which electronically serves counsel for each party.

I further certify that some of the participants in this case are not registered with the True Filing system. On October 7, 2016, I have served those participants by placing the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Seth E. Goldstein, Deputy Attorney General
Office of the Attorney General
1300 I Street, Suite 125
Sacramento, CA 95814
Tel: 916.327.2364/Fax: 916.324.8835
Email: Seth.Goldstein@doj.ca.gov
(served via True Filing electronic service)

Counsel for Respondents
State of California, John
Chiang in his official capacity
as California State Controller,
Michael Cohen in his official
capacity as Director of the
California State Department of
Finance

Camille Shelton, Chief Legal Counsel
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Tel.: 916.323.3562/Fax: 916.445.0278
Email: camille.shelton@csm.ca.gov
(served via True Filing electronic service)

Counsel for Respondent
Commission on State Mandates

Supreme Court of California
350 McAllister Street
San Francisco, CA 94102
(served via True Filing electronic service)

Superior Court of CA, County of Alameda
Hayward Hall of Justice
24405 Amador Street, 2nd Floor
Hayward, CA 94544
(served via first class mail)

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 October 7, 2016 in Sacramento, California.

/s/Laura Prince
LAURA PRINCE

The 2017-18 Budget:

Proposition 98 Education Analysis



MAC TAYLOR • LEGISLATIVE ANALYST • FEBRUARY 9, 2017

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EXECUTIVE SUMMARY

In this report, we analyze the Governor's overall Proposition 98 budget package as well as his specific spending proposals for K-12 education.

Overall Proposition 98 Budget Plan

Governor Adjusts Proposition 98 Spending to Reflect Revised Estimates of the Minimum Guarantee. Compared to June 2016 estimates, the Governor's budget has the minimum guarantee down \$379 million in 2015-16 and down \$506 million in 2016-17. These drops are due mostly to reductions in General Fund tax revenue. The administration proposes to reduce Proposition 98 spending to match the lower estimates, primarily by deferring some program costs from 2016-17 to 2017-18. Regarding 2017-18, the administration estimates that the minimum guarantee will increase \$2.1 billion above the revised 2016-17 level, reflecting modest year-over-year growth in state revenue. The administration proposes to use this increase primarily for eliminating the prior-year deferral and providing a cost-of-living adjustment to the Local Control Funding Formula (LCFF).

Key Messages

Higher Minimum Guarantee Likely in 2017-18. We believe the administration's estimate of General Fund revenue in 2017-18 is low given its other economic assumptions. By May, revenue in 2017-18 could be significantly higher than assumed in January, with a resulting increase in the minimum guarantee. If revenue were to increase in 2017-18 by \$2 billion above the Governor's January level, the minimum guarantee would increase by roughly \$500 million. If revenue were to increase by \$4 billion, the minimum guarantee would increase by about \$1.5 billion.

Recommend Increased Funding for LCFF, Exhausting Alternatives Before Approving Deferral. The Governor proposes three significant actions relating to LCFF: (1) deferring an \$859 million LCFF payment from June to July 2017; (2) eliminating the deferral for the next payment cycle, thereby returning payments to the regular statutory schedule; and (3) augmenting LCFF funding by \$744 million in 2017-18. Before deferring an LCFF payment, we recommend the Legislature exhaust all other one-time options, including capturing any current-year program savings. Were the Legislature to include a deferral in its budget package, we recommend it retire the deferral as soon as possible, as the Governor proposes. We also recommend the Legislature take the Governor's same approach of dedicating most new ongoing Proposition 98 funding to LCFF, thereby giving districts flexibility to meet local priorities and cost pressures.

Recommend Taking Time to Explore Possible Changes to Special Education Funding. The 2017-18 Governor's Budget Summary expresses concern with the state's current special education funding system and indicates interest in having a statewide conversation about possible changes. In particular, the administration has indicated an interest in rolling special education into LCFF and directing all special education funding to districts rather than Special Education Local Planning Areas (SELPAs). While we agree the current special education system has shortcomings, including unnecessary complexity and unjustified funding inequities, we believe the Legislature has many

options to consider in redesigning the system. Moreover, redesigning the system could have significant implications for many stakeholders. For these reasons, we recommend the Legislature take time to explore its redesign options.

Recommend Different Approach to Aligning Preschool Programs. The Governor's budget includes several proposals that would change State Preschool programs in certain ways and Transitional Kindergarten programs in other ways. Though the intent is to more closely align State Preschool and Transitional Kindergarten programs, we recommend rejecting most of these proposals, as we believe many elements of the proposals would add greater complexity to an already complex system. We recommend the Legislature take a more holistic approach. Under such an approach, the Legislature would consider how best to serve four-year olds, particularly those from low-income families, including what eligibility criteria, program standards, and funding levels it desired for these children. Making all these decisions in tandem would provide for better alignment and coherence.

Recommend Creating a Plan for Addressing Mandates Backlog, Adding Two New Mandates to Block Grant. The Governor proposes to make a one-time payment of \$287 million toward the K-12 mandates backlog. His proposal gives money to all schools on a per-student basis even though many do not have any outstanding claims. Consequently, we estimate his proposal would lower the backlog by only \$102 million. We recommend the Legislature reject this approach and instead develop a multiyear plan that provides backlog funding conditionally on schools writing off remaining claims. Such an approach costs substantially less than the Governor's approach. Regarding the K-12 mandates block grant, we recommend the Legislature adopt the Governor's proposal to add the new school employee training mandate but increase the associated block grant augmentation from \$8.5 million to \$41.9 million to more accurately reflects costs. Though the Governor does not yet have a proposal for another new mandate related to online standardized testing, we recommend adding the mandate and \$37.8 million to the block grant (\$25 million to reflect higher costs and \$12.8 million to reflect an accounting shift of existing related assessment funds).

Recommend Requiring Administration to Provide More Information on How to Address Backlog of Facility Projects. Passed by voters in November 2016, Proposition 51 authorizes the state to sell \$7 billion in general obligation bonds for K-12 school facilities. The Governor's budget proposes to issue \$594 million of these bonds in 2017-18, along with \$61 million in school bonds from prior voter measures. These bond sales would address only a fraction of the current project backlog of \$2.4 billion. Given a large backlog of projects would persist under the Governor's proposal, we recommend the Legislature use its budget hearings to gather more information from the administration on how to address the backlog as expeditiously as possible. We also recommend the Legislature adopt a related proposal by the Governor to shift auditing of state-funded school facility projects from the state to the local level, thereby making auditing of facility expenditures more similar to other program expenditures.

INTRODUCTION

The Governor’s Proposition 98 budget package includes proposed changes in funding for K-12 education and the California Community Colleges (CCC). In this report, we analyze the Proposition 98 budget package, with a focus on K-12 education. In the first section of the report, we provide background on public schools in California. We then provide an overview of the Governor’s Proposition 98 budget package and

a high-level assessment of it. In the remaining sections of the report, we analyze several key areas of the K-12 education budget. In our forthcoming *Higher Education Budget Analysis*, we provide background on community colleges and discuss the Governor’s specific community college proposals. On the “EdBudget” portion of our website, we post dozens of tables containing additional detail about the Proposition 98 budget.

K-12 EDUCATION IN CONTEXT

In this section, we answer many questions legislators and others commonly ask about K-12 education in California. We begin with a focus on the main components of California’s public school system, then turn to the state’s academic standards and student performance on standards-aligned assessments, and finish by explaining the basics of school finance in California.

California’s Public School System

Below, we describe California’s students, teachers, local education agencies, and state education agencies.

Students

California Has More Than 6 Million Public K-12 Students. In 2015-16, California’s public schools enrolled a total of 6.2 million students, representing 13 percent of all public school students in the nation. About two-thirds of these students were in grades kindergarten through eight, with one-third attending high school. Over the past decade, student enrollment has been virtually flat, with enrollment in 2015-16 about 1 percent below the 2005-06 level. Enrollment in the preceding decade, however, grew by an average of 1 percent

per year. Over this earlier decade (1995-96 to 2005-06), statewide enrollment grew by about 850,000 students.

Almost Six in Ten California Students Are From Low-Income Families. In 2015-16, 59 percent of California’s public school students were eligible to receive a free or reduced price school meal under a large federal nutrition program. States frequently use this eligibility measure as an indicator of student poverty. Qualifying students come from families earning no more than 185 percent of the federal poverty level. In 2015-16, this level equated to \$45,000 for a family of four. California’s rate of free or reduced price meal eligibility is above the nationwide rate of 52 percent.

Half of California Students Are Hispanic. As Figure 1 (see next page) shows, the ethnic make-up of California’s students differs notably from the nationwide picture. Whereas about half of California’s students are of Hispanic origin and about one-quarter are white, in the United States those shares are flipped. Differences exist among other ethnic groups too, with Asian students comprising a larger share of students in California than the nation (12 percent and 5 percent, respectively), and black students comprising a

smaller share (6 percent in California compared to 16 percent nationwide).

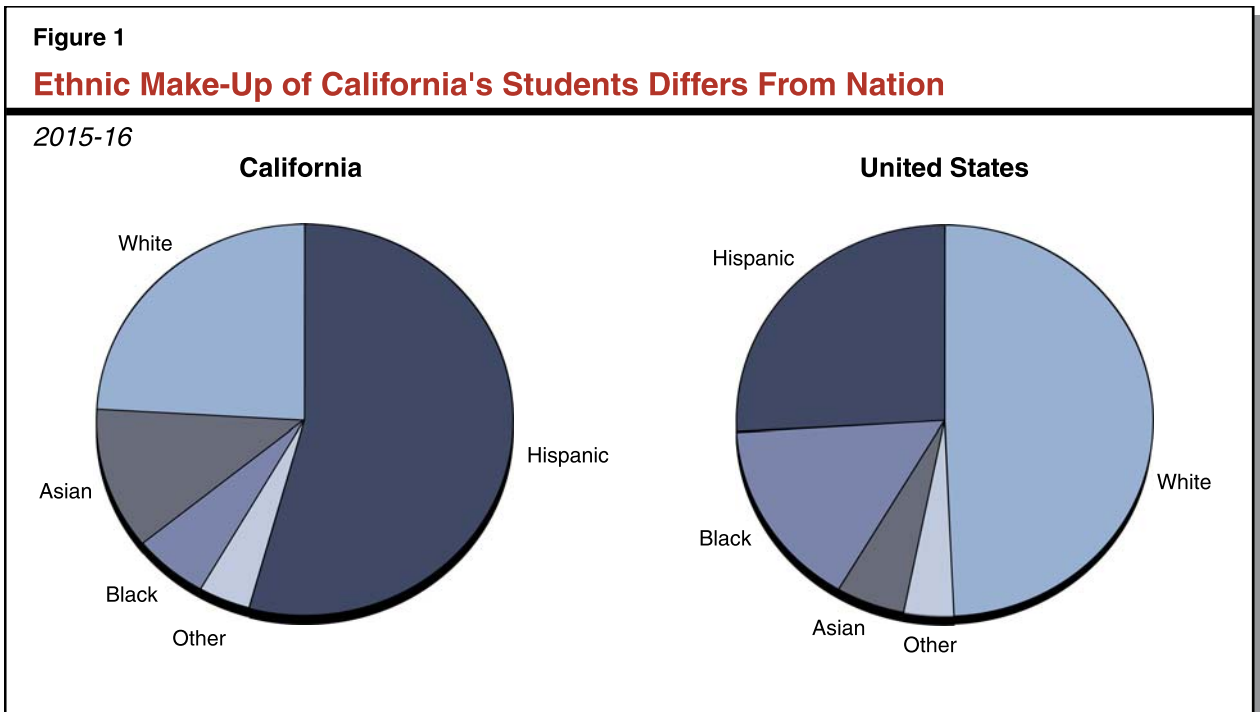
Nearly One-Quarter of California Students Are English Learners. In 2015-16, 22 percent (1.4 million) of California students were classified as English learners—a higher proportion than in any other state. Three out of every ten English learners in the nation attends school in California. Even more California students—almost 2.7 million students overall—speak a primary language other than English at home, but almost half of these students are considered fluent in English. California students come from families speaking over 65 different home languages, although the vast majority (78 percent) speak Spanish, with Vietnamese the next most common language (3 percent).

About One in Ten California Students Are Identified as Having a Disability Affecting Their Education. In 2015-16, about 662,000 California students (11 percent) were identified with a disability affecting their education. Pursuant to federal law, schools must provide these students

with special education services. California identifies a slightly smaller proportion of students for special education than the rest of the nation (13 percent). Specific learning disabilities such as dyslexia are the most common diagnoses requiring special education services (affecting 5 percent of the state’s K-12 students), followed by speech and language impairments (affecting 2 percent of California’s students). While the overall prevalence of students with autism and chronic health problems still is relatively rare (each affecting about 1 percent of California’s students), the number of students diagnosed with these disabilities has increased notably over the last decade.

Teachers

California Has Almost 300,000 Teachers. In 2014-15 (the most recent year for which certain statewide staffing data are available), about 296,000 teachers were employed in the public school system. Roughly three-quarters of teachers are women, similar to the share in other states. Compared to the student population, teachers



are more likely to be white (68 percent of teachers compared to 25 percent of students) and less likely to be Hispanic (19 percent of teachers compared to 54 percent of students). The number of teachers decreased during the last economic recession, dropping from 310,000 in 2007-08 to 284,000 in 2011-12. Since 2011-12, the number of teachers has increased each year.

California's Credentialing Requirements Are Similar to Those in Other States. To obtain a first-time teaching credential in California, individuals must have a bachelor's degree, complete a teacher preparation program, meet certain basic skills requirements, and demonstrate subject matter competency. Within five years of receiving their initial credentials, teachers must complete approved, two-year, on-the-job training programs to obtain their full professional credentials. Most other states have similar requirements. Fully credentialed teachers from other states who want to work in California typically are granted in-state credentials conditionally, having to fulfill certain California-specific requirements (including a basic skills requirement and a requirement relating to teaching English learners) within a set amount of time.

Four in Ten Teachers in California Have Advanced Degrees. In 2014-15, less than 1 percent of California's teachers held less than a bachelor's degree, 57 percent possessed a bachelor's degree, and 42 percent had a master's degree or other advanced graduate degree. The share of teachers with a master's or other advanced graduate degree has increased by almost 10 percentage points over the past ten years.

Average Years of Teaching Experience Have Steadily Increased Over Last Decade. In 2014-15, California's teachers had an average of 14 years of experience. This is higher than ten years ago, when teachers had an average of 13 years of experience. The share of teachers in California with 15 or fewer

years of experience has steadily declined (from 65 percent in 2005-06 to 55 percent in 2014-15), whereas the share with more than 15 years of experience has steadily increased (from 35 percent in 2005-06 to 45 percent in 2014-15). In 2014-15, the least experienced teachers (having taught less than five years) and the most experienced teachers (having taught more than 25 years) each accounted for about 15 percent of California's teachers.

California's Teacher Salaries Higher Than Most Other States. Based upon the most recent national data (2014-15), California has the fourth highest average teacher salary among the 50 states and the District of Columbia. Its average teacher salary in 2014-15 was 26 percent higher than the national average. California has ranked among the top four states each year since 2000-01. During this period, Connecticut, New York, New Jersey, and Massachusetts commonly ranked among the top states along with California.

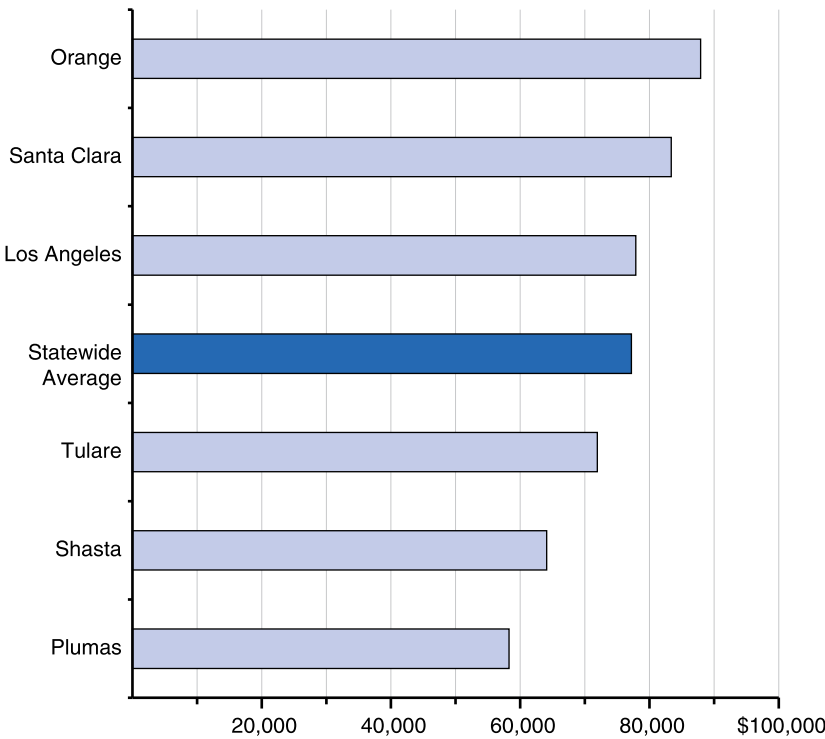
Teacher Salaries Vary Significantly Across the State. In California, the state requires most local education agencies to set teacher salary levels through collective bargaining. In 2015-16, the average teacher salary in California was \$77,200. As Figure 2 (see next page) shows, teacher salary levels varied widely across the state, with average salaries generally higher in more urbanized areas than rural areas.

California Has Highest Student-to-Teacher Ratio in Nation. Though California's teachers tend to be better paid than the rest of the nation, the state employs comparatively fewer of them. Based upon the most recent national data (2013-14), California had the highest student-to-teacher ratio—50 percent higher than the national average. The state's student-to-teacher ratio consistently has been among the highest in the nation, even prior to the recent economic recession. In 2014-15, California's student-to-teacher ratio was 21.1, a decrease of 0.5 compared to 2013-14.

Figure 2

Average Teacher Salary Higher in More Urbanized Areas

By County, 2015-16



Size of California School Districts Varies Dramatically.

As shown in Figure 3, California’s 946 school districts vary greatly in size. One-quarter of school districts are very small, serving 300 or fewer students. Another one-third are small, serving between 301 and 2,500 students. Whereas these two sets of districts combined comprise more than half of all districts in California, they account for only 7 percent of all students. At the other extreme, 12 very large districts each serve more than 40,000 students and together educate one-fifth of all students in the state. The largest district in California (and the second largest

Local Education Agencies

School Districts, Charter Schools, and County Offices of Education Provide Instruction to Students.

The public school system is comprised of many local education agencies (LEAs). In 2015-16, 946 school districts, 1,222 charter schools, and 58 county offices of education operated in California. California’s public school system also includes three state special schools for certain blind and deaf students, four schools for students incarcerated at state juvenile justice facilities, and 78 county juvenile court schools.

in the nation) is the Los Angeles Unified School District, serving 9 percent of all California students. Seven of the state’s counties contain only a single school district, and 253 school districts contain only

Figure 3

California School Districts Vary Greatly in Size

2015-16

District Size ^a	Number of Districts	Percent of All Districts	Total Students	Percent of All Students
Less than 300	240	25%	29,569	1%
301 to 2,500	306	32%	335,013	6%
2,501 to 5,000	138	15%	503,233	9%
5,001 to 10,000	113	12%	848,318	16%
10,001 to 40,000	137	14%	2,620,318	48%
40,001+	12	1%	1,114,654	20%
Totals	946	100%	5,451,105	100%

^a Based on average daily attendance. Excludes charter school attendance.

a single school. At the other extreme, Los Angeles County contains 80 school districts, and four school districts each have more than 100 schools.

Charter Schools Are Fast-Growing Sector of California’s K-12 School System. An increasing share of California students attend charter schools. Charter schools are publicly funded schools that are similar to traditional schools in many ways—they must employ state-certified teachers, and they must teach and assess students based on the same state academic standards. They differ from traditional district-operated schools, however, in that they are exempt from certain state laws, allowing them more flexibility over the design of their education programs. While overall K-12 enrollment has been relatively flat over the past decade, the number of students attending charter schools has more than tripled, growing at an average annual rate of 13 percent. In 2015-16, charter schools served 573,000 students (9 percent of the statewide total), up from 200,000 students (3 percent of the statewide total) in 2005-06. In 2015-16, charter schools ranged in size from 3 students to more than 5,000 students, with an average school size of 447.

County Offices of Education (COEs) Operate Regional Programs and Services. Specifically, they operate alternative programs for students who are incarcerated, on probation, referred by probation departments, or have been mandatorily expelled. Many COEs also operate regional special education and career technical education programs. In addition to providing some specialized forms of direct student instruction, COEs offer a variety of services to school districts. Many COEs, for example, operate countywide payroll systems and provide professional development for teachers and administrators. The COEs also are required to review and approve school districts’ annual budgets, monitor the fiscal health of districts several times per year, and review districts’ strategic academic plans, known as Local Control

and Accountability Plans (LCAPs). The COEs also will have a support role in helping school districts that do not meet performance standards in two or more of eight state priority areas.

State Education Agencies

California Department of Education (CDE) Administers Education Programs at the State Level. The department is the primary state entity responsible for administering federal and state education programs. The department monitors compliance with laws and regulations for education programs; collects and compiles data related to districts, schools, and students; allocates funding; and monitors state contracts for student testing. The department has an annual budget of around \$260 million and about 1,500 employees—rendering it midsized compared to other departments within California state government. More than two-thirds of CDE’s funding comes from federal funds, as many of CDE’s activities are associated with federal programs. The Superintendent of Public Instruction (SPI) oversees the day-to-day operations of CDE. In California, the SPI is a non-partisan position elected by voters. This contrasts with most other states in which the officers heading their departments of education typically are appointed by their governors or state boards of education.

Three Other State Agencies Involved in Aspects of K-12 Education. In addition to CDE, the following three state entities are involved in major aspects of K-12 education.

- The State Board of Education (SBE), consisting of ten members appointed by the Governor, is responsible for setting and implementing various state policies, including developing regulations needed to implement state laws involving K-12 education, granting LEAs waivers from certain requirements in state law, selecting

a contractor for the state's standardized tests, and adopting instructional materials for kindergarten through grade eight.

- The Commission on Teacher Credentialing is responsible for accrediting teacher preparation institutions, credentialing teachers, and investigating allegations of teacher misconduct.
- The State Allocation Board allocates bond funding for the construction and modernization of public school facilities. Prior to receiving state bond funding, school facility projects must be reviewed and approved by the Office of Public School Construction, an office within the Department of General Services.

A Few Entities Tasked With State-Level

Functions. In addition to these state entities, the state contracts with a few entities (via their COEs) to undertake activities that have statewide benefits. The Fiscal Crisis and Management Assistance Team (affiliated with the Kern COE) provides fiscal advice, management assistance, and other training to school districts across the state. California School Information Services (also affiliated with the Kern COE) helps LEAs across the state with data management issues. The K-12 High Speed Network (affiliated with the Imperial COE) assists schools with Internet connectivity. The California Collaborative for Educational Excellence (affiliated with the Riverside COE), established by the state in 2013 and in the midst of development, is to serve as a hub of expertise for helping LEAs improve student outcomes.

Policy and Performance

Below, we highlight major state and federal laws affecting K-12 education and then review trends in student performance.

Law and Regulations

State and Federal Law Place Certain Requirements on Schools. Much of school operations are dictated by state and federal law. For example, state law sets the maximum number of students per elementary and middle school classrooms, requires a minimum of 180 instructional days per year, and sets minimum course requirements for high school graduation. State law also requires LEAs to implement state-adopted academic standards, administer state-approved student assessments, and report certain student performance outcomes. In addition to state law, the federal government places several major requirements on schools. Most notably, as a condition of receiving certain federal grants, the federal government requires schools to provide special education services, provide supplemental services for low-income students, and annually test students in certain subjects and grade levels.

The SBE Is Responsible for Developing State Regulations. In many instances, state law delegates important decisions to the board. In recent years, some of the board's most significant decisions have been related to the Local Control Funding Formula (LCFF) and LCAPs. In 2014, for example, the board adopted regulations that specified how LEAs could use certain LCFF funding intended for English learners and low-income students. That same year, the board also adopted a template for districts to use in developing their LCAPs. In September 2016, the board adopted the evaluation rubrics that COEs are to use to monitor whether school districts have met performance standards in eight state priority areas. The board also is the primary entity responsible for ensuring the state complies with recently adopted changes in federal law regarding school accountability.

Academic Standards

The SBE Adopted California's First Set of Academic Content Standards in the Late 1990s.

These academic content standards specified what students should know after completing each subject area in each grade level. California first adopted academic content standards for its core content areas—English language arts, math, science, and history-social science—in 1997 and 1998. The state subsequently adopted standards for English language development (used for instructing English learners), visual and performing arts, physical education, career technical education, and world languages. The Instructional Quality Commission, an advisory body to SBE, created associated curriculum frameworks that provided examples of lesson plans aligned with the content standards.

Like Most States, California's Instruction Is Now Based on Common Core State Standards. In 2010, at the direction of the state Legislature, SBE adopted the Common Core State Standards (with the addition of a few California-specific standards) as the new foundation for what students should know and be able to do in English language arts and math from kindergarten through twelfth grade. The new standards are designed to better prepare students for college and career. California schools are implementing the new standards by modifying curriculum, training staff, and purchasing new instructional materials. Forty two states and the District of Columbia have adopted and are implementing the Common Core State Standards.

State Is in Process of Implementing New Science Standards. California also adopted the nationally developed Next Generation Science Standards (NGSS) in 2013. (California was a lead state partner in the development of these new standards.) Because the state has yet to develop new curriculum frameworks or exams aligned with NGSS, instruction in the classroom is not yet aligned to the new science standards.

Student Assessments

Federal Law Requires States to Administer Standardized Tests. Federal law requires states to assess students in English language arts and math in grades 3 through 8 and at least once from grades 10 through 12. In addition, federal law requires states to assess students in science at least once during: (1) grades 3 through 5, (2) grades 6 through 9, and (3) grades 10 through 12. States also are required to annually assess the English proficiency of English learners. From 2003 through 2013, most students in California were assessed using the California Standards Tests (CSTs) in these subjects, which were aligned to the state's first set of academic standards. (Students with moderate or severe disabilities were assessed using alternative assessments.)

First Exams Aligned to Common Core State Standards Were Administered in Spring 2015.

Although the Common Core State Standards were adopted by SBE in 2010, schools were not expected to have their instruction aligned with the new standards until 2014-15, at which time the state was to administer a new set of Common Core-aligned assessments. The new assessments were developed by the Smarter Balanced Assessment Consortium (SBAC), a group of 17 states, with California a lead member. The SBAC assessments are intended to be taken online using a computer or tablet (though schools have a pencil-and-paper option for the first three years). Compared to the state's previous exams, which consisted almost exclusively of multiple choice questions, the SBAC assessments are more elaborate. For example, both English language arts and math exams include performance tasks that require students to review source materials and respond in writing to several questions. In spring 2016, the state began administering the Common Core-aligned California Alternate Assessment in English language arts and mathematics for students with severe cognitive disabilities.

State Is in Process of Developing Several New Exams. The state currently is developing several additional assessments aligned with new academic standards. In spring 2017, the state will administer a pilot test for new science assessments, known as the California Science Test, with fully operational tests beginning in spring 2019. The state also will pilot test a science exam for students with the most significant cognitive disabilities. Additionally, the state is developing a new English language development exam—used to determine whether students should be classified as English learners—to be used beginning fall 2017. The state also is in the early stages of developing a Spanish language assessment aligned to the Common Core. This optional exam could be used for students receiving instruction in Spanish, English learners who have been enrolled in school for less than 12 months, or other students interested in assessing their proficiency in Spanish.

Student Performance

Student Performance on State Exams Improved From 2003 Through 2013. Student performance on the CSTs improved significantly during the ten years when the CSTs were administered. The percentage of students scoring advanced or proficient on the eighth grade English language arts exam almost doubled—from 30 percent to 57 percent—from 2003 to 2013. Performance improved at similar rates for both low-income and non-low-income students. Student performance also improved at similar rates in English language arts at other grade levels and on math exams. As part of the transition to new exams, California suspended the CSTs in spring 2014.

Performance Improved Between First and Second Year of New Assessments. In 2016, 49 percent of California students met or exceeded standards in English language arts, up from 44 percent in 2015. Performance on math also

improved, with the percentage of students meeting or exceeding standards increasing from 33 percent to 37 percent. For both subject areas, performance improved in all grades and for all ethnic groups.

Large Achievement Gaps Still Exist. Although performance has improved for all students, results on the new exams continue to show significant “achievement gaps” between the scores of low-income and non-low-income students. As Figure 4 shows, for example, 36 percent of low-income students met or exceeded the state standards in eighth grade English language arts, compared to 68 percent of non-low-income students. The gaps are similar for other subjects and other grade levels and similar to achievement gaps under the prior exams (a difference of roughly 30 percentage points).

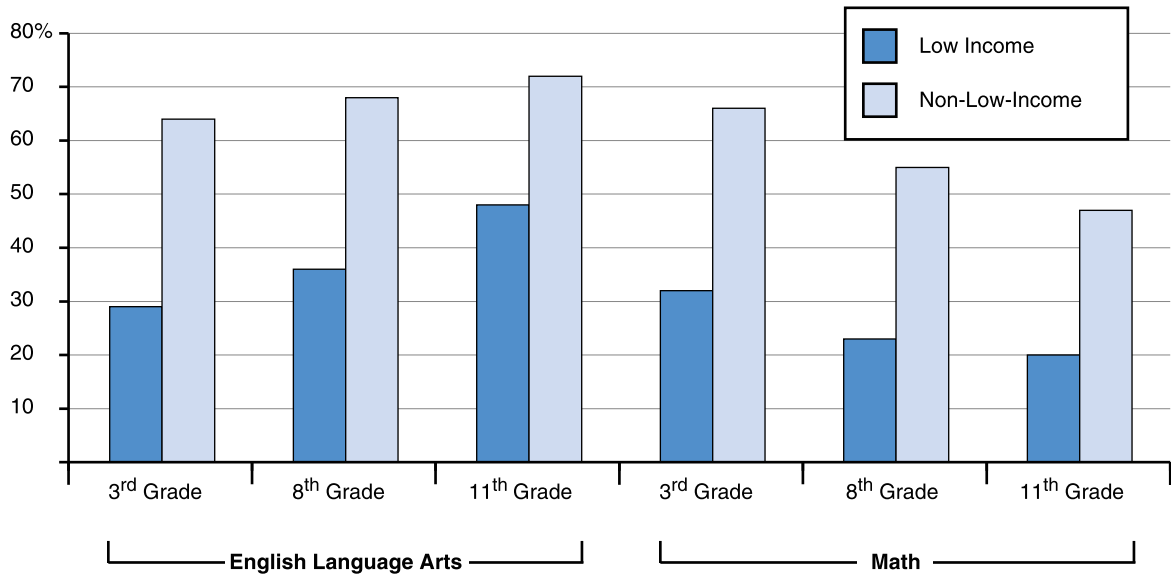
Outcomes Also Vary by Ethnicity. Results on statewide exams also show significant achievement gaps among California’s four largest ethnic groups. Differences across ethnic groups exist even after controlling for income. As Figure 5 shows, low-income black and Hispanic students have lower proficiency rates on 8th grade English language arts exams (27 percent and 33 percent, respectively) than low-income white and Asian students (45 percent and 62 percent, respectively). Similar differences among groups exist in third and eleventh grade.

California Ranks Near Bottom on National Tests. The federal government administers the National Assessment of Educational Progress every two years. The most recent assessment results (2015) show that California performs near the bottom in reading and math for fourth and eighth grades. When compared to demographically similar students in other states, the performance of non-low-income students in California (39th in eighth grade reading) ranks somewhat higher than low-income students (45th in eighth grade reading). Both groups in California, however,

Figure 4

Notable Achievement Gaps Remain Across Every Grade Level

2016, Percent of Students That Met or Exceeded Standard



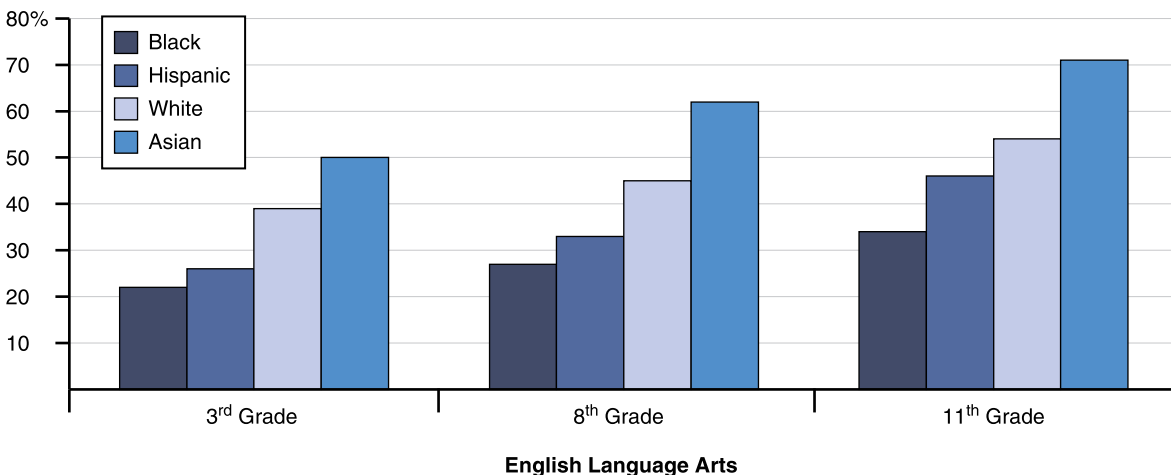
rank lower than most other states. California's performance compared to other states has not changed significantly in the past ten years. In addition to having lower performance compared to other states, California also has among the

largest achievement gaps between low-income and non-low-income students. In fourth grade reading, for example, California's achievement gap ranked 49th in the country. (That is, 48 states have achievement gaps that are smaller than California.)

Figure 5

Achievement Gaps Exist Among Low-Income Students

2016, Percent of Students That Met or Exceeded Standard



Eight in Ten Students Graduate High School Within Four Years. Of the cohort of students that entered ninth grade in the 2011-12 school year, 82 percent graduated within four years, 11 percent dropped out of school, 6 percent returned to school for a fifth year, and less than 1 percent received either a High School Equivalency Certificate (if they passed the General Educational Development Test) or a special education certificate of completion.

More Graduates Completing Coursework Required for University Eligibility. In 2015, 43 percent of California students graduated high school having completed the coursework required to be eligible for admission to the University of California and California State University. This proportion has been gradually increasing over the last 20 years. In 1995, 35 percent of California high school graduates completed such coursework. (To meet the minimum eligibility requirements for the University of California and California State University, students also must meet certain grade point average requirements and take college entrance exams.)

from the state, with smaller shares coming from local sources (primarily from local property tax revenue) and the federal government. (Revenues from the state lottery account for 1 percent of all revenue.) These proportions differ from many other states, where local property tax revenue covers a much larger share of school funding. (Unlike many other states, California’s State Constitution limits local property tax rates.) Additionally, in contrast to many other states, most school districts’ overall funding levels are not affected by how much local property tax revenue they receive. This is because California generally uses local property tax revenue as an offset for state General Fund spending. That is, if a district receives more local property tax revenue in a given year, the state reduces the district’s General Fund support by a like amount. About one in ten school districts in California, however, are affected by growth in their local property tax revenue, as they have such high levels of local revenue that the state provides no direct base aid.

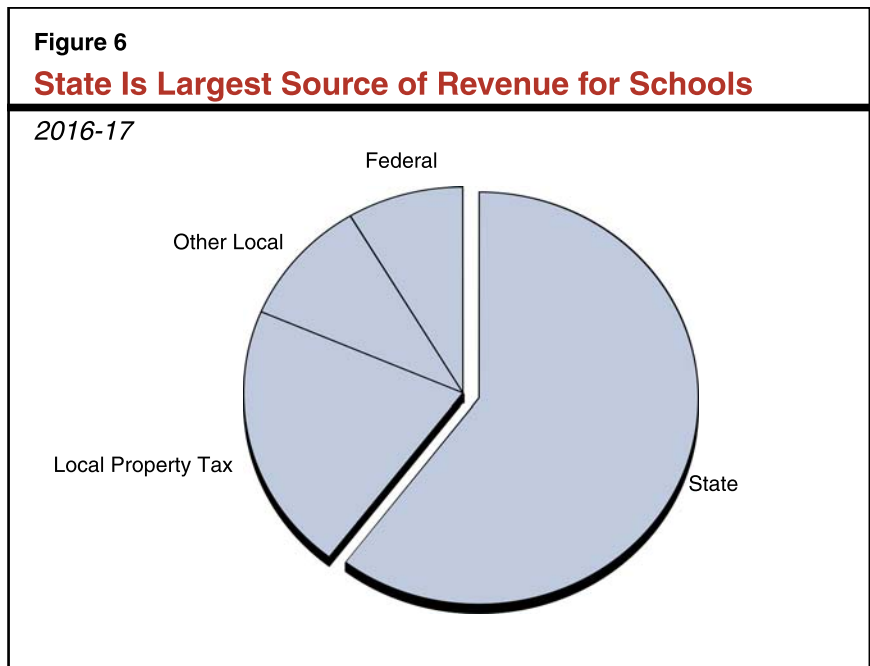
Per-Pupil Funding Exceeds Pre-Recession Level. The 2016-17 Budget Act provided schools with \$10,657 per student (from state General

Finance

Below, we explain how schools are funded in California, how funds are allocated among districts, and how districts typically use their funding.

School Funding

State Is Primary Source of Operating Revenue for Schools. In 2016-17, schools received \$88 billion in total funding from all sources. As Figure 6 shows, the largest share of school funding comes



Fund and local property tax revenue combined), a \$440 (4 percent) increase from 2015-16 and about \$600 (6 percent) more than the 2007-08 pre-recession level adjusted for inflation. Statewide per-pupil funding has exceeded pre-recession levels since 2014-15.

California Per-Pupil Spending Ranks in Bottom One-Third of States. Based on spending data from 2013-14 (the most recent available), California ranked 35th in per-pupil spending among the 50 states and the District of Columbia. In 2007-08, prior to the most recent recession, California ranked 23rd in per-pupil spending. The drop in ranking over this period is primarily due to the reductions the state made during the recession. Because California’s revenues are highly sensitive to changes in the economy and financial markets, California’s budget tends to be more significantly affected by recessions (and recoveries) than most other states. Given California has made significant increases in K-12 funding over the past several years, its ranking likely will increase as newer data become available.

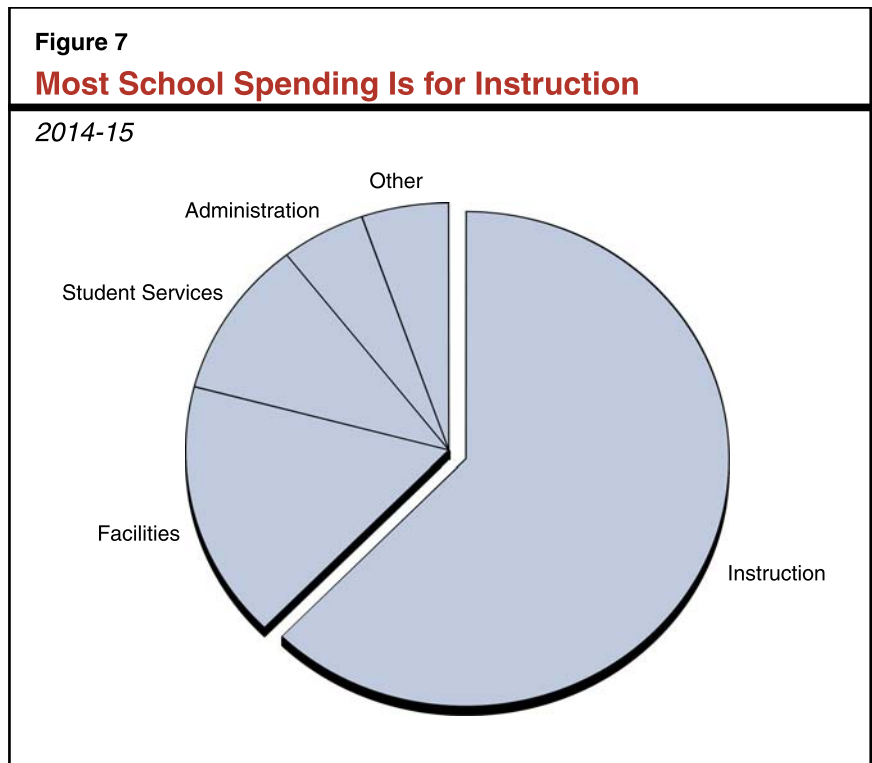
If Adjusted for Cost of Employment, California Drops in the Rankings. Some organizations produce rankings of state per-pupil spending with adjustments for regional costs. In these rankings, California typically ranks much lower. In one recent ranking, for example, California ranked 46th in per-pupil spending. The adjustments in these rankings are primarily intended to control for the variation in wages across the country, with average wages higher in California.

Allocation and Use of Funds

Most Funding Is Allocated Through the LCFF.

The 2016-17 budget plan allocated 91 percent of K-12 education funding (state General Fund and local property tax revenue combined) through LCFF. School districts and charter schools may use LCFF funds for any educational purpose, though they must use a portion of these funds for increasing or improving services for English learners and low-income students. In addition to general purpose LCFF funds, the state provides funding for various categorical programs, the largest being special education. (Categorical programs restrict funding for specified purposes.)

Most School Spending Is for Instruction. As Figure 7 shows, 62 percent of school expenditures in 2014-15 was related to instruction and instructional support—largely paying teacher salaries and benefits. Schools spent 17 percent of their funds on facilities, including land acquisition, construction, and maintenance. Schools spent 10 percent on student services, including school



meals, pupil transportation, counseling, and health services. About 10 percent of funds were spent on central administration, including the compensation of district superintendents; central business,

legal, and human resource functions; and other expenses, including purchasing, printing, and data processing.

FEDERAL FUNDING FOR K-12 EDUCATION

In this section, we briefly review the role of the federal government in K-12 education, provide an overview of federal funding for K-12 education in California, and discuss several major federal K-12 education programs.

Role of Federal Government

Federal Government's First Major Educational Focus Was to Support Students Who Were From Poor Families. The federal government's role in funding K-12 education was limited through the 1950s. It increased significantly in the 1960s. During that decade, President Johnson expanded the federal government's role in K-12 education as part of his larger War on Poverty initiative. Enacted in 1965, the Elementary and Secondary Education Act (ESEA) provided an infusion of federal funds into school districts with high proportions of low-income students. The funding had few restrictions, except that it be used to enhance low-income students' educational opportunities. Funding could be used for things like increasing teacher pay, purchasing new instructional materials, and offering more advanced academic courses.

Federal Government Gradually Has Assumed Greater Role in School Accountability. As early as the 1970s, the federal government began using assessments to evaluate ESEA programs, particularly "Title I" programs supporting low-income students. It was not until the 1994 reauthorization of ESEA, however, that states were required to set English and math benchmarks

and test students on their proficiency relative to those benchmarks. The 1994 reauthorization also required that schools not meeting benchmarks develop a school improvement plan as a condition of receiving Title I funds. The 2001 reauthorization of the ESEA, better known as the No Child Left Behind Act, expanded testing to more grades and required disaggregation of test scores for certain student groups. If schools did not meet benchmarks for all student groups, they were required to undergo various reforms. The most recent reauthorization of the ESEA, called the Every Student Succeeds Act (ESSA), occurred in 2015. Under ESSA, the federal government continues to require states annually to test students for accountability purposes, but it allows states to set their own proficiency benchmarks and removes many of the repercussions schools not meeting benchmarks had faced under the No Child Left Behind Act.

Today Three Major Acts Govern the Federal Government's Role in K-12 Education. These three acts are:

- ***The Healthy, Hunger-Free Kids Act.*** This act supports several child nutrition programs administered by the United States Department of Agriculture. Generally, these programs reimburse schools for providing meals to low-income students at reduced prices or for free.
- ***The Every Student Succeeds Act (ESSA).*** This act supports several elementary

and secondary education programs administered by the United States Department of Education. The programs range from supplemental services for students from low-income families to additional funding for schools on federal lands. Since the original enactment of ESEA, the law has been reauthorized seven times.

- ***The Individuals With Disabilities Education Act (IDEA).*** This act supports services for students with disabilities. As with ESSA, IDEA is administered by the United States Department of Education. The core component of IDEA is services tailored at the local level to the unique needs of each child with a disability ages 3 through 22.

Overview of Federal Funding

Federal Funding Makes Up About 10 Percent of Total K-12 Funding. The *Governor's 2017-18 Budget* recognizes over a dozen federal K-12 education programs associated with a total of \$7.5 billion in federal funding. This represents about 10 percent of total K-12 funding in California, with the remaining funding coming from state (60 percent) and local (30 percent) sources. Over the past 15 years, the federal share of K-12 funding has ranged from 8 percent to 15 percent (an unusual high resulting from stimulus funding the federal government provided during the past recession).

Some School Districts Rely More on Federal Funding Than Others. Two-thirds of California's school districts (collectively serving two-thirds of California's students) receive less than 10 percent of their total revenues from federal programs, while the remaining one-third receive 10 percent or more of their total revenues from federal programs.

Districts serving relatively large numbers of low-income students and English learners tend to rely more heavily on federal funding.

Major Federal Education Programs

Child Nutrition Programs. The largest nutrition programs funded under the Healthy, Hunger-Free Kids Act are the National School Lunch Program and the School Breakfast Program. These two programs comprise 78 percent of the \$2.6 billion proposed for California schools in 2017-18 under the act. The act supports several other school-based nutrition programs, including programs to provide meals to students in the summer and after school. For some nutrition programs, the state supplements federal funding. The 2017-18 budget proposes to include \$161 million in Proposition 98 General Fund support primarily to provide additional reimbursements to schools participating in the federal lunch and breakfast programs.

Programs for Students From Low-Income Families. As Figure 8 (see next page) shows, the largest ESSA program is support for low-income students (Title I), comprising 75 percent of the \$2.6 billion proposed for schools in 2017-18. Title I itself has many components, including formula-based grants for schools educating high proportions of children from low-income families, formula-based grants for states to provide supplemental educational services for the children of migrant workers, and funding for states to administer standardized assessments.

Other ESSA Programs. As Figure 8 shows, ESSA supports several other aspects of K-12 education. The largest of these other areas is professional development for teachers and administrators, comprising almost 10 percent of all ESSA funding. The next largest ESSA programs are for English learners and after school programs (most notably, 21st Century Community Learning

Centers). ESSA also funds various other initiatives, including support for rural schools, American Indian education, and schools on federal lands. (Funding for the latter two programs is awarded directly to schools and does not pass through the California Department of Education.) California provides state funding for similar purposes as ESSA. Most notably, the state provides significant funding targeted for low-income students and English learners under its main per-pupil funding formula. (In 2016-17, we estimate the state provided \$8.6 billion for this purpose.) In addition, the state provides earmarked funding for after-school programs, assessments, and schools in rural areas.

Programs for Students With Disabilities.

Nearly all IDEA funding is for direct services for children with disabilities ages 3 through 22. For each child identified with a disability, school administrators and teachers must meet annually with the child’s parents to identify the specific services the child requires to succeed. These services receive 96 percent of the \$1.3 billion IDEA funding proposed for schools in 2017-18, with the state contributing an additional \$3.8 billion. The remaining 4 percent of federal funding supports services for children birth through age three.

Two Other Notable Federal Education Programs Administered by State. The Carl D. Perkins Career and Technical Education (CTE) Act provides about \$50 million annually to schools to increase the quality of CTE. Schools use the funding to develop CTE curriculum, offer professional development for CTE teachers, and purchase equipment and supplies for the classroom. In addition, the McKinney-Vento Homeless Assistance Act provides about \$7 million annually to schools for providing homeless children extra services such as transportation and help accessing social services.

Other Federal Grants Allocated Directly to Educational Service Providers or Schools. The federal government allocates some federal funding directly to educational service providers. One of the largest fund sources of this nature is the Federal Communications Commission’s (FCC’s) Schools and Libraries program, commonly known as E-Rate. This program provides funding to telecommunication companies to provide discounted Internet and related services to schools. In 2015-16, the FCC committed to offsetting California schools’ Internet costs by over \$400 million in E-Rate funds. In some cases, the

federal government also allocates federal funding directly to schools. For example, we estimate schools receive about \$15 million annually in federal Forest Reserve funds to offset some of the timber revenue rural schools have lost due to various federal actions that have reduced timber harvests on federal lands.

Figure 8
Funding for Every Student Succeeds Act

Proposed 2017-18^a (In Millions)

Support for:	
Low-income students (Title I)	\$1,958
Teachers and administrators (Title II)	238
English learners (Title III)	145
After-school programs and charter schools (Title IV)	164
Rural schools (Title V)	1
American Indian education (Title VI)	7 ^b
Schools on federal lands (Title VII)	85 ^b
Total	\$2,598

^a Does not include various competitive grant awards. In 2016, we estimate California educational entities received a total of \$60 million in competitive grant funding.
^b LAO estimates.

Federal Funding for California Department of Education State Operations. The 2017-18 budget proposes to provide \$161 million in federal funding to the California Department of Education to administer various federal programs. In a review we conducted in 2014, we found that

federal funding supported almost 70 percent of the department’s operations budget. State funding supported about 20 percent of the department’s operations budget, with remaining support coming from various other fund sources.

OVERVIEW OF THE GOVERNOR’S PROPOSITION 98 BUDGET PACKAGE

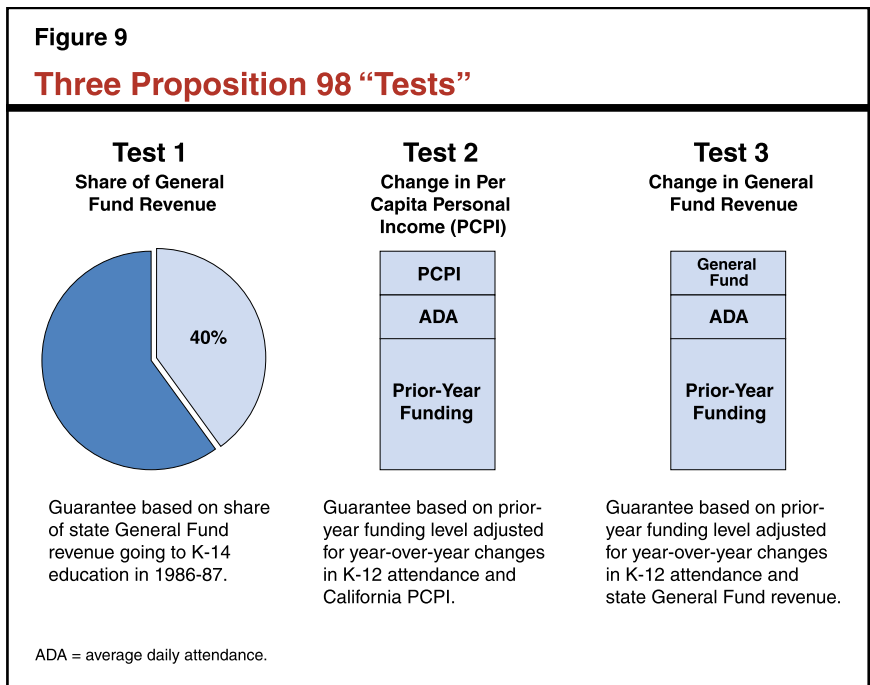
Below, we provide background on how the state calculates its school funding obligation under Proposition 98, describe the Governor’s proposed Proposition 98 funding and spending changes from 2015-16 through 2017-18, and offer a high-level assessment of the package.

Background on Calculating Minimum Guarantee

Proposition 98 Sets Minimum Funding Level for Schools and Community Colleges. State budgeting for schools and community colleges is governed largely by Proposition 98, passed by voters in 1988. The measure, modified by Proposition 111 in 1990, establishes a minimum funding requirement for schools and community colleges, commonly referred to as the minimum guarantee. Both state General Fund and local property tax revenue apply toward meeting the minimum guarantee.

Various Inputs Determine Operative “Test.” As described in Figure 9, the minimum guarantee is determined by one of three tests set forth in the State Constitution. These

tests depend upon several inputs, including changes in K-12 attendance, per capita personal income, and per capita General Fund revenue. The operative test that sets the minimum guarantee is triggered automatically depending on these inputs. In most years, Test 2 or Test 3 has been the operative test, with the minimum guarantee building upon the level of funding provided the prior year. Since the inputs are not finalized until a few years after the close of the fiscal year, the operative test can fluctuate and the minimum guarantee can change significantly from the level initially assumed in the budget.



Additional Statutory Formula Applies in Test 3 Years. In 1990, the state established an additional formula to ensure that school funding is treated no worse than the rest of the budget during tight economic times. Calculated when Test 3 is operative, the formula requires the state to provide a supplemental appropriation when Proposition 98 funding otherwise would grow less quickly than the rest of the budget. The state provides this supplemental appropriation on top of the minimum guarantee otherwise calculated for that year. Given its intent, the formula is commonly known as the “equal pain/equal gain” formula.

State Can Provide More Funding Than Required or Suspend Guarantee. During the economic boom that prevailed in the late 1990s, the state for several years provided more funding than was required by the minimum guarantee. Because the minimum guarantee generally builds upon the level provided in the previous year, such augmentations resulted in long-term increases in school funding. Alternatively, in 2004-05 and 2010-11, the state applied a provision of Proposition 98 allowing for the suspension of the minimum guarantee upon a two-thirds vote of each house of the Legislature. When the state suspends the minimum guarantee, it can provide a lower level of funding but it creates an out-year obligation to restore K-14 funding in later years (as described below).

State Creates “Maintenance Factor” Obligation in Certain Years. Proposition 111 established maintenance factor and set forth certain rules pertaining to it. The state creates a maintenance factor obligation when Test 3 is operative or the minimum guarantee is suspended. This obligation equals the difference between the actual level of funding provided and the Test 1 or Test 2 level (whichever is higher). Moving forward, the maintenance factor obligation is adjusted annually for changes in K-12 attendance

and per capita personal income. In subsequent years, when General Fund revenue is growing more quickly, the Constitution requires the state to make maintenance factor payments until it has paid off this obligation. The magnitude and timing of these payments is determined by formula, with stronger and faster revenue growth generally requiring larger and more rapid payments. These maintenance factor payments increase the minimum guarantee on an ongoing basis.

Major Features of Governor’s Plan

As part of its budget package, the administration has updated its estimates of the minimum guarantee for 2015-16, 2016-17, and 2017-18. Below, we describe these changes as well as the proposed associated changes to Proposition 98 spending. (The administration also has updated its estimates of local property tax revenue across the period. The box on page 20 describes and assesses these changes.)

Minimum Guarantee for 2015-16 Revised Downward. Figure 10 compares the Governor’s estimates of the 2015-16 and 2016-17 minimum guarantees with the estimates made in June 2016. The revised estimate of the 2015-16 guarantee is \$68.7 billion, a \$379 million decrease compared with the previous estimate. This drop is due to a \$1.5 billion decrease in General Fund tax revenue. As a result of this lower revenue, the state is no longer required to make the \$379 million maintenance factor payment included in the June budget plan. Under the revised estimates, Test 3 rather than Test 2 is operative. The amount of the statutory “equal pain/equal gain” supplemental appropriation, however, is such that the state creates no new maintenance factor.

Minimum Guarantee for 2016-17 Also Revised Downward. The revised estimate of the 2016-17 guarantee is \$71.4 billion, a \$506 million decrease compared with the estimates made last June.

Figure 10
Tracking Changes in the Proposition 98 Minimum Guarantee

(In Millions)

	2015-16			2016-17		
	June 2016 Estimate	January 2017 Estimate	Change	June 2016 Estimate	January 2017 Estimate	Change
Minimum Guarantee						
General Fund	\$49,722	\$48,989	-\$733	\$51,050	\$50,330	-\$720
Local property tax	19,328	19,681	353	20,824	21,038	215
Totals	\$69,050	\$68,671	-\$379	\$71,874	\$71,368	-\$506

This drop is due primarily to the lower funding level in 2015-16 carrying forward. In addition, non-Proposition 98 spending is growing somewhat less quickly than assumed last June, such that the supplemental appropriation required by the equal pain/equal gain formula has shrunk. Though the administration has revised its estimate of 2016-17 General Fund revenue down by \$1.6 billion, the almost equally sized revenue drop in 2015-16 results in the year-to-year growth rate remaining at 3.6 percent. Under the revised 2016-17 estimates, Test 3 remains operative, with the state creating a new maintenance factor obligation of \$838 million (slightly more than the \$746 million assumed in the June budget package).

2015-16 Spending Reduced Primarily by Scoring Some One-Time Payments to 2016-17. The administration proposes to reduce Proposition 98 spending to match the lower estimates of the 2015-16 and 2016-17 minimum guarantees. To reduce spending in 2015-16, the administration changes how it scores one-time payments for the K-12 mandates backlog and the California Collaborative for Educational Excellence (the Collaborative). Whereas the June budget plan had counted payments for these activities toward the 2015-16 guarantee, the Governor proposes to count \$324 million for these programs toward the 2016-17 guarantee. As schools already were expecting to receive this funding in 2016-17, this proposal would

not affect local programs. Spending is reduced an additional \$55 million in 2015-16 primarily due to various automatic adjustments, such as savings resulting from a slight drop in student attendance.

2016-17 Spending Reduced Primarily Through School Payment Deferral. By scoring certain one-time payments in 2016-17 rather than 2015-16, the Governor’s budget plan increases 2016-17 Proposition 98 spending by \$324 million. This increase, combined with the \$506 million drop in the minimum guarantee and various minor adjustments, results in a spending level that would exceed the 2016-17 guarantee by \$859 million. To avoid spending more than the minimum guarantee, the Governor proposes to defer an \$859 million payment for the Local Control Funding Formula (LCFF). Specifically, the administration proposes to provide this funding in July 2017 rather than in June 2017, as originally scheduled. This delay would allow the state to count the payment toward the 2017-18 guarantee instead of the 2016-17 guarantee.

2017-18 Guarantee Increases \$2.1 Billion Over Revised 2016-17 Level. The Governor’s budget includes \$73.5 billion in total Proposition 98 funding in 2017-18. As shown in Figure 11 (see page 21), this reflects a 3 percent increase over the revised 2016-17 level. Test 3 is operative in 2017-18, with the higher guarantee driven primarily by the 2.6 percent increase in per capita General Fund revenue. (This 2.6 percent increase includes the 0.5 percent add-on

required by the State Constitution.) In addition, the state makes a \$266 million supplemental payment under the equal pain/equal gain formula. The administration also estimates that the state creates a

new maintenance factor obligation of \$219 million. This additional maintenance factor brings the state's total outstanding obligation to \$1.6 billion by the end of 2017-18.

Local Property Tax Update

Property Tax Estimates Revised Upwards in 2015-16 and 2016-17. As shown in the figure below, the Governor's budget assumes property tax revenue will total \$19.7 billion in 2015-16 and \$21.0 billion in 2016-17. These estimates reflect an upward revision of \$568 million across the two years compared with estimates made last June (bringing them closer to our November 2016 estimates). Higher estimates of revenue distributed to schools from Educational Revenue Augmentation Funds comprise the bulk of this increase. This upward revision is due primarily to an improvement in the administration's estimation methodology. Another factor contributing to the upward revision relates to supplemental tax revenue. Data reported by local educational agencies in 2015-16 show this revenue exceeding initial budget estimates, and the administration assumes this revenue will increase further in 2016-17. (Supplemental taxes consists of the property tax levied on properties sold midyear. For the purposes of the figure, they are included in "other property tax.") These increases are partially offset by a higher estimate of excess tax revenue. (Excess tax revenue consists of the local revenue that some schools and community colleges receive beyond their general purpose funding level set by the state. This portion of local revenue is excluded from the Proposition 98 calculations.) We believe the administration's revisions for 2015-16 and 2016-17 are reasonable.

Property Tax Revenues Projected to Increase \$1.1 Billion in 2017-18. The Governor's budget assumes that property tax revenue will total \$22.2 billion in 2017-18. This is an increase of \$1.1 billion (5.3 percent) from the revised 2016-17 level. This increase is driven largely by an assumed 5.3 percent increase in assessed property values, reflecting the continued strength of the state's real estate markets. (In the figure, the growth in assessed values primarily affects the "secured property tax revenue.") The administration also makes various smaller adjustments to other components of local property tax revenue. We think the administration's assumptions for 2017-18 are reasonable (with our estimates being only slightly lower).

Proposition 98 Property Tax Revenue Estimates Under Governor's Budget

(Dollars in Millions)

	2015-16 Revised	2016-17 Revised	2017-18 Estimated	Change From 2016-17	
				Amount	Percent
Property Tax Components					
Secured property tax	\$16,740	\$17,731	\$18,678	\$947	5.3%
Other property tax	1,667	1,818	1,966	148	8.1
Redevelopment agency dissolution	1,247	1,298	1,447	149	11.4
Educational Revenue Augmentation Fund	837	1,042	1,017	-24	-2.4
Excess tax	-810	-850	-948	-97	11.5
Totals	\$19,681	\$21,038	\$22,160	\$1,121	5.3%

Figure 11
Proposition 98 Funding by Segment and Source

(Dollars in Millions)

	2015-16 Revised	2016-17 Revised	2017-18 Proposed	Change From 2016-17	
				Amount	Percent
Preschool^a	\$885	\$975	\$995	\$20	2.0%
K-12 Education					
General Fund	\$42,719	\$43,829	\$44,811	\$982	2.2%
Local property tax	17,052	18,236	19,200	965	5.3
Subtotals	(\$59,770)	(\$62,064)	(\$64,012)	(\$1,947)	(3.1%)
California Community Colleges					
General Fund	\$5,304	\$5,443	\$5,465	\$22	0.4%
Local property tax	2,630	2,803	2,959	156	5.6
Subtotals	(\$7,933)	(\$8,246)	(\$8,424)	(\$179)	(2.2%)
Other Agencies^a	\$82	\$83	\$80	-\$3	-3.3%
Totals	\$68,671	\$71,368	\$73,511	\$2,143	3.0%
General Fund	\$48,989	\$50,330	\$51,351	\$1,021	2.0%
Local property tax	19,681	21,038	22,160	1,121	5.3

^a Consists entirely of General Fund.

New K-12 Funding in 2017-18 Dedicated to LCFF. Figure 12 (see next page) shows the Governor’s Proposition 98 spending proposals for 2017-18. The largest ongoing proposal is a \$744 million augmentation to the LCFF. The proposed augmentation is approximately equal to the cost of applying the statutory 1.48 percent cost-of-living adjustment (COLA). The Governor’s budget also adjusts LCFF for changes in student attendance, though average daily attendance (ADA) is expected to remain virtually flat (at 5.9 million ADA). Though the bulk of new ongoing K-12 funding is for LCFF, the Governor’s budget also applies the statutory 1.48 COLA to a few other K-12 programs, including special education and child nutrition. Beyond these ongoing augmentations, the Governor proposes to use virtually all of the remaining increase in 2017-18 K-12 funding to eliminate the payment deferral created in 2016-17.

About Half of New Community College Funding Is for Apportionments, Half for One-Time Initiatives. About half of new

community college funding is for apportionments (consisting of \$94 million for a 1.48 percent COLA, \$79 million for 1.34 percent enrollment growth, and \$24 million for an unallocated increase). The remainder is for categorical programs and is mainly one time. By far the largest of these initiatives is \$150 million one time for community colleges to develop “guided pathways”—detailed, term-by-term roadmaps for students to complete academic programs, accompanied by early academic planning and ongoing student support services. The budget also includes \$20 million one time for innovation awards to community colleges. Whereas the administration has been closely involved in implementing innovation awards in previous years, the proposal this year provides the Chancellor’s Office substantial latitude to set award criteria and select winners.

Budget Plan Includes \$601 Million in Additional Proposition 98-Related Funding.

In addition to the \$2.1 billion increase in the 2017-18 minimum guarantee, the Governor’s

budget includes \$601 million in funding from one-time sources. Of this amount, \$400 million is a proposed settle-up payment related to meeting the 2009-10 minimum guarantee. The Governor counts this amount as a Proposition 2 debt payment. After making this payment, the state would have a remaining settle-up obligation of \$626 million (\$532 million associated with 2009-10 and \$94 million for more recent years). The other source of one-time funding consists of \$201 million

in unspent Proposition 98 funding from previous years. The Governor proposes to use the combined \$601 million for four activities: (1) paying down the K-12 mandates backlog (\$287 million), (2) funding the third and final year of the CTE Incentive Grant program (\$200 million), (3) addressing deferred maintenance at the community colleges (\$44 million), and (4) swapping out \$70 million in ongoing funding (primarily for special education).

Budget Plan Includes Substantial Funding for School and Community College Facility Projects.

Passed by the voters in November 2016, Proposition 51 authorizes the state to sell \$9 billion in general obligation bonds—\$7 billion for schools and \$2 billion for community colleges. The Governor’s budget proposes to sell \$601 million of these bonds in 2017-18, including \$594 million for schools and \$7.4 million for community colleges. The Governor’s proposal for schools would fund the state’s list of \$370 million in already approved facility projects, as well as \$230 million in additional projects. For school facilities only, the Governor proposes to make distribution of bond proceeds contingent on two conditions. Specifically, he proposes (1) requiring schools to

Figure 12	
2017-18 Proposition 98 Changes	
<i>(In Millions)</i>	
2016-17 Revised Proposition 98 Spending	\$71,368
Technical Adjustments	
Make Local Control Funding Formula (LCFF) adjustments	\$65
Revise estimate of energy efficiency funds	27
Annualize funding for previously approved preschool slot increases	24
Make various other adjustments ^a	-30
Subtotal	(\$85)
K-12 Education	
Retire June-to-July LCFF deferral (one time) ^b	\$859
Increase LCFF funding	744
Provide 1.48 percent COLA for select categorical programs ^c	58
Add mandated reporter training to Mandates Block Grant	8
Subtotal	(\$1,670)
California Community Colleges	
Fund guided pathways initiative (one time)	\$150
Provide 1.48 percent COLA for apportionments	94
Fund 1.34 percent enrollment growth	79
Provide unallocated increase	24
Fund Innovation Awards (one time)	20
Augment Online Education Initiative	10
Develop integrated library system (one time)	6
Provide 1.48 percent COLA for select categorical programs ^d	4
Subtotal	(\$387)
Total Changes	\$2,143
2017-18 Proposition 98 Spending	\$73,511
^a Includes the removal of prior-year one-time payments, a special education fund swap (using one-time instead of ongoing funds), a High Speed Network fund swap (using ongoing rather than one-time funds), and various minor adjustments. ^b Under the Governor’s proposal, the state would make 11 LCFF payments in 2016-17 (producing savings relative to the 2016-17 Budget Act) and 13 LCFF payments in 2017-18 (12 normal monthly payments plus an additional payment for the prior year). ^c Applied to special education, child nutrition, services for foster youth, adults in correctional facilities, and American Indian education. ^d Applied to Extended Opportunity Programs and Services, Disabled Students Programs and Services, CalWORKs student services, and support for certain campus child care centers. COLA = cost-of-living adjustment.	

enter into upfront grant agreements that include certain conditions and accountability measures and (2) making schools' associated expenditures subject to local independent audits. For community colleges, the proposed \$7.4 million would fund preliminary plans for five projects (two addressing seismic risks, two modernizing instructional space, and one replacing utility infrastructure).

Delays Implementation of Multiyear

Preschool Agreement. As part of the 2016-17 budget package, the Legislature and the Governor agreed on a four-year plan to increase ongoing Proposition 98 State Preschool funding by roughly \$200 million. In 2016-17, the state provided \$51.5 million for the first year of State Preschool augmentations—consisting of \$43.7 million for preschool rate increases to begin January 1, 2017 and \$7.8 million for 2,959 additional full-day slots to begin April 1, 2017. (The state also provided \$7.1 million non-Proposition 98 General Fund for the wrap portion of State Preschool provided by non-local educational agencies.) The agreement for 2017-18 assumed annualization of the prior-year cost increases, additional rate increases, and 2,959 additional full-day slots. The Governor's budget proposes to annualize the cost of the new slots created in 2016-17, but he suspends all other components of the agreement for 2017-18, extending the plan through 2020-21.

LAO Comments

Assumptions About State General Fund Revenue Key Factor Affecting Estimates of the Guarantee. Though the Governor's budget includes revised estimates of most of the inputs affecting the calculation of the minimum guarantee, the revisions to General Fund revenue estimates account for nearly all of the changes in school funding. Absent the drop in revenue across 2015-16 and 2016-17, estimates of the minimum guarantee in those two years would be similar to

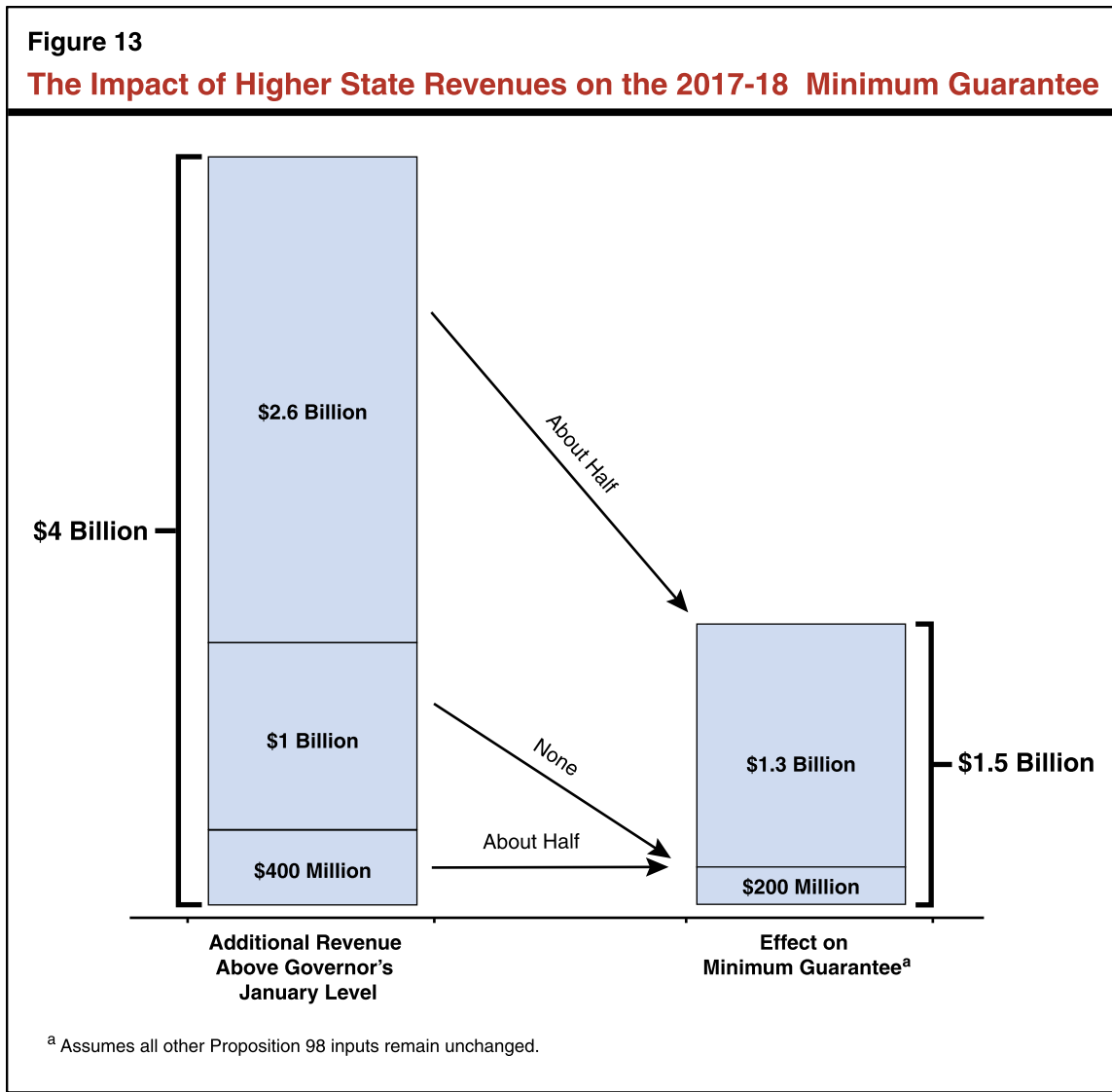
the estimates made last June. Regarding 2017-18, the administration's estimate of the minimum guarantee is about \$1 billion below our November estimate. The administration's lower estimate of General Fund tax revenue explains the bulk of this difference. In May, both the administration and our office will release updated estimates of General Fund revenue. Below, we discuss how updated revenue estimates could affect the guarantee. We then comment on the overall mix of one-time and ongoing spending included in the Governor's plan.

Minimum Guarantee Not Likely to Change Much in 2015-16. The guarantee in 2015-16 is not particularly sensitive to revenue changes. State revenue could increase by as much as \$700 million with no increase in the minimum guarantee. This is because Test 2 would become operative but no maintenance factor payment would be required. Increases above this level would require the state to begin paying off maintenance factor, with the guarantee increasing about 50 cents for each dollar of additional revenue. Regarding downward revisions, revenue also could fall by as much as \$1.8 billion in 2015-16 with no effect on school funding. This buffer is due to the equal pain/equal gain formula, which offsets the drop in the guarantee that would occur otherwise.

Minimum Guarantee in 2016-17 Is Somewhat More Sensitive to Revenue Changes. We estimate the 2016-17 minimum guarantee would rise or fall about 50 cents for each dollar of higher or lower revenue. Regarding upward revisions, the guarantee increases because the faster growth in per capita General Fund revenue increases the funding required under Test 3. Though additional revenue eventually would make Test 2 operative, the guarantee would increase further as maintenance factor payments become required. On the downside, a drop in revenue would lower the growth in per capita General Fund revenue and produce a correspondingly lower Test 3 requirement.

Higher General Fund Revenue, Higher Minimum Guarantee Likely for 2017-18. As discussed in our recent *Overview of the Governor’s Budget* report, we believe the administration’s estimate of state revenue is low given its other economic assumptions. By May, General Fund revenue in 2017-18 could be significantly higher than assumed in January. Holding other factors constant, these higher revenue estimates would increase the 2017-18 guarantee. As Figure 13 shows, certain revenue cut points have specific associated impacts on the minimum guarantee. For the first roughly \$400 million of additional revenue, the guarantee increases by about \$200 million, bringing

school funding to the level required to keep pace with growth in per capita personal income. For the next \$1 billion of additional revenue, the guarantee does not change. Any further revenue increase, up to an additional \$2.6 billion, would trigger a requirement to make maintenance factor payments and would increase the guarantee by about 50 cents for each additional dollar of revenue. In cumulative terms, revenue increases of \$2 billion and \$4 billion above the Governor’s January level would increase the 2017-18 guarantee by \$500 million and \$1.5 billion, respectively. Revenue increases beyond about \$4 billion likely would have no effect on the minimum guarantee.



Recommend Relying on Mix of Ongoing and One-Time Spending. The Governor’s budget roughly balances new ongoing and one-time Proposition 98 spending. Regardless of the exact level of the 2017-18 minimum guarantee, we recommend the Legislature adopt a final budget plan that continues to rely upon on a mix of ongoing and one-time spending. The Legislature has taken such an approach the past few years. Under this approach, the Legislature could dedicate a portion of any additional increases

in the minimum guarantee to LCFF and CCC apportionments while using the remainder for one-time payments to reduce or eliminate the K-12 mandates backlog. A stronger 2017-18 fiscal year does not necessarily imply a strong 2018-19 fiscal year. By setting aside some funding for one-time purposes, the state would be better positioned to accommodate a drop in the 2018-19 guarantee without needing to make cuts to LCFF or community college apportionments.

LOCAL CONTROL FUNDING FORMULA

The Governor’s budget contains three major proposals related to LCFF: (1) deferring an \$859 million LCFF payment from June 2017 to July 2017, (2) eliminating the deferral the next payment cycle, and (3) providing a \$744 million augmentation for LCFF implementation in 2017-18. Below, we discuss the main components of LCFF, describe the Governor’s LCFF proposals in detail, and assess those proposals.

Background

State Enacted New School Funding Formula in 2013-14. A few years ago, the state enacted major changes to the way it allocates funding to school districts and charter schools. Previously, the state distributed school funding through a combination of general purpose grants (called “revenue limits”) and more than 40 state categorical programs. Districts could use general purpose grants for any educational purpose, but they had to spend categorical funding on state-prescribed activities. In 2013-14, the state eliminated most categorical programs, replacing all the previous program-specific funding formulas with one new formula. The new formula significantly increased the size of general purpose grants and directed more funding to districts with disadvantaged students.

New Formula Based on Student and District Characteristics. As Figure 14 shows, LCFF has three primary components: (1) base funding rates tied to four grade spans; (2) supplemental funding for English learner, low-income, and foster youth (EL/LI) students; and (3) concentration funding for districts with relatively high proportions of EL/LI students (more than 55 percent of their enrollment). Base rates generally increase for higher grades in recognition of their higher costs—for example, providing career technical education in high school. The K-3 rate is an exception to this rule.

Figure 14
Local Control Funding Formula
Per-Student Rates

Effective 2017-18 School District and Charter School Rates Under Governor’s Budget

Grade Span	Base	Supplemental ^a	Concentration ^b
K-3	\$7,626	\$1,525	\$3,813
4-6	7,011	1,402	3,505
7-8	7,220	1,444	3,610
9-12	8,583	1,717	4,291

^a Equals 20 percent of the base rate. Generated for each student who is a foster youth, English learner, or low income (EL/LI).

^b Equals 50 percent of the base rate. When EL/LI students comprise more than 55 percent of total district enrollment, generated for each EL/LI student above that threshold.

Intended to support smaller class sizes in the early grades, it is higher than the rates for grades 4-8.

An Illustration of Two Districts’ LCFF

Calculations. Figure 15 shows the LCFF calculation for two equally sized elementary school districts. Both districts generate the same amount of base funding as they serve the same number of students in each of the K-3 and 4-6 grade spans, but District A has a notably higher share of EL/LI students than District B (91 percent compared to 50 percent) and thus generates more supplemental funding. District A also has a student population that is more than 55 percent EL/LI, thereby generating concentration funding. Given these differences in student demographics, District A receives a total of \$431,000 more than District B.

Implementation Expected to Take Several Years. In developing LCFF, the state created per-student funding targets that were significantly higher than the going rates, with the cost of full LCFF implementation estimated at \$57 billion (or \$18 billion more than the combined cost of general purpose grants and categorical programs under the previous system). Starting in 2013-14, the state began providing augmentations to LCFF to close the difference (or gap) between their prior-year funding level and their LCFF target level. Based on projections of growth in Proposition 98 funding, the administration estimated that the state would reach full implementation of LCFF in 2020-21. Over the past four years, the state has provided \$15.7 billion towards implementing the formula. As shown in Figure 16, LCFF was 73 percent funded in 2013-14 and is 96 percent funded in 2016-17.

LCFF Provides Considerable Funding for EL/LI Students. Assuming all components of the formula are being phased in at the same rate (that is, base, supplemental, and concentration funding all are 96 percent funded), districts in 2016-17 received \$37 billion for EL/LI students (out of a total \$55.8 billion in LCFF funding). Of the \$37 billion, \$28.4 billion is base funding, \$5.6 billion is supplemental funding, and \$3 billion is concentration funding.

State Law Guides Use of Some EL/LI Funding. Districts can use most LCFF funds for any educational expense, but they must use some funding specifically for the benefit of EL/LI students. Specifically, districts must demonstrate they are “increasing or improving” services for EL/LI students in proportion to the funding increases generated by these students.

Governor’s Proposal

Defers LCFF Payment From June to July 2017. As part of his budget package, the Governor proposes to defer an \$859 million LCFF payment from June 2017 (the 2016-17 fiscal year) to July 2017 (the 2017-18 fiscal year). Because schools still would receive their full LCFF allotment within a few

Figure 15
Illustration of LCFF Calculation for Two Elementary Districts^a

	District A	District B	Difference
District Characteristics			
Grades K-3 attendance	100 students	100 students	—
Grades 4-6 attendance	120 students	120 students	—
EL/LI percentage ^b	91%	50%	41%
LCFF Funding			
Grade span funding	\$1,645,000	\$1,645,000	—
Supplemental funding	299,000	164,000	\$135,000
Concentration funding	296,000	—	296,000
Totals	\$2,240,000	\$1,809,000	\$431,000

^a Reflects statutory rates adjusted for the cost of living through 2016-17. Rounded to nearest thousand.
^b EL/LI students as a share of total enrollment.
 LCFF = Local Control Funding Formula and EL/LI = English learner/low-income students.

weeks of the original payment date, the deferral is intended to have no programmatic effect.

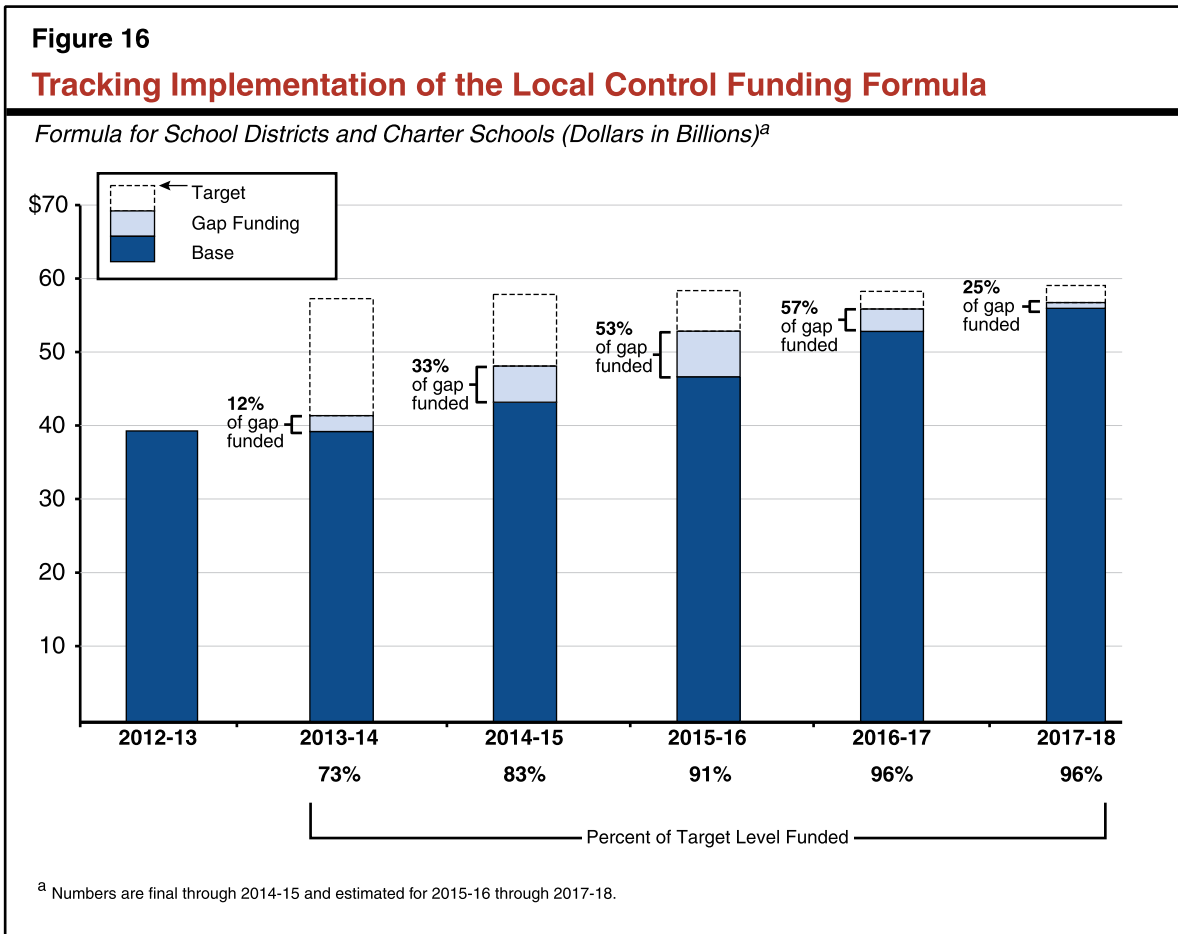
Eliminates the Deferral in 2017-18. The Governor proposes to eliminate the deferral for the next payment cycle. Under the proposal, schools would receive 13 months of payments in 2017-18—12 normal monthly LCFF payments plus an additional payment related to the prior-year deferral. Paying off the deferral entails a one-time cost of \$859 million in 2017-18 (just as deferring the payment initially creates \$859 million in one-time savings in 2016-17). Eliminating the deferral allows the state to return to the regular statutory LCFF payment schedule moving forward.

Provides LCFF Augmentation. In addition to eliminating the deferral, the Governor proposes a \$744 million (1.4 percent) augmentation in 2017-18—bringing total LCFF funding to \$56.6 billion.

Given the increase is approximately equal to the 1.48 percent statutory COLA applied to the LCFF target rates, we estimate the proposed 2017-18 funding level would continue to fund 96 percent of the full implementation cost. (To achieve full funding in 2017-18, the administration estimates an additional \$2.3 billion, beyond the proposed \$744 million augmentation, would be required.)

Assessment

Exhaust Other One-Time Options Before Deferring LCFF Payment. We recommend the state exhaust other potential one-time options before adopting a payment deferral for 2016-17. Most notably, the state is likely to learn over the coming months that certain programs have unspent funds available for 2016-17. These unspent funds could be redirected to other Proposition 98



programs, thereby reducing or eliminating the need for a payment deferral. Were the Legislature to adopt a deferral for 2016-17, we recommend eliminating the deferral as soon as possible thereafter. Barring a recession in 2017-18, we recommend the Legislature take the same approach as the Governor and eliminate the deferral in 2017-18. Making payments on time is a responsible fiscal practice and ensures school districts do not experience the unintended consequences of higher borrowing costs or programmatic cuts.

Prioritizing LCFF Implementation Consistent With State’s Prior-Year Actions. The Governor’s plan to dedicate most new ongoing K-12 funding to LCFF implementation is consistent with the Legislature’s approach over the past four years. By continuing to prioritize LCFF implementation, both the Governor and the Legislature would be fostering greater local control and flexibility while simultaneously providing more funding for disadvantaged students. Come May, the Legislature might decide it could dedicate even more to LCFF implementation. As we discuss earlier in this

report, we believe the Governor’s revenue estimates, and related estimate of the Proposition 98 minimum guarantee for 2017-18, are low. Were these estimates to be revised upward, more funds would become available for Proposition 98 priorities in 2017-18.

Some Districts Experiencing More Growth Under LCFF Than Others. Districts do not all benefit in the same way under LCFF. By design, LCFF provides larger funding increases to districts with more EL/LI students and to districts that historically received less state funding than their peers. Though LCFF funding statewide would increase 1.4 percent in 2017-18 under the Governor’s proposal, districts would continue experiencing their own unique growth rates depending upon their EL/LI counts and their existing funding levels. We estimate about 70 districts (7 percent) would experience growth of 2 percent or more, about 440 would experience LCFF growth of between 1 and 2 percent, and the remaining 435 districts would experience LCFF growth of less than 1 percent.

SPECIAL EDUCATION

In this section, we provide background on special education in California, describe the Governor’s special education budget proposals, and discuss various issues we believe the Legislature should consider if it is interested in changing the state’s special education funding system.

Background

Federal Law Requires Schools to Provide Additional Services to Students With Disabilities. Special education is instruction designed to meet the unique needs of each child with a disability. The federal Individuals with Disabilities Education Act (IDEA) requires schools to identify students with

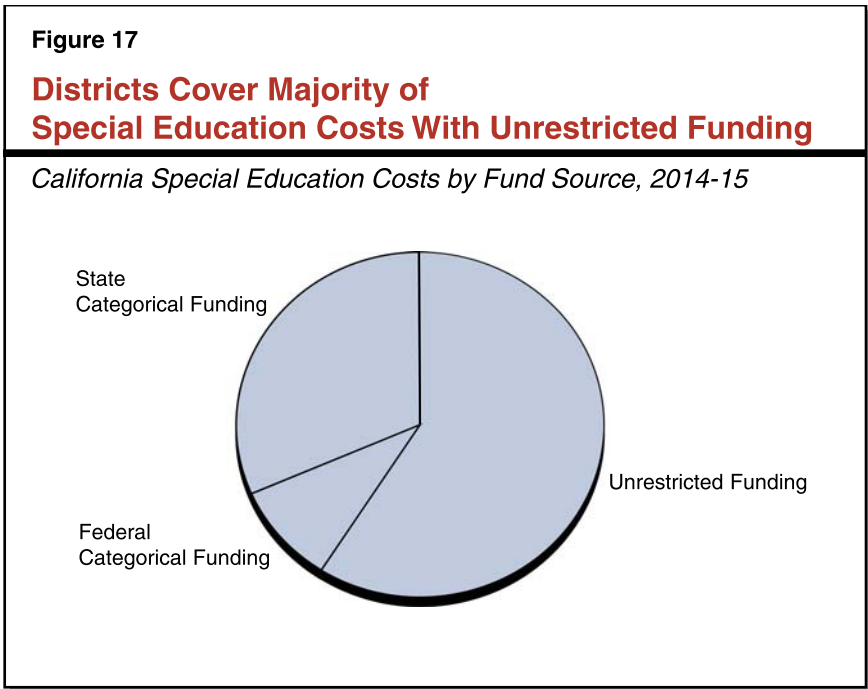
disabilities and develop an individual service plan for each one.

State and Federal Governments Provide Categorical Funding to Cover Some Special Education Costs. Schools receive billions of dollars each year (mostly from LCFF) to educate all students, including students with disabilities. These funds primarily are intended to cover general education costs such as teacher salaries. Beyond these general education costs, schools incur additional costs, such as specialized support staff salaries and adaptive equipment, to serve students with disabilities. To help cover these additional costs, both the state and federal governments

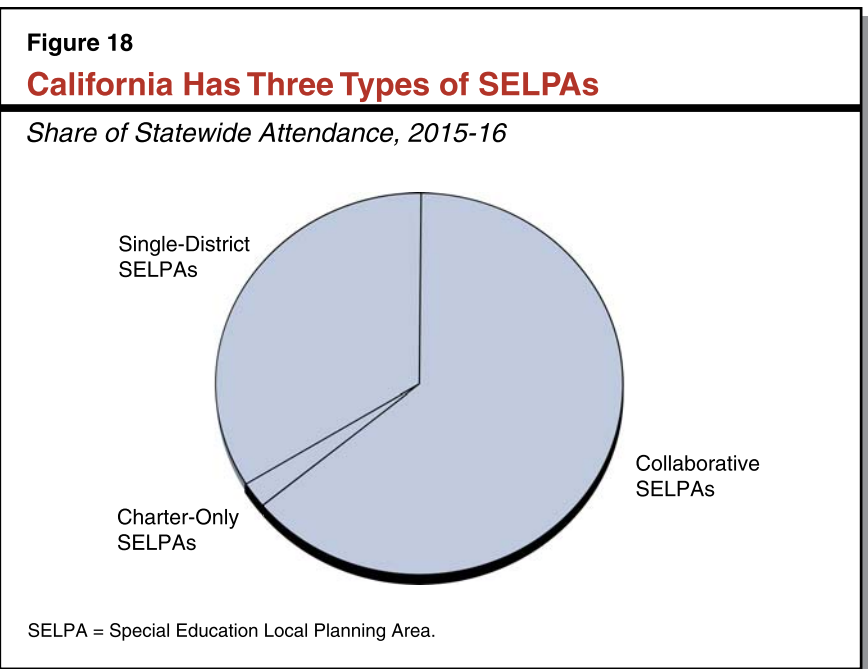
provide categorical funds specifically for special education. As Figure 17 shows, state and federal categorical funding covers about 40 percent of special education costs in California. Schools cover remaining special education costs with unrestricted funding (mostly from LCFF).

Most Categorical Funds Allocated to Special Education Local Plan Areas (SELPAs). In the late 1970s, the state began requiring all districts to belong to SELPAs.

Currently, California has 131 SELPAs. Of these SELPAs, 42 consist of a single school district, most of which have more than 20,000 students (ADA). The state considers these districts large enough to serve all their students with disabilities. As Figure 18 shows, these SELPAs account for about one-third of all students in the state. The state’s remaining districts (most of them small or mid-sized) belong to one of 84 collaborative SELPAs. Each of these SELPAs is a collection of neighboring districts that by themselves are considered too small to serve all their students with disabilities. Since 2003-04, the state has allowed charter schools to join charter-only SELPAs. These SELPAs are collections of charter schools from across the state that have agreed to share administrative costs.



In 2016-17, four charter-only SELPAs existed. Though they serve a small share of overall statewide attendance (about 2 percent in 2015-16), they serve about a quarter of charter school students statewide. (The state’s remaining SELPA serves only students attending Los Angeles County court schools.)



Most State Categorical Funds Distributed According to Overall Student Population. About 85 percent of state special education funding is distributed according to a student-based formula commonly called AB 602 (after the legislation that introduced it in 1998). This formula allocates funds to SELPAs based on their total student attendance, regardless of how many students are served in special education. By distributing funding based on total student attendance rather than a more direct measure of special education costs (for example, the number of students identified for special education or the types of services these students are provided), AB 602 ensures no SELPA has an incentive to over-identify students for special education or serve these students in unnecessarily expensive settings.

Some State Special Education Categorical Funds Distributed According to Other Factors. In addition to AB 602 base funding, the state has several other special education categorical programs. Figure 19 describes each of these program’s allocation formula and spending

restrictions. (For simplicity, we have condensed a few small categorical programs into larger categories in the figure. Most notably, the state technically has two extraordinary cost pools and two programs for Necessary Small SELPAs.) After AB 602 base funding, the largest special education categorical program distributes \$360 million on a per-student basis specifically for mental health services. The next largest program distributes \$145 million to SELPAs according to the number of Licensed Children’s Institutions (such as group homes) located within their boundaries.

Collaborative SELPAs Retain Some Funds for Regional Services, Allocate Rest to Members. Each collaborative SELPA must decide for itself how to allocate its share of categorical special education funding to member districts. Typically, SELPAs adopt allocation plans that retain some funding for regional services and distribute remaining funding to member districts. Member districts vote to adopt their allocation plans. Specific voting rules vary among SELPAs. For example, in some SELPAs, each district has one vote regardless of its size, whereas

Figure 19
California Has Several Special Education Categorical Programs

(In Millions)

Program	2016-17 Funding	Allocation Formula	Spending Restrictions
AB 602	\$3,136	Each SELPA receives a unique rate per student	Any special education expense
Mental Health Services	360	Flat rate per student	Mental health services for special education students
Out-of-Home Care	145	Location and capacity of Licensed Children’s Institutions	Any special education expense
Workability	40	Number of students enrolled in qualified program	Employment training and assistance
Low Incidence Disabilities	17	Number of students who are deaf, hard of hearing, visually or orthopedically impaired	Services or materials for students with qualifying disabilities
Extraordinary Cost Pools	6	SELPAs can be reimbursed for documented exceptional costs	Unusually expensive single-student services
Necessary Small SELPAs	2	Must be countywide SELPA with less than 15,000 ADA	Any special education expense

SELPA = Special Education Local Planning Area and ADA = average daily attendance.

in other SELPAs, larger districts have more votes than smaller districts.

State Has Separate Planning Requirements for General and Special Education. With the introduction of LCFF, the state began requiring districts to develop annual plans outlining the services they provide to all students, and in particular the services they plan to provide certain student groups such as English learner, low-income, and foster youth students. Before adopting these plans, school administrators must talk to parents and other local stakeholders about the types of services they want schools to provide. Special education is not specifically included in this annual planning process. Instead, SELPAs engage in a separate planning process, including separate conversations with parents and other local stakeholders. Under this process, SELPAs submit annual budget and service plans to CDE.

Governor's Proposal

Governor's Budget Proposes Slight Increase in Special Education Funding. The Governor's budget includes \$3.8 billion in state categorical funding for special education, representing a \$46 million increase over the *2016-17 Budget Act* level. This year-over-year increase reflects a small decrease for declining student attendance and a 1.48 percent COLA. We have no concerns with these proposed adjustments.

Governor Proposes Statewide Conversation on Special Education Funding. In *The 2017-18 Governor's Budget Summary*, the administration expresses concern with the current special education funding model and proposes a series of stakeholder meetings to discuss possible changes. Though not explicitly stated in the budget summary, the administration has indicated an interest in rolling special education into LCFF and directing all special education funding to districts rather than SELPAs. The administration believes

this change would increase district autonomy, make K-12 funding simpler and more equitable, and better integrate general and special education. Before undertaking a significant restructuring of special education, we think the Legislature has several key issues to consider, as discussed below.

Issues for Consideration

Many Concerned About Silos Between General and Special Education. In 2015, a statewide task force of special education experts expressed concern that special education programs in California are developed separate from other school services, with little discussion between general and special educators about how best to serve students. Whereas special education directors focus on their AB 602 funding and developing their special education budget and service plans for CDE, district budget directors focus on their LCFF funding and developing a comprehensive, coordinated plan for general education services. Given these separate funding streams and planning processes, special education directors and district budget directors tend to have little regular interaction. This lack of regular communication and coordination could be resulting in inferior or inappropriate services for students with disabilities. Most notably, the disconnect could result in more students with disabilities being served in separate classrooms where they are largely isolated from other students. Our office has heard concerns about the disconnect between general and special education not only from state-level groups but also from district-level teachers, administrators, and parents.

Many Believe LCFF Has Removed Similar Silos Between Program and Budget Experts. Prior to LCFF (when many state categorical programs existed), stakeholders commonly complained about the lack of cooperation between program and budget experts at the district level. Program experts

tended to focus narrowly on the programmatic requirements associated with the specific categorical programs that applied to them. School district budget officers devoted much of their time to familiarizing themselves with state categorical programs and ensuring their districts appropriately accounted for all associated spending. Rarely did program and budget experts come together to consider how best to build comprehensive, coherent, and coordinated academic plans. Many administrators believe that eliminating most categorical funding and introducing a streamlined LCFF planning process significantly improved cooperation between program and budget experts. The administration believes consolidating special education into LCFF would achieve similar benefits—removing silos between general and special education.

Federal Law Limits District Discretion Over Special Education Services and Spending. By eliminating most state categorical programs and folding associated funding into LCFF, the state effectively freed up funding for districts' local priorities. Eliminating special education categorical programs and folding associated funding into LCFF, however, would not allow districts that same flexibility. This is because federal law requires districts to spend at least as much on special education each year as they spent the previous year. Consequently, districts would be unable to repurpose the increase in their LCFF funding to support other local programs and priorities. Though the lack of discretion could be viewed as a downside to rolling special education into LCFF, it also could be viewed as an upside, ensuring districts do not reduce their spending on students with disabilities even under a simpler, streamlined funding model.

Current Special Education Funding Model Does Not Offer Any Clear Benefit to Single-District SELPAs. Categorical programs can be

justified either because they direct more funding to areas with unusually high costs or they protect important services that educational providers might otherwise not offer. Categorical special education funding for single-district SELPAs satisfies neither of these conditions. These districts receive both LCFF and AB 602 funding based on total student attendance, and their spending on special education services is dictated by federal law. In these districts, the state's categorical special education program likely could be eliminated and associated funding allocated under LCFF without much, if any, effect on student services.

Collaborative SELPAs Provide Three Benefits to Small and Mid-Sized Districts . . . The main advantage of categorical special education funding is for collaborative SELPAs, which provide members three valuable benefits. First, collaborative SELPAs provide economies of scale to districts that otherwise could not afford appropriate services. For example, a small district might be unable to afford a specialized teacher to assist a single student who is visually impaired, but a collection of neighboring districts typically can afford a teacher who collectively serves all of their visually impaired students. Second, collaborative SELPAs smooth year-to-year fluctuations in their members' special education costs by redirecting funds from districts with unusually low costs to those with unusually high costs. Pooling resources within a collaborative SELPA effectively protects districts, particularly small districts, when their own special education population increases unexpectedly or some of their special education students require expensive services in a given year. Finally, collaborative SELPAs can reduce administrative costs by providing centralized data management and legal services to member districts.

. . . But Also Can Affect Mid-Sized Districts Negatively. Though collaborative SELPAs provide key benefits to small and mid-sized districts, they

also can affect mid-sized districts in negative ways. Some administrators of mid-sized districts within collaborative SELPAs claim their SELPA policies discourage them from pursuing some programmatic improvements. For example, some collaborative SELPAs retain a portion of categorical special education funding to provide regional programs. Districts in these SELPAs can choose between serving their students in neighborhood schools (and directly paying the full cost of these services) or busing their students to a regional program (where services would be provided at little, if any, additional cost to the district). A district that believed it could provide better services locally might still send students to the regional program because of this cost disparity. We have heard that mid-sized districts are most likely to be adversely affected by these kinds of SELPA policies. Unlike large districts, mid-sized districts typically are unable to become single-district SELPAs, and unlike small districts, mid-sized districts often are able to directly serve most of their students with disabilities. While in theory these districts should be able to work within their SELPAs to negotiate better arrangements, in practice some SELPAs retain voting structures designed decades ago. In some of these voting structures, a mid-sized district might find itself consistently out-voted by neighboring small districts, leaving it with little voice in how categorical special education funding is spent.

State Could Support Small and Mid-Sized Districts Without Current SELPA Model. We believe the state has several options for maintaining the benefits of collaborative SELPAs even while providing most special education funding directly to districts. For example, the state could address the economies of scale issue by requiring county offices of education to be a special education provider of last resort for small and mid-sized districts. The state could manage yearly fluctuations in special education costs by increasing the size

of its extraordinary cost pools and making it easier for districts to access these funds. The state could reduce administrative costs by encouraging districts to purchase data management services from providers located anywhere in the state (just as the state currently allows charter schools to purchase these services from statewide providers). If the state wanted to move away from the current SELPA model, there are likely several more options that preserve valuable attributes of the existing system without maintaining its exact organizational structure.

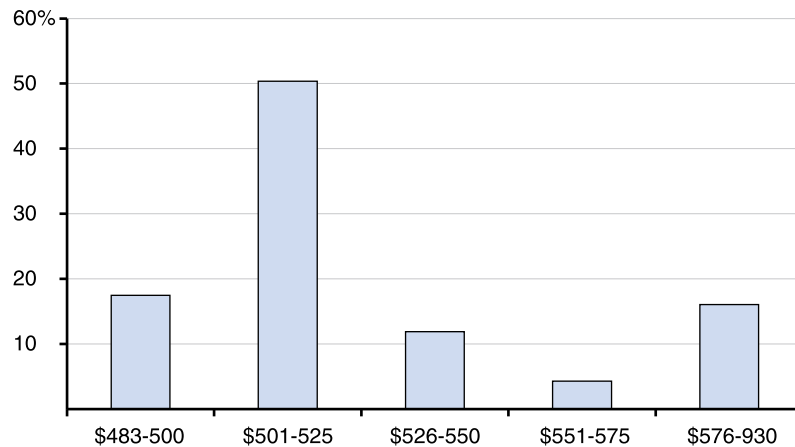
Alternatively, State Could Increase District Autonomy and Accountability While Retaining Current SELPA Model. Just as we believe the state could maintain the benefits of SELPAs even while providing most special education funding directly to districts, we also believe the state could increase district autonomy and accountability even while providing some or most special education funding directly to SELPAs. For example, the state could increase district autonomy by establishing a formal process for mediating disagreements between SELPA members or making the process of becoming a single-district SELPA easier. The state also could increase district-level accountability by formally integrating special education into the LCFF yearly planning process.

Per-Student Funding Rates Vary Notably Between SELPAs. One key problem the administration cites with the state's existing special education funding system relates to funding inequities. As Figure 20 (see next page) shows, SELPAs' AB 602 per-student rates vary notably—with a nearly \$100 per pupil difference between the lowest- and highest-funded deciles. These inequities reflect historical anomalies and are not justified by current differences in special education costs. Regardless of whether the state pursues larger changes to special education funding, we recommend it work to eliminate these inequities.

Figure 20

Special Education Per-Student Funding Rates Vary

Share of Statewide Attendance, 2015-16



Some Special Education Categorical Programs Have Questionable Merit, Others More Obvious Benefits.

We also share the administration’s concerns about the complexity of current special education funding and think some existing special education categorical programs have little merit. Most notably, the state has no clear, strong rationale for earmarking funding for mental health services given no other special education services receive earmarked funding. Though some special education categorical programs do not seem justified, we believe others continue to serve valuable functions. Most notably, Necessary Small SELPAs (which serve counties with fewer than 15,000 students) do not have the same level of economies of scale as larger SELPAs and thus can experience unusually high special education costs. The state might wish to continue providing targeted funding to these areas even if it eliminates most other special education categorical programs.

Special Education Restructuring Likely to Involve Several Complex Components. Any effort to include special education in LCFF will require decisions about the LCFF formula, state SELPA requirements, the treatment of charter schools, property tax revenue, academic planning, and accountability, along with many other related issues. Not only do many decisions need to be made, but those decisions would affect many stakeholders, ranging from districts of all sizes to county

offices of education, charter schools, general and special educators, parents, advocates, and students.

Suggest Legislature Take Time to Consider Options and Examine Potential Consequences. Given the complex issues involved and the number of groups potentially affected, we encourage the Legislature to take its time in evaluating any overarching change to special education funding. Though the administration’s restructuring goals sound laudable, restructuring could have unintended consequences without sufficient study. The overall endeavor, however, could be worthwhile. Potentially, the state could discover new and better ways to provide reasonable protections for small and mid-sized districts and the students they serve while also doing a better job of encouraging innovation and cooperation at the district level.

PRESCHOOL

In this section, we provide an overview of California’s preschool programs, then discuss key issues relating to preschool slots and preschool program alignment.

Overview

State Has Two Main Preschool Programs.

In 2016-17, California spent \$1.8 billion on two main preschool programs: State Preschool and Transitional Kindergarten. Of this amount, \$1.1 billion supported 164,000 State Preschool slots and \$700 million supported nearly 80,000 Transitional Kindergarten slots. As Figure 21 shows, these programs have different eligibility criteria, program length, staffing requirements, and

funding rates. Transitional Kindergarten is run exclusively by LEAs. By comparison, about half of State Preschool providers are LEAs (accounting for two-thirds of slots) and half are non-LEAs (accounting for one-third of slots). In addition to these state programs, the federal government runs the Head Start preschool program. Of all subsidized preschool slots for four-year olds in California in 2014-15, 52 percent were in State Preschool, 31 percent in Transitional Kindergarten, and 18 percent in Head Start.

State Authorized Districts to Create “Expanded” Transitional Kindergarten in 2015-16. As part of the 2015-16 budget plan, the Legislature enacted trailer legislation that allows

Figure 21
Comparing California’s Two Major Preschool Programs

	State Preschool	Transitional Kindergarten
Eligibility criteria	Four-year olds from families with incomes at or below 70 percent of state median income as calculated in 2007. ^a Children in full-day program must have parents working or in school.	Four-year olds with birthdays between September 2 and December 2. ^b
Providers	Local education agencies and subsidized centers.	Local education agencies.
Program length	At least 3 hours per day, 175 days per year for part-day program. At least 6.5 hours per day, 250 days per year for full-day program.	At least 3 hours per day, 180 days per year.
Teacher qualifications	Child Development Teacher Permit (24 units of ECE/CD plus 16 general education units). ^c	Bachelor’s degree, Multiple Subject Teaching Credential, and a Child Development Teacher Permit or at least 24 units of ECE/CD or comparable experience. ^{c,d}
Staffing ratios	1:24 teacher-to-child ratio and 1:8 adult-to-child ratio.	1:33 teacher-to-child ratio.
Annual funding per child^e	\$4,386 (part-day) and \$10,114 (full-day).	Average of \$8,810.

^a Programs may serve three-year olds from income-eligible families if all eligible and interested four-year olds have been served first.
^b Schools may serve younger four-year olds with birthdays before the end of the school year but those children do not generate state funding until they turn five.
^c Referenced permit and credential are issued by California’s Commission on Teacher Credentialing.
^d The requirements shown apply to teachers hired after July 1, 2015.
^e Funding rates are 2016-17 estimates.
 ECE/CD = Early Childhood Education/Child Development.

school districts and charter schools to enroll four-year old children in Transitional Kindergarten if their fifth birthday falls between December 2 and the end of the school year. These children generate attendance-based funding when they turn five. A child with a birthday in the middle of January, for example, would generate funding for roughly half of the school year. The state does not collect data on the number of children enrolled as a result of these expanded Transitional Kindergarten provisions. Several large school districts, however, indicate they have expanded their Transitional Kindergarten programs under the new provisions. In 2015-16, for example, the Los Angeles Unified School District indicated it served 2,900 children through the expanded Transitional Kindergarten provisions.

State Has Complicated Way of Funding Preschool Programs. For State Preschool, CDE contracts with individual providers using a Standard Reimbursement Rate for every child served. The funding source is primarily Proposition 98 General Fund, though full-day programs run by non-LEAs receive non-Proposition 98 General Fund for the wraparound portion of their program. The state funds Transitional Kindergarten through LCFF, which is funded with Proposition 98 General Fund and local property tax revenue.

Governor Proposes Various Changes in Preschool Funding. The Governor's budget includes an additional \$30 million (Proposition 98 General Fund) for preschool programs in 2017-18, a 2 percent increase from 2016-17. The largest component of this increase is \$24 million due to annualizing costs for the 2,959 full-day, LEA State Preschool slots approved in the 2016-17 budget and set to start April 1, 2017. The budget also includes a \$10 million increase in Transitional Kindergarten associated with the Governor's overall proposed augmentation for LCFF. These increases are offset by a statutory \$4 million reduction to

State Preschool to account for a 0.4 percent decline in the birth to four population. For State Preschool, the budget does not include a statutory 1.48 percent COLA nor does it annualize funding for the 10 percent Standard Reimbursement Rate increase scheduled to begin January 1, 2017. (For administrative reasons, CDE implemented this rate increase as a 5 percent increase starting July 1, 2016. The Governor's proposal would apply the same rates in 2017-18 as in 2016-17, leaving them unchanged year over year.)

Preschool Slots

Below, we provide background on recent increases in preschool slots, describe the Governor's slot-related proposals, assess those proposals, and offer associated recommendations.

Background

State Added Total of Almost 10,000 Full-Day State Preschool Slots Over Last Two Years. In 2015-16, the Legislature added 7,030 full-day State Preschool slots, scheduled to begin January 1, 2016. Of these slots, the budget act earmarked 5,830 for LEAs and 1,200 for non-LEAs. In 2016-17, the Legislature added another 2,959 full-day State Preschool slots, all for LEAs, scheduled to begin April 1, 2017.

LEAs Have Not Shown Sufficient Interest in New Full-Day Slots. To allocate new slots across the state, CDE requests applications from interested entities and awards contracts to those that demonstrate they can meet the minimum program requirements. In 2015-16, due to a lack of applicants, CDE issued only 1,646 of the 5,830 full-day State Preschool slots for LEAs. With the remaining funding, the department issued 3,700 part-day slots for LEAs, 851 part-day slots for non-LEAs, and 1,490 full-day slots for non-LEAs (above the 1,200 already earmarked in the budget). In 2016-17, LEAs to date have applied for only

519 of the 2,959 full-day State Preschool slots available. The CDE is currently in the process of issuing a second request for applications. If CDE is still unable to find enough LEAs interested in offering the full-day slots, it will make funding available for part-day slots.

Some State Preschool Providers Report Challenges Earning Their Contracts. Each State Preschool provider contracts with the state for a specified amount of funding. If it does not spend its full contract amount, the associated funds return to the state. If this occurs for multiple years, CDE can reduce the contract in future years. In 2014-15, the most recent year of data available, \$101 million in State Preschool funding allocated to providers was “unearned.” This represents 12 percent of all State Preschool funding and is almost double the unearned rate for other contract-based child care programs (7 percent). This amount also is 77 percent higher than the amount unearned for the program in 2013-14. Several factors might contribute to the increased difficulty in filling slots, including: providers being unable to expand or open new sites quickly enough to accommodate the rapid and significant increase in slots since 2014-15; increased enrollment in other large competing programs for four-year olds, such as Transitional Kindergarten and Head Start; and the state’s outdated income eligibility threshold, which is based on state median income as calculated in 2007.

Multiyear Budget Agreement Assumes Total of Almost 9,000 Additional Slots Over Four-Year Period. While not formalized in statute, the multiyear budget agreement for preschool included 8,877 additional full-day State Preschool slots for LEAs. These slots were to be implemented in three equal batches on April 1 of 2017, 2018, and 2019. The first batch was funded through the *2016-17 Budget Act*, with future batches intended for inclusion in the 2017-18 and 2018-19 budgets respectively.

Governor’s Proposal

Does Not Include Funding for Additional Slots in 2017-18. While the Governor’s budget includes funding to annualize the cost of the slots implemented mid-year in 2016-17, it does not include funding for the second batch of additional slots in 2017-18. (These slots would cost \$7.5 million under the rates proposed in the Governor’s budget.)

Allows Part-Day State Preschool Programs More Flexibility to Serve Children With Special Needs. To allow providers more flexibility to serve as many children as their contract allows, the Governor proposes to allow part-day State Preschool programs to serve children with special needs who do not meet the income eligibility criteria as long as all eligible and interested children are served first. (Current law allows part-day State Preschool programs to fill up to 10 percent of their slots with children from families with incomes up to 15 percent over the income eligibility limit if all eligible and interested children are served first. Under the Governor’s proposal, over-income children with special needs would not count toward this cap.)

Assessment

School Districts Do Not Have Strong Incentives to Apply for Full-Day State Preschool Slots. The LEAs’ lack of interest in new full-day State Preschool slots may be due to their strong fiscal and programmatic incentives to serve children using expanded Transitional Kindergarten. Districts receive substantially more funding per day for Transitional Kindergarten than they receive for State Preschool. On a per-day basis, Transitional Kindergarten funding is 21 percent higher than the average full-day State Preschool rate and nearly twice the average part-day State Preschool rate. Despite receiving higher levels of funding, Transitional Kindergarten programs operate for a shorter length of time

and have fewer programmatic restrictions. They do not, for instance, have to determine income eligibility, conduct child assessments, or set up their classrooms according to specific state standards. Because of higher funding rates and fewer restrictions, we think many LEAs might be choosing to serve additional four-year olds using expanded Transitional Kindergarten rather than through full-day State Preschool.

Not All Eligible Children Are Being Served.

Although some providers have difficulty earning their State Preschool contracts, we estimate a substantial portion of eligible children remain unserved. Specifically, we estimate that at least 1 in 5 income-eligible four-year olds in California are not receiving subsidized preschool through a state or federal preschool program. (If other similar programs are indicative, some families with eligible children might not be interested in participating in a preschool program, but other unserved families might desire it yet be unable to access it.)

Recommendations

Allow All Types of Providers to Apply for New Full-Day Slots. If the Legislature is interested in supporting more full-day State Preschool slots over the next few years, we recommend it make funds available to all providers, not only LEAs. LEAs currently do not seem to have sufficient interest in offering more full-day slots and have strong fiscal incentives to serve children through expanded Transitional Kindergarten rather than State Preschool. If the Legislature wants more LEAs to operate State Preschool programs over the longer term, it could address funding disparities between State Preschool and Transitional Kindergarten or change eligibility requirements so that each program serves a distinct group of students.

Focus on Unserved Eligible Children Before Expanding Eligibility. Given many children eligible for State Preschool currently are unserved, we

recommend the Legislature reject the Governor's proposal to expand State Preschool eligibility to higher-income children with special needs. Though the Governor's proposal to serve more children with special needs seems well intended, it has the effect of displacing low-income children who otherwise would be able to access the program. Moreover, LEAs are responsible for ensuring all four-year old children with special needs receive service according to their individualized education program. As a result, this proposal effectively shuffles children with special needs from one program to another while bumping out low-income children who have no other program option.

Preschool Program Alignment

Below, we provide additional background on State Preschool and Transitional Kindergarten, describe the Governor's proposals to better align the two programs, assess those proposals, and offer associated recommendations.

Background

State Preschool and Transitional Kindergarten Have Different Health and Safety Requirements. State Preschool programs must be licensed and follow Community Care Licensing (CCL) health and safety standards. (The CCL is a division within the Department of Social Services.) These licensing standards include requirements that classrooms be clean and sanitary, children be constantly supervised, teachers be trained in first aid, and medication and cleaning supplies be stored out of reach of children. Members of the public can submit complaints to CCL regarding possible licensing violations. The CCL is then required to visit the facility within 10 days. State Preschool programs also must follow standards set by CDE regarding classroom environment, which include a mix of health, safety, and programmatic requirements. These CDE rules

include requirements that furniture and toys be clean and well-maintained and classrooms be set up with multiple stations to support different types of learning (for example, classrooms could have a science area and an art area). Both CCL and CDE visit sites once every three years to monitor compliance with regulations. By contrast, Transitional Kindergarten programs are not licensed or inspected. Instead, they must operate in buildings with the same safety specifications as other K-12 buildings. For example, these facilities must be built to minimize the risk of damage in an earthquake.

Many State Preschool Programs Participate in Local Quality Rating and Improvement Systems (QRIS). The state provides \$50 million for State Preschool QRIS each year, with funding allocated in 2016-17 to 37 local consortia serving 49 counties. These consortia use the funds to evaluate the quality of State Preschool providers and provide additional resources to help providers improve or maintain program quality. Local consortia assess providers based on a five-tier matrix, which awards points for different levels of staffing ratios and qualifications, the quality of child-teacher interactions, and the implementation of certain child assessments, among other program aspects. The minimum State Preschool requirements are roughly equivalent to a Tier 3 rating.

Schools Required to Operate Transitional Kindergarten Same Length of Day as Kindergarten. Under state law, Transitional Kindergarten is the first year of a two-year Kindergarten program. If a school district runs Transitional Kindergarten and Kindergarten programs on the same site, the two programs at that site must be run for the same length of the day. Districts that want to operate a *full-day* Kindergarten and a *part-day* Transitional Kindergarten program on the same site must obtain a waiver from the State Board of Education.

(Districts can operate programs of differing lengths on separate school sites.)

Governor's Proposal

Governor Interested in Better Aligning State Preschool and Transitional Kindergarten. The Governor's budget includes several proposals to more closely align these two programs. Most of the proposals are designed to make State Preschool programs more similar to those of Transitional Kindergarten but one proposal is designed to make Transitional Kindergarten more similar to State Preschool.

Exempts State Preschool Programs Run by School Districts From Licensing Requirements. The Governor proposes to exempt State Preschool programs from CCL requirements if they operate in facilities constructed according to the state's K-12 building standards. Programs still would be required to follow CDE's requirements for staffing and environment.

Includes Two Flexibility Proposals for Meeting State Preschool Staffing Requirements. The Governor proposes to exempt State Preschool providers with QRIS Tier 4 or higher ratings from the State Preschool staffing ratio requirements. These providers, however, still would need to meet licensing requirements (that is, have an adult-to-child ratio of 1:12). Similarly, for State Preschool programs with lower QRIS ratings or no rating, the Governor proposes to allow classrooms taught by a teacher with a Multiple Subject Teaching Credential to operate with an adult-to-child ratio of 1:12 (rather than the 1:8 ratio currently required).

Allows Districts to Run Part-Day Transitional Kindergarten and Full-Day Kindergarten on Same Site. The Governor proposes to allow school districts to run their Transitional Kindergarten and Kindergarten programs on the same site for different lengths of time without a waiver.

Assessment

Better Alignment of State Preschool and Transitional Kindergarten Programs Worthy Goal. The state currently lacks a systematic approach to providing early learning to four-year olds, which results in wide disparities in eligibility, funding, and the types of services provided. Given this lack of coherence and unnecessary complexity, we think better alignment of the state's two largest preschool programs is a very worthy goal.

Proposals Make Complicated System More Complicated. Although the administration intends to better align State Preschool and Transitional Kindergarten, many elements of his proposals add greater complexity to the existing system. For example, exempting only certain State Preschool programs from licensing requirements would create different requirements for State Preschool programs at LEAs and non-LEAs. Similarly, while State Preschools run by LEAs would be exempt from licensing requirements (and more similar to Transitional Kindergarten in that respect), they still would have to follow CDE's regulations about classroom environment (which do not apply to Transitional Kindergarten). By creating new staffing ratio standards for State Preschool teachers with a teaching credential, the staffing flexibility proposals also add complexity without allowing for complete alignment. A State Preschool classroom with a credentialed teacher still would be required to have an adult-child ratio (1:12) almost three times lower than that of Transitional Kindergarten (1:33).

Additional Concerns With Minimum Staffing Requirement Proposals. In addition to our concerns about making the system more complicated, we also have specific concerns with the proposal to allow higher staffing ratios for credentialed teachers. Specifically, we are concerned that a teacher with a Multiple Subject Teaching credential and no early education training requirements might not be better prepared than a

teacher with early education training to serve more children with less adult support.

Transitional Kindergarten and Kindergarten Funding Not Aligned With Program Length. Given the state currently allows school districts to choose the length of day for their Transitional Kindergarten and Kindergarten programs at different school sites, we see no reason to restrict their ability to offer programs of different length on the same school site. We are concerned, however, that Transitional Kindergarten and Kindergarten programs receive the same amount of funding per student regardless of program length. This lack of alignment results in a funding structure that has little connection to districts' underlying program costs.

Recommendations

Reject Preschool Proposals, Pursue Alignment More Holistically. Rather than make marginal changes to existing preschool programs to get them to operate somewhat more similarly, we recommend the Legislature take a more holistic approach. Under such an approach, the Legislature would consider how best to serve four-year olds, particularly those from low-income families. To this end, it would consider what eligibility criteria, program standards, and funding levels it desired for these children. Making all these decisions in tandem would provide for better alignment and coherence.

Adopt Transitional Kindergarten/Kindergarten Flexibility in Tandem With Differential Rates. If the Legislature does not pursue holistic reform of programs serving four-year olds, we recommend it adopt the Governor's proposal regarding Kindergarten and Transitional Kindergarten flexibility and also establish differential funding rates for full-day and part-day programs. Such an approach would better align school district funding to actual program costs and reduce funding disparities between part-day State Preschool and part-day Transitional Kindergarten programs.

EDUCATION MANDATES

In this section, we first provide background on state education mandates. Next, we discuss the Governor’s proposal for paying down a portion of the mandates backlog. We then consider his proposal to fund a new mandate requiring schools to train their employees to detect and report child abuse. Lastly, we discuss a new mandate related to school assessments. Though the Governor does not address the assessment mandate in his budget plan, the mandate has completed the state determination process and now has a statewide cost estimate.

Background

Constitution Requires the State to Reimburse Local Governments for Mandated Activities. Proposition 4, passed by California voters in 1979, requires the state to reimburse local governments for the cost of new programs and higher levels of service it imposes upon them. Under a process subsequently established in state law, the Commission on State Mandates (CSM) determines if a new law, regulation, or executive action constitutes a reimbursable state mandate for local governments. In the area of education, a local government is defined as a school district, COE, or community college district—collectively referred to as LEAs throughout this section. Although some state-mandated activities also apply to charter schools, the CSM deemed these schools ineligible for reimbursement beginning in 2006.

State Budget Currently Recognizes 58 Education Mandates. As Figure 22 (see next page) shows, the state budget currently recognizes 43 mandates that apply to K-12 education and 15 that apply to community colleges. (Of these mandates, seven apply to both K-12 education and community colleges.) The state has suspended 17 other education mandates (five that apply only to K-12 education,

five that apply only to community colleges, and seven that apply to both). LEAs are not required to perform the activities associated with suspended mandates and, consequently, the state is not required to reimburse them.

CSM Recently Found Two New State Requirements to Be Mandates. First, the CSM determined a law requiring school districts and COEs to provide annual training on the detection and reporting of child abuse to be a mandate. Second, the CSM identified as a new mandate requirements for school districts and COEs to administer new computer-based state exams in English language arts and math. The CSM recently released cost estimates for both mandates, thereby completing the mandate determination process.

State Traditionally Paid Mandates Through Claims Process. Under the state’s traditional mandate reimbursement process, LEAs submit claims for the actual cost of performing each mandated activity. The State Controller’s Office (SCO) pays claims from funds appropriated in the state budget. The SCO audits some claims and reduces payments accordingly.

State Went Many Consecutive Years Without Paying Claims, Large Backlog Mounted. The state deferred payments on education mandate claims for seven consecutive years—from 2003-04 through 2009-10. During this period, LEAs continued to submit claims, creating a large backlog of outstanding mandate claims.

Widespread Agreement Claims Process Has Serious Shortcomings. One of the most disconcerting aspects of the state’s traditional reimbursement method is that per-student claims vary so greatly among every type of LEA. School district per-student backlog claims (for all mandates combined) currently range from \$1 to

Figure 22

Education Mandates^a

K-12 Education

Active (43)

- | | |
|---|---|
| Academic Performance Index | Juvenile Court Notices II |
| Agency Fee Arrangements | Law Enforcement Agency Notification ^c |
| AIDS Prevention / Instruction I and II | Notification of Truancy |
| Annual Parent Notification ^b | Open Meetings/Brown Act Reform |
| California State Teachers' Retirement System Service Credit | Parental Involvement Programs |
| Caregiver Affidavits | Physical Performance Tests |
| Charter Schools I, II, III, and IV | Prevailing Wage Rate |
| Child Abuse and Neglect Reporting | Public Contracts |
| County Office of Education Fiscal Accountability Reporting | Pupil Suspensions and Expulsions I and II |
| Collective Bargaining | Pupil Health Screenings |
| Comprehensive School Safety Plans I and II | Pupil Promotion and Retention |
| Criminal Background Checks I and II | Pupil Safety Notices |
| Developer Fees | Race to the Top |
| Differential Pay and Reemployment | School Accountability Report Cards I, II, III, and IV |
| Expulsion of Pupil: Transcript Cost for Appeals | School District Fiscal Accountability Reporting |
| Financial and Compliance Audits | School District Reorganization |
| Graduation Requirements | Teacher Notification: Pupil Suspensions/Expulsions ^d |
| Habitual Truants | The Stull Act |
| High School Exit Examination I and II | Threats Against Peace Officers |
| Immunization Records (includes Pertussis & Hepatitis B) | Uniform Complaint Procedures |
| Intradistrict Attendance | Williams Case Implementation I, II, and III |
| Interdistrict Attendance Permits | |

Suspended (12)

- | | |
|--|--|
| Absentee Ballots | Mandate Reimbursement Process I and II |
| Brendon Maguire Act | Physical Education Reports |
| County Treasury Withdrawals | Pupil Residency Verification and Appeals |
| Grand Jury Proceedings | Removal of Chemicals |
| Health Benefits for Survivors of Peace Officers / Firefighters | School Bus Safety I and II |
| Law Enforcement Sexual Harassment Training | Scoliosis Screening |

Community Colleges

Active (15)

- | | |
|---|--|
| Agency Fee Arrangements | Minimum Conditions for State Aid |
| Cal Grants | Open Meetings/Brown Act Reform |
| California State Teachers' Retirement System Service Credit | Prevailing Wage Rate |
| Collective Bargaining | Public Contracts |
| Community College Construction | Reporting Improper Governmental Activities |
| Discrimination Complaint Procedures | Threats Against Peace Officers |
| Enrollment Fee Collection and Waivers | Tuition Fee Waivers |
| Health Fee Elimination | |

Suspended (12)

- | | |
|--|--|
| Absentee Ballots | Law Enforcement Jurisdiction Agreements |
| Brendon Maguire Act | Law Enforcement Sexual Harassment Training |
| County Treasury Withdrawals | Mandate Reimbursement Process I and II |
| Grand Jury Proceedings | Sex Offenders: Disclosure by Law Enforcement |
| Health Benefits for Survivors of Peace Officers / Firefighters | Sexual Assault Response Procedures |
| Integrated Waste Management | Student Records |

^a Mandates typically include only very specific activities associated with their name.

^b Also includes Schoolsite Discipline Rules and Alternative Schools.

^c Also includes Missing Children Reports.

^d Also includes Pupil Discipline Records.

almost \$11,000 and COEs’ per-student claims range from \$50 to almost \$30,000. In addition to allowing vast differences in per-student claims, the traditional reimbursement process provides no incentive for LEAs to perform activities as efficiently as possible. The traditional reimbursement process also has a high administrative burden, as LEAs must document specific costs and fill out associated reimbursement forms. Even after collecting and submitting receipts, LEAs subsequently can be audited by the state, and the SCO historically disallows many audited claims. Of K-12 claims that the SCO determines to be high risk and subsequently audits, it disallows about 75 percent of claim costs.

State Has Made Significant Progress Towards Reducing the Backlog, but Sizeable Backlog Remains. As Figure 23 shows, the state has provided \$5.9 billion for reducing the K-14 mandates backlog since 2010-11. Of this amount, \$5.1 billion has been for the K-12 backlog and \$811 million for the community college backlog. After accounting for these payments, we estimate that the current K-14 backlog is \$1.3 billion—\$1.1 billion for schools and \$266 million for community colleges. (Our backlog estimate does not include \$571 million in submitted claims associated with pending litigation, as we assume the state prevails in these cases.)

Figure 23
Funding for Education Mandates Backlog Since 2010-11
(In Millions)

	K-12 Education	Community Colleges	Totals
Budget Act			
2010-11	\$187	\$23	\$210
2014-15	400	50	450
2015-16	3,205	632	3,837
2016-17	1,281	106	1,387
Totals	\$5,073	\$811	\$5,884

State Created Mandates Block Grants as Alternative to Claims Process. To address concerns with the mandate claims process and provide a streamlined approach for reimbursing LEAs, the state created two mandates block grants in the 2012-13 budget: a K-12 block grant (for districts, charter schools, and COEs) and a community college block grant. The LEAs that choose to participate in these block grants receive per-student funding to cover the cost of state-mandated activities in lieu of submitting claims. Figure 24 shows the per-student funding rates provided in the block grants. As the figure shows, the per-student funding rate for K-8 students is \$28, with double that amount (\$56) provided for high school students. The state elected to make charter schools eligible for block grant funding, but they receive half the K-8 per-student funding rates of school districts, as about half of K-8 mandates apply to them. Similarly, about half of high school mandates apply to charter schools, but their grades 9-12 rate is more than half the district rate due to the treatment of the High School Graduation mandate (which generates \$28 per student for both charter schools and districts.) A COE receives funding for its direct students, as well as \$1 for each K-12 student in the county.

Figure 24
Rates Underlying Mandates Block Grants

2016-17	Attendance Type	Block Grant Rate Per Student
School Districts	K - 8	\$28
	9 - 12	56
Charter Schools	K - 8	\$14
	9 - 12	42
COEs	K - 8	\$28
	9 - 12	56
	Countywide K-12	1
Community Colleges	FTE student	\$28

LEA = local education agency; COE = county office of education; and FTE = full-time equivalent.

Near Universal Participation in Block Grant.

The two block grants have very high participation rates. In 2016-17, 95 percent of school districts, 95 percent of charter schools, 95 percent of COEs, and all community college districts participated in the block grant. These participation rates reflect modest increases for all LEA types compared to 2015-16. Currently, LEAs participating in the block grants account for 99 percent of K-14 attendance statewide.

Block Grants Include Funding for All Mandates Recognized in State Budget. Currently, all mandates recognized in the state budget are included in the block grants. The K-12 block grant totals \$219 million for its 43 mandates, whereas the community college block grant totals \$32 million for its 15 mandates.

Mandates Backlog

Governor Proposes \$287 Million Payment Toward K-12 Backlog. The Governor proposes to make a one-time payment of \$287 million toward the K-12 backlog, but he does not provide funding for the community colleges backlog. Consistent with many previous backlog payments made by the state, the Governor proposes to distribute funding on the basis of ADA. Because the payments would be made for expenses incurred by LEAs many years ago, the funds provided today effectively could be used for any purpose. The Governor suggests school districts, charter schools, and COEs use the payments for content standards implementation, professional development for teachers, or deferred maintenance.

Proposal Treats All LEAs Similarly, Provides

Incentives to Control Mandate Costs. Paying down the backlog on a per-student basis means that all LEAs receive funding, regardless of their past mandate claiming practices. This ensures that LEAs are not disadvantaged if they did not submit claims in the past due to the complexity of the claiming process or if they performed mandated activities at a lower cost compared to other LEAs. The per-student approach also reduces the incentive for LEAs in the future to inflate claims or perform state-mandated activities in an unreasonably costly manner.

Majority of Payments Would Not Reduce Backlog. Because the Governor proposes to distribute funding to school districts and COEs with no unpaid claims (either due to a lack of filing or full repayment by prior backlog payments), these payments would not reduce the backlog. In addition, the Governor proposes to distribute funding to charter schools, which are ineligible to submit mandate claims and therefore do not have a mandates backlog. As Figure 25 shows, we estimate the \$287 million payment would reduce the K-12 backlog by only \$102 million, from \$1.1 billion to \$964 million.

Figure 25
Estimates of Outstanding K-12 and CCC Mandates Backlogs
(In Millions)

	K-12 Education	Community Colleges	Total
2016-17 Backlog^a	\$1,067	\$266	\$1,332
Governor's Proposal^b	\$287	—	\$287
Payment towards backlog ^a	(102)	—	(102)
Remaining funding ^a	(185)	—	(185)
2017-18 Backlog^a	\$964	\$266	\$1,230

^a LAO estimates.
^b From settle-up payments. Allocated to all local education agencies, with and without unpaid claims, on a per-student basis.

Serious Concerns With Lack of Plan to Retire Mandates Backlog. The Governor’s proposal makes some further progress towards fulfilling the state’s constitutional requirement to reimburse LEAs for the activities it mandates of them. The per-student funding approach taken by the Governor, however, is exceptionally costly. In the long term, if the state were to continue this approach to retire the entire backlog, we estimate it would cost \$179 billion—over 100 times more than the backlog. We recommend the Legislature consider a more strategic approach to retiring the mandate backlog, such as the one we outlined last year in our 2016-17 *Proposition 98 Education Analysis*. Our approach retains a positive feature of the Governor’s plan—making payments on a per-student basis—and it avoids the greatest negative feature of the Governor’s plan—its astronomical cost—by more narrowly targeting funding. Most notably, our recommended plan reduces costs by requiring schools to write-off all unpaid mandate claims as a condition of receiving payment.

Training on Child Abuse Detection and Reporting Mandate

Below, we provide background on the child abuse detection and reporting mandate, describe the Governor’s proposal to add the mandate to the K-12 mandates block grant, assess the proposal, and make an associated recommendation.

Background

School Employees Required to Report Child Abuse. In 1980, the Legislature enacted Chapter 1071 of 1980 (SB 781, Rains), which requires individuals in certain professions (who are referred to as “mandated reporters”) to report child abuse and neglect to specific law enforcement agencies or county welfare departments. School staff, including teachers and other employees, are

among these mandated reporters. The legislation makes failure to report abuse or neglect a misdemeanor, punishable by up to six months of jail time and/or a \$1,000 fine. While placing a reporting requirement on school employees, the legislation did not require schools to train staff members in the detection and reporting of abuse.

State Creates New Law Requiring Training in Abuse Detection and Reporting. In 2013, a Bay Area news organization surveyed school districts and found that only 31 percent conducted annual trainings in how to identify and report child abuse. The news organization conducted the survey after finding several instances of school staff failing to report abuse. In response to these concerns, the Legislature enacted Chapter 797 of 2014 (AB 1432, Gatto). This legislation built on the 1980 law by requiring districts to train virtually all staff in how to detect and report child abuse. School districts, charter schools, COEs, and state special schools are now required to administer these trainings within the first six weeks of the school year or the first six weeks of a newly hired individual’s employment. The law requires the California Department of Social Services to develop an online training module for use by schools, but schools also may develop their own training materials if they submit these materials to the California Department of Education.

CSM Determines New Requirements to Be Reimbursable Mandate. The CSM determined in 2015 that the new training and reporting requirements constitute a reimbursable mandate. Specifically, CSM found that schools are required to perform the following activities for nearly all employees: (1) provide annual child abuse and neglect training (detailing how to identify abuse, report abuse, and the penalties for failing to report it); (2) provide written proof to the school’s governing board that staff completed the training; and (3) report to the California Department of Education the training material used if not using

the state's online training module. The CSM determination allows school districts and COEs to claim reimbursement for these activities effective January 1, 2015.

CSM Estimates Statewide Mandate Costs of \$40.5 Million Ongoing. The CSM's estimate of ongoing statewide costs consists of \$32.4 million for employee training, \$5.4 million for reporting to CDE, and \$2.7 million for indirect costs such as personnel services. (The CSM also estimates one-time costs in 2014-15 of \$13.5 million for developing a process to record proof of training.) The CSM calculated the costs of employee training by identifying the total number of school employees statewide (589,320), the average compensation of school employees (\$55 per hour), and the average amount of time required to complete the training (one hour). It calculated the costs of reporting to CDE and indirect costs based on claims submitted by 19 districts. Specifically, CSM found from these claims that these two activities comprised 20 percent of total ongoing costs. (Due to a math error, CSM inadvertently published its ongoing statewide cost estimate as \$43.5 million, rather than \$40.5 million.)

Governor's Proposal

Adds Mandate and \$8.5 Million to the K-12 Mandates Block Grant. The Governor proposes to increase the K-12 block grant by \$8.5 million (4 percent) to account for the new mandate. His proposed increase is equal to 20 percent of CSM's published ongoing statewide cost estimate of \$43.5 million. The Governor bases his 80 percent reduction on a historical precedent for adding another mandate to the block grant. Specifically, the administration cites the 2013-14 budget's provision of \$50 million to add the High School Graduation Requirement mandate to the block grant, even though annual ongoing claims for this mandate totaled approximately \$250 million.

Assessment

Mandate Serves a Compelling State Interest. Properly identifying child abuse and neglect is a first step for helping to improve a child's welfare. School staff have significant contact with children and therefore are well positioned to detect and report abuse and neglect. Properly detecting and reporting abuse, however, presumably requires some training, and, prior to being mandated, many districts were not providing such training. For these reasons, we believe that the mandate serves a compelling state interest.

Assessing Actual Effects of Mandate Difficult Due to Data Limitation. According to the California Child Welfare Indicators Project (a collaboration between the University of California at Berkeley and the California Department of Social Services), the number of child abuse and neglect cases reported to the department increased from 325,000 in 2014 to 332,000 in 2015 (the year the mandate took effect). This increase, however, is the continuation of a trend occurring prior to the mandate's enactment. Moreover, information is not readily available to ascertain whether the increase is due to the mandate or other factors that might cause the number of child abuse reports to rise.

Governor's Proposal Underfunds Mandate's Costs Without Justification. The Governor cites historical precedent as the rationale for underfunding the mandate. The one case he cites is unusual. The High School Graduation Requirement mandate was litigated between the state and schools over the course of more than two decades. The state reduced funding for this mandate when adding it to the block grant because it felt, even though the courts upheld the requirement to be a state reimbursable mandate, that the mandate did not impose new costs on schools. By contrast, the training on child abuse detection mandate has not been subject to any dispute between the state and

schools. For this reason, we believe the Legislature should fund its full costs.

Actual Costs of Mandate Close to CSM Estimate. Our review of CSM’s cost estimate identified some shortcomings. For example, its estimates did not properly account for the number of nonteaching staff, the costs of providing mid-year training to newly hired staff, and the hourly rate of school employees. After adjusting for these shortcomings, however, we estimate only a slightly different amount than CSM—\$41.9 million. This is because some of our adjustments resulted in higher costs but these were largely offset by other adjustments that resulted in lower costs.

Recommendation

Add Mandate and \$41.9 Million to the K-12 Mandates Block Grant. Because the mandate serves a compelling statewide purpose, we recommend adopting the Governor’s proposal to add it to the block grant. We recommend, however, increasing the block grant by \$41.9 million—\$33.4 million more than proposed by the Governor—to accurately reflect the costs of the mandate. This would increase the block grant per-student funding rates by \$7 for school districts, charter schools, and COEs.

CAASPP Mandate

Below, we provide background on a new mandate relating to the state’s assessment system, formally known as the California Assessment of Student Performance and Progress (CAASPP). We then analyze the mandate to determine how best to adjust the K-12 mandates block grant.

Background

California Adopted New Standards and Joined Testing Consortium in 2010. Seven years ago, California adopted the Common Core State Standards in English Language Arts and math for

kindergarten through twelfth grade. The standards were developed by the National Governor’s Association and Council of Chief State School Officers, in consultation with education experts, with the intent to better prepare all students for college and career. In September 2010, as part of its Race to the Top Assessment Program, the federal government awarded \$330 million to two consortia to develop assessments aligned to the new standards. California is a member of the Smarter Balanced Assessment Consortium (SBAC), which received \$160 million to develop new exams for students in grades 3 through 8 and grade 11.

New Tests Require Devices and Internet Connection. The tests developed by SBAC require a computing device—a tablet, desktop computer, or laptop computer—that is connected to the Internet. (The other consortium funded by the federal government, Partnership for Assessment of Readiness for College and Careers, or PARCC, developed an exam that is computer-based but does not require an Internet connection.) Each spring, schools have a 12-week window to administer the test to students in grades 3 through 8 and a seven-week window for grade 11. To ease the transition to the new system, schools can administer a pencil and paper version of the test during the first three years of implementation but must use the online version by spring 2018.

State Required Schools to Administer New Exams Beginning Spring 2014. Chapter 489 of 2013 (AB 484, Bonilla) codified into state law many requirements based on SBAC. Chapter 489 also directed schools to administer a trial run of the online version of the SBAC tests in spring 2014, if possible. (No paper and pencil version of the trial test was available.) Because it was a trial, test results were not reported for accountability purposes. The trial test was intended to help schools transition to the new standards and give them an opportunity to determine their technology needs before

administering the first official tests in spring 2015. The state's standards-based assessments—including the SBAC exams, science assessments, alternate assessments for students with disabilities, and a standards-based test in Spanish—are collectively known as the CAASPP.

State Has Provided Substantial One-Time Funding to Help Schools Implement New Standards and Tests. The 2013-14 budget plan provided \$1.25 billion for professional development in aligning instruction to the new standards, purchasing aligned instructional materials, and acquiring the technology required to implement the SBAC exams. Of the \$1.25 billion provided, school districts reported spending \$577 million on technology, including \$400 million on devices and accessories and \$98 million on technology infrastructure. In 2014-15, the state provided \$401 million that schools could use for any purpose, including implementing the new standards and tests. (School districts with outstanding mandate claims had this funding applied to those claims.)

State Also Provided Special Grants for Improving Internet Infrastructure. To address concerns with some schools potentially not having Internet bandwidth sufficient for administering the SBAC exams, the state provided \$77 million over two years (2014-15 and 2015-16) for Broadband Infrastructure Improvement Grants (BIIG). Schools eligible to benefit from a BIIG grant either had to have been unable to administer the trial test on-site due to low Internet capacity or had to shut down other core online activities (such as e-mail) in order to administer the test. As a condition of receiving funds, schools were required to commit to the ongoing costs associated with the new Internet connections. If any BIIG funding remained after helping these schools, then BIIG grants could be provided to other schools to increase their Internet

speeds. The state has funded more than 400 school sites. As of December 2016, the state has identified only five schools that do not have the Internet speeds to administer the exam.

State Provides Annual Funding for Costs of Administering Standardized Tests. The 2016-17 Budget Act included \$23.2 million to cover the costs of administering the state's standardized assessments. These funds, which have been provided annually since the previous set of state standardized exams, are distributed to school districts based on per-student rates set by SBE for each exam. In 2016, schools received \$4 for each student who took at least one SBAC exam during the previous year (costing \$12.8 million statewide). For the prior English language arts and math exams, SBE provided \$2.52 per student. These funds are intended to cover costs such as training test site coordinators and proctors, as well as sharing certain student demographic data with the state's testing contractor.

CSM Determines Minimum Technology Requirements to Be Reimbursable Mandate. In 2016, the CSM determined that compliance with the minimum technology requirements of the new exams constituted a reimbursable mandate. Reimbursable costs include purchasing computing devices and maintaining Internet service sufficient to administer the exams within the testing window. Specific related costs include acquiring and installing network equipment and hiring consultants or engineers to assist districts in proper installation. School districts are required to maintain supporting documentation demonstrating that their prior inventory was insufficient to administer the new tests to all eligible pupils within the testing window. Reimbursement for fixed costs, such as devices or networking equipment, is to be prorated based on the share of use associated with mandated

activities. If, for example, half of a computer's usage is for administering exams, then schools can be reimbursed for only half of the computer's cost.

CSM Also Declares Other Associated Activities a Mandate. The CSM also determined that certain administrative requirements for the SBAC exams exceeded the requirements under previous exams. These other reimbursable costs include ongoing monitoring of computing devices and Internet speeds to ensure they meet minimum requirements, scoring and transmitting tests, reporting additional test-related information to the state's testing contractor or CDE, notifying parents that their children are not required to take the assessments, and reviewing training materials and documents related to administering the exams.

Several Funding Sources Deemed Offsetting. In its ruling, CSM required districts to identify specific funding sources as offsetting their mandates claims. For the two largest one-time funding sources—the \$1.25 billion in 2013-14 and \$401 million in 2014-15—the funding offsets districts' claims if used for the mandated activities. In addition, CSM requires districts to count all of the \$77 million in BIIG funding and annual state apportionments for test administration as offsetting.

CSM Receives Roughly \$70 Million in CAASPP Claims for Each of First Two Years. For 2013-14, 197 LEAs (a mix of school districts and COEs) identified \$87 million in costs associated with the mandate and \$13 million in revenue offsets. For 2014-15, 230 school districts and COEs submitted costs totaling \$77 million and \$11 million in revenue offsets. Of the total reimbursable costs identified across the two years, 62 percent was for computing devices and accessories, 30 percent for Internet services, and 8 percent for all other requirements. Although complete data for 2015-16 is not yet available, the CSM estimates 2015-16 net costs to be \$77 million. This estimate is based on data from the 170 LEAs that submitted claims both

years, and a projection of the number of claims that will be submitted by LEAs with no prior claims. (The CSM did not use this available claims data to extrapolate a statewide cost estimate assuming all LEAs incurred associated costs.)

Assessment

Submitted Claims Likely Overstate Ongoing Cost of Mandate. Based on our review of CSM's ruling and available claims data, we believe the claims submitted by LEAs overstate the ongoing costs of the mandated activities. Below, we discuss our concerns with the claims data and provide an alternative estimate of the ongoing costs of the CAASPP mandate.

Virtually All Schools Meet Minimum Internet Speed Requirements. One concern we have with the claims data is that LEAs appear to be seeking reimbursement for costs that exceed the minimum Internet speed requirements. To minimize the financial burden of the new exams, SBAC set its associated technology requirements low compared to existing technology standards. With regards to connectivity, schools must have a minimum Internet speed of 20 kilobits per second (Kbps) for each student being tested simultaneously. (Internet speeds are measured by the number of "bits," or units of data, transmitted per second.) This minimum standard is low compared to speeds currently available in schools. In 2014, a survey with responses from 96 percent of California schools found 99 percent of schools had speeds greater than 1.5 megabits per second (mbps)—sufficient to test 75 students at one time. (The median school's Internet speed—100 mbps—is sufficient to test 5,000 students at one time.) Those schools that did not meet current Internet speeds could receive state aid through BIIG. For these reasons, virtually no school at this point should need faster Internet speeds to administer the SBAC tests.

Claims for Device Costs Also Likely Exceed Minimum Standards. The SBAC's minimum requirements for computing devices also are relatively low compared to current technology standards. For example, through the end of 2019-20, schools can administer SBAC exams using computers running Windows 7, an operating system first released to the public in 2009. With such minimal requirements, schools should be able largely to use their existing computers to administer the exams. The state also has eased the technology requirements by allowing for a relatively long testing window (12 weeks for grades 3 through 8, 7 weeks for grade 11), thereby reducing the number of computing devices needed. A high school with 500 11th graders, for example, could administer all exams within the 7-week testing window at no additional cost if it has one existing computer lab that can accommodate 30 students at a time. Because of these low minimum standards, we think the mandate claims submitted significantly overstate costs.

Estimate Average Annual Device Cost of Roughly \$13 Million. We estimate statewide annual costs of roughly \$13 million for devices sufficient to meet minimum standards. This estimate is based on several key assumptions. We assume (1) schools currently have one computer available for every 50 students tested, (2) schools administer tests throughout the entire testing window, and (3) purchased devices have a lifespan of three years and are used about one-third of the time for non-testing purposes. (Though we believe this package of assumptions is reasonable, one alternatively could assume a shorter testing period but longer device life span and more usage for more testing purposes.)

Estimate Annual Cost of Other Activities at Roughly \$12 Million. For 2014-15, LEAs submitted

claims for the other claimable costs equivalent to \$4 per student. We expect these particular costs to decrease over time as schools become more familiar with the new testing requirements. In future years, staff will need to be informed of changes to the testing system but will not be required to learn a completely new system. Activities such as scoring and reporting data also will require less time as staff become familiar with the required procedures. For these reasons, we assume the ongoing per-student cost would be roughly half the cost in the initial years (\$2 rather than \$4 per student). Applying this rate statewide yields a total cost of about \$12 million.

Recommendations

Add Mandate and \$25 Million, Along With Shifting Associated Apportionment Funding, Into the K-12 Mandates Block Grant. We recommend adding the CAASPP mandate to the K-12 mandates block grant. In tandem, we recommend increasing the block grant funding by \$37.8 million. Of this amount, \$25 million reflects our estimate of the annual ongoing costs associated with the new mandated activities. The remainder (\$12.8 million) reflects a shift of the related assessment apportionment funding. This shift would be a conforming action to consolidate all funding related to the new assessments into the block grant, thereby making for more transparent budgeting. To derive the new per-student block grant funding rates, we recommend increasing the K-8 rate more than the high school rate, as five grades in the K-8 grade span are tested whereas only one high school grade (eleventh) is tested. Assigning the rates proportionately, we recommend increasing the K-8 block grant funding rate by \$8 per student and the high school rate by \$3 per student.

PENSION COSTS

In this section, we provide background on school district pension costs, compare LCFF funding increases with pension cost increases over the past few years, project these increases for 2017-18 and the next few years, and discuss how the cost increases likely are affecting different types of school districts. The section focuses on both the California State Teachers' Retirement System (CalSTRS), which administers retirement programs for teachers, administrators, and other certificated staff, and the California Public Employees' Retirement System (CalPERS), which administers retirement programs for classified school personnel such as paraprofessionals and maintenance staff.

Background

State Approved Plan in 2014-15 to Address CalSTRS' Unfunded Liability. At the end

of 2013-14, CalSTRS estimated that its main investment fund was more than \$70 billion short of the amount needed to pay for benefits earned through that date. This shortfall is referred to as an unfunded liability. Chapter 47 of 2014 (AB 1469, Bonta) included a plan to pay down the unfunded liability within about 30 years. Under the plan, district contributions as a share of payroll increase from 8.25 percent in 2013-14 to 19.1 percent in 2020-21. The plan also increased state contributions from 5.2 percent in 2013-14 to 10.6 percent in 2020-21. The final component of the plan increased contribution rates for most teachers from 8 percent in 2013-14 to 10.25 percent in 2016-17. (CalSTRS estimates that teachers hired after January 1, 2013 will pay 10.21 percent beginning in 2017-18.) The top part of Figure 26 summarizes the changes in district and state contribution rates. The state rates

Figure 26

K-12 Pension Contribution Rates and Amounts

(Dollars in Millions)

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Contribution Rates^a								
CalSTRS								
School Districts	8.3%	8.9%	10.7%	12.6%	14.4%	16.3%	18.1%	19.1%
State ^b	5.2	5.7	7.1	8.6	9.1	9.6	10.1	10.6
Totals	13.5%	14.6%	17.9%	21.2%	23.5%	25.9%	28.2%	29.7%
CalPERS								
School Districts	11.4%	11.8%	11.8%	13.9%	15.8%	18.7%	21.6%	24.9%
Contribution Amounts								
CalSTRS								
School Districts	\$2,090	\$2,280	\$2,970	\$3,622	\$4,403	\$5,216	\$6,027	\$6,587
State ^b	1,360	1,486	1,935	2,473	2,787	3,060	3,319	3,589
Totals	\$3,450	\$3,766	\$4,905	\$6,095	\$7,190	\$8,277	\$9,346	\$9,177
CalPERS								
School Districts	\$993	\$1,035	\$1,132	\$1,421	\$1,665	\$2,101	\$2,415	\$2,867
Total District Contributions	\$3,083	\$3,315	\$4,103	\$5,043	\$6,069	\$7,318	\$8,442	\$9,455

^a Chapter 47 of 2014 (AB 1469, Bonta) phased in annual CalSTRS rate increases for teachers, districts, and the state. District contribution rates for CalSTRS are set in statute through 2020-21. Other contribution rates are actuals through 2016-17 and projections thereafter. Future rates will differ based on investment returns and changes in actuarial assumptions and policies.

^b Includes roughly 2.5 percent contribution to a program that protects retirees' benefits from the effects of inflation.

shown in the figure reflect CalSTRS' February 2017 decision to change some of its key assumptions, including lowering its investment return assumption from 7.5 percent to 7 percent over the next few years.

CalPERS Also Is Increasing District Rates to Address Unfunded Liability. Similar to CalSTRS, CalPERS also has an unfunded liability. In recent years, the CalPERS board has taken action to address this unfunded liability by increasing district contribution rates (along with the rates that apply to many other state and local agencies participating in CalPERS). As Figure 26 shows, the latest actuarial estimates suggest that district contribution rates will increase from 11.4 percent in 2013-14 to 24.9 percent by 2020-21. Compared with the previous estimates released by CalPERS, the district contribution rates are nearly 4 percentage points higher by 2020-21. This increase equates to about \$500 million in higher contributions and is due largely to the adoption of less optimistic investment assumptions. Specifically, CalPERS recently decided to lower its assumed annual investment return similar to CalSTRS.

Trends Through 2016-17

State and District Contributions Have Increased Over Past Three Years. The bottom half of Figure 26 displays our estimate of the annual amount school districts and the state are contributing toward pension costs. In 2016-17, school district contributions for CalSTRS and CalPERS

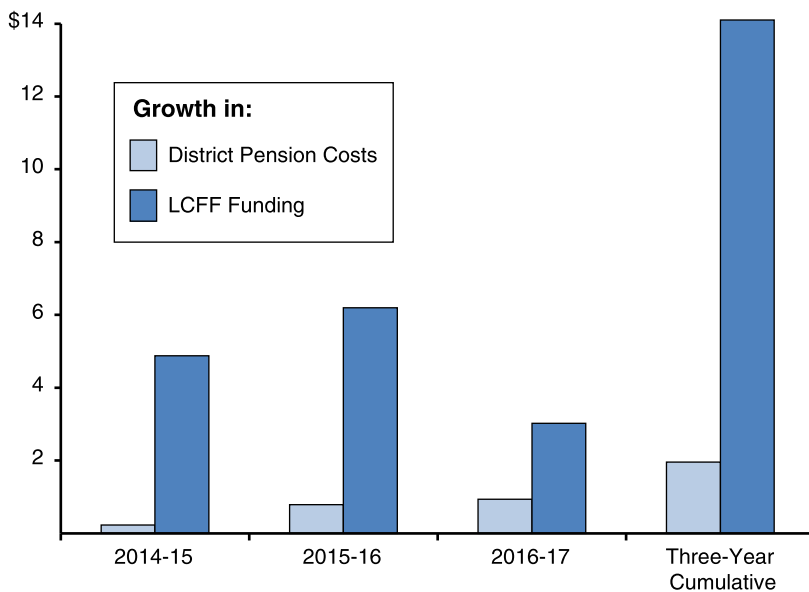
totalled \$5 billion, an increase of \$2.9 billion (64 percent) over the 2013-14 level. By comparison, state CalSTRS contributions totalled \$2.5 billion in 2016-17, an increase of \$1.1 billion (82 percent) over the 2013-14 level. The higher percentage increase for the state is related to the legislation implementing the CalSTRS funding plan, which initially increased the state's contribution relatively quickly and school district contributions more slowly.

LCFF Funding Increases Have Been Significantly Higher Than Total School District Pension Cost Increases. Figure 27 compares the annual increase in districts' combined CalSTRS and CalPERS costs with annual increases in LCFF funding. For each of the last three years, LCFF funding has increased significantly more than pension costs. Over the three years combined, LCFF funding increased by about \$14 billion, compared with higher pension costs of about

Figure 27

Comparing Statewide Growth in LCFF Funding and District Pension Costs

(In Billions)



LCFF = Local Control Funding Formula.

\$2 billion. Pension cost increases equated to about 15 percent of LCFF growth over this period.

Questions About the Experience of Individual Districts. Though LCFF funding has outpaced pension costs on a statewide basis, some legislators and school groups have asked whether certain districts are experiencing pension cost increases greater than the growth in their funding. These questions tend to arise because the funding increases under LCFF are weighted toward districts with relatively high numbers of low-income students and English learners, whereas the higher pension rates apply to all districts. Determining how many districts are affected this way is difficult because districts make different decisions about salaries and staffing levels. These decisions, in turn, affect payroll and the amount districts pay for pension costs. For our analysis, we developed a cost simulation that began with each district's 2013-14 payroll and pension contribution amounts. We then accounted for the pension contribution rate increases that have occurred over the past three years. Next, to account for inflationary pressures, we assumed payroll grew 3 percent per year. Changing our payroll growth assumption up or down by a few percentage points did not notably change our results.

Some Districts Likely Have Seen Pension Costs Grow More Quickly Than LCFF Funding. Under these assumptions, 7 percent of non-basic aid districts would have seen their pension costs increase by more than their LCFF increase from 2013-14 through 2016-17. The districts in this category tend to be very small—jointly representing less than 1 percent of statewide attendance—and were historically advantaged in terms of state funding. Specifically, these districts average around 200 ADA, compared to 6,200 ADA for all other districts. They received a large amount of categorical funding in 2012-13—about \$5,000 per ADA on average, compared to \$1,300 for all

other districts. They also receive a large share of their LCFF funding through the necessary small schools (NSS) allowance—20 percent on average. Districts with large amounts of categorical and NSS funding tended to start 2013-14 very close to, or already at, their LCFF target and thus experienced relatively slow or no LCFF growth in recent years. To accommodate the higher contribution rates, these districts likely had reduce other areas of their budgets. (We excluded basic aid districts from this analysis because their funding is affected primarily by changes in property tax revenue rather than LCFF.)

Pension Cost Increases a Much Smaller Share of LCFF Funding Increases in Most Other Districts. Under our assumptions, about four in five districts would have seen pension cost increases equating to less than 20 percent of their LCFF funding increases. These districts generally started 2013-14 far below their LCFF targets and have experienced correspondingly higher funding increases as the state has made progress toward implementing LCFF.

2017-18 and Out-Year Analysis

LCFF Funding Increase in 2017-18 Smaller Than Total School District Pension Cost Increases Projected for That Year. Compared with their experience the past three years, districts are likely to find pension rate increases more challenging to accommodate in 2017-18. Total district pension contributions are expected to increase by about \$1 billion (\$782 million for CalSTRS and \$244 million for CalPERS). These cost increases compare to the \$744 million proposed augmentation for LCFF under the Governor's budget. Thus, the average district would have to redirect some of its existing resources to cover the pension-related costs in excess of its LCFF increases.

Not All Districts Likely to Be Affected to the Same Extent. Similar to the past few years, the effect of any LCFF augmentation in 2017-18 will vary according to district circumstances. Districts with relatively high numbers of low-income students and average and below average historical funding rates will receive larger LCFF funding increases than other districts, such that their LCFF funding likely will continue to outpace growth in pension costs. These districts, however, face greater expectations for increasing and improving services for their low-income students. These districts likely will experience some tension in deciding how to accommodate these two cost pressures. Compared to districts with high numbers of low-income students, more affluent districts will receive relatively small LCFF funding increases and might need to make budget reductions to accommodate higher pension costs. In addition to being affected differently based on their student demographics, districts differ in the extent to which they incorporated higher pension costs into previous budget planning. Districts that set aside funds in their reserves and increased programs more slowly in previous years likely will have less difficulty accommodating higher pension costs in 2017-18. In contrast, districts that dedicated the bulk of their additional LCFF funding the past three years to program expansion are likely to experience more difficulty maintaining their higher levels of service in 2017-18.

LCFF Funding Projected to Grow More Quickly Than Pension Costs Over Seven-Year Implementation Period. Growth in district pension costs beyond 2017-18 will depend upon many factors, including district decisions about salaries and programs, as well as state-level decisions about pension contribution rates and investment assumptions. Growth in Proposition 98 funding also will depend upon various factors—primarily changes in General Fund revenue, per

capita personal income, and K-12 attendance. We examined the relative growth in costs and funding from 2013-14 through 2020-21 under two simulations. The simulations are based upon two economic scenarios we developed for our November 2016 fiscal projections. Under our economic growth scenario, total K-12 Proposition 98 funding in 2020-21 would exceed the 2013-14 level by \$22 billion. Under this scenario, the \$6.4 billion increase in pension costs over the same period equates to about 30 percent of the increase in school funding. Under our mild recession scenario, the increase in school funding would be \$17 billion, with the \$6.4 billion increase in pension costs equating to nearly 40 percent of the funding increase. (Many other scenarios—both stronger than our growth scenario and weaker than our recession scenario—are possible over this period.)

Key Considerations

Addressing Unfunded Pension Liabilities Is Critical. Despite the significant fiscal pressure imposed by higher pension costs, addressing unfunded CalSTRS and CalPERS liabilities is critical. Whereas CalSTRS had estimated that it would run out of assets by the mid 2040s, the funding plan approved in 2014 places the system on a trajectory to reach full funding within about 30 years. Similarly, the rate increases approved by CalPERS will reduce that system's unfunded liabilities over time. Though school districts and the state are both paying more to fund the two systems over the next several years, the result in both cases will be lower costs over the long term and more sustainable pension systems moving forward.

By Prioritizing General Purpose Funding, State Can Help Districts Accommodate Higher Costs. Given the scheduled rate increases, pension costs will be a key factor in district budgets for

many years to come. One way the state can help districts manage these increases is to continue allocating Proposition 98 funds through general purpose grants like LCFF and mandate backlog payments. Allocating funding in this way provides districts the flexibility to make difficult trade-offs in ways that reflect local priorities. In contrast,

creating new or expanding existing state categorical programs makes balancing district budgets more difficult, as funds get tied up for specific state purposes that might not align well with every districts' local priorities and budget-balancing strategies.

SCHOOL FACILITIES

In this section, we provide background on state funding for school facilities and discuss the Governor's proposed school facility bond sales and his related audit proposal.

Background

School Facilities Program (SFP) Was Created Nearly Two Decades Ago. Chapter 407 of 1998 (SB 50, Greene) created the SFP. The underlying tenet of the program is that the state and school districts share the cost of building new school facilities and modernizing old ones. The state generally contributes 50 percent of new construction costs, including the purchase of land, working drawings, and construction of new facilities. The state typically contributes 60 percent of modernization costs for the renovation of facilities at least 25 years old. For both types of projects, the state can contribute up to 100 percent of project costs if districts face challenges in raising their local shares. Schools submit applications for state funding to the Office of Public School Construction (OPSC). The OPSC then brings eligible applications to the State Allocation Board for approval on a first-come, first-served basis.

Virtually No State Funding Has Been Available for Program Since 2012. The state funded the SFP with a series of four voter-approved general obligation bonds between 1998 and 2006 that together provided \$35.4 billion. By 2012,

the state effectively exhausted funding from these bonds. After running out of funding, the state kept a list of board-approved applications awaiting funding (known as the "unfunded list") and another list of applications received but not yet reviewed by OPSC (known as the "acknowledged list"). The unfunded list currently totals \$370 million and the acknowledged list totals \$2 billion. As the state ran out money for the program, it also decreased OPSC staffing notably, from a historical average of around 130 positions to around 50 positions today. Figure 28 (see next page) shows changes in OPSC staffing since the establishment of the SFP.

New State Bond Approved in 2016.

Proposition 51 was approved by voters in November 2016. It authorizes the state to sell \$7 billion in general obligation bonds for K-12 school facilities projects (in addition to \$2 billion for community college projects). Of the \$7 billion, \$3 billion is for new construction projects, \$3 billion is for modernization projects, and the remaining \$1 billion is split evenly between charter school and career technical education projects. Proposition 51 specifies that the state must spend the bond funds in accordance with the SFP.

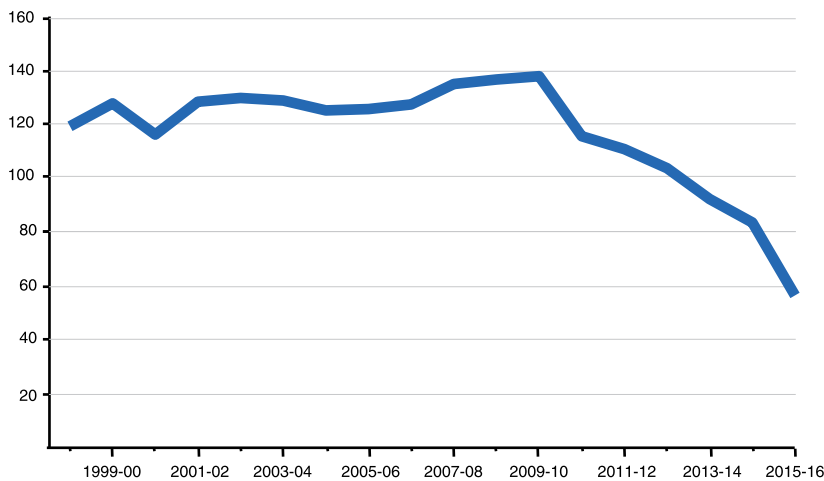
Bond Sales

State Generally Times Bond Sales to Match Project Schedules. To minimize interest payments

Figure 28

Staffing Level at Historic Low

Office of Public School Construction Personnel Years



(which begin accruing once a bond is sold), the state typically sizes its bond sales to match the amount of funding required for projects that are “shovel ready.” For school facilities, requests for bond funding are linked to the volume of applications submitted to OPSC and the speed with which OPSC can review them and present them to the State Allocation Board for approval.

Bulk of Last School Bond Sold Over Six Years.

The state’s last school bond was Proposition 1D (2006), which provided \$7.3 billion for school facilities. The state sold \$6.1 billion (84 percent) of Proposition 1D bonds within six years of its passage. Bond sales ranged from \$344 million to \$1.9 billion per year. During these six years, the state also was selling bonds from prior voter measures. For example, in 2007-08, the state sold \$344 million in Proposition 1D bonds but another \$1.5 billion from prior bonds, for a total of \$1.8 billion.

Governor Proposes to Issue \$655 Million in School Bonds in 2017-18. This amount consists of \$594 million from Proposition 51 bonds and \$61 million from prior bonds. The administration

states that its proposal is based on the size of the unfunded list and how many applications it believes OPSC can process from the acknowledged list with its current staffing level. (The Governor proposes no change to OPSC’s staffing levels.) Though required by state law, the Governor did not provide an out-year schedule of anticipated school bond sales in his five-year statewide infrastructure plan.

The Governor also requires new accountability measures be put in place prior to issuing the bonds, which we discuss in the next section.

Governor’s Proposed Issuance Insufficient to Address Backlog of Facility Funding Requests.

Though the Governor’s \$655 million proposal would clear the \$370 million in already approved school projects awaiting funding, it leaves only \$285 million left to address the \$2 billion in projects on the acknowledged list. Moreover, new applications continue to come in, with OPSC reporting receiving \$158 million in new applications in the first two months after Proposition 51 was approved by voters. (These applications are included in the \$2 billion backlog figure.) If OPSC continued to receive new applications at this pace, the backlog of projects on the acknowledged list would grow to \$3.1 billion by January 2018, assuming no projects receive funding in the interim. (We asked about the volume of projects on the acknowledged list that historically is approved, but OPSC indicates it does not collect this information.)

No Staffing Analysis to Support Governor's Proposal. The administration states that its proposal is based on how many applications it believes OPSC can process with its current staffing level, but it was not able to provide any corresponding staffing analysis. The Governor's proposal also does not consider the OPSC staffing level appropriate to address the large backlog of projects.

Placing Conditions on Bond Sales Raises Concerns. The Governor indicates he will not sell Proposition 51 bonds until the accountability changes discussed in the next section are implemented. If the Governor were to withhold Proposition 51 bond sales indefinitely, however, the state could be challenged in court, as voters indicated through the passage of the measure that they wish to see the bonds sold.

Recommend Directing Administration to Provide Additional Information at Spring Hearings. We recommend the Legislature use its budget hearings to gather more information from the Department of Finance on how the administration plans to address the backlog of school facility projects and size and time the associated Proposition 51 bond sales. We recommend the Legislature also ask OPSC to report at hearings how many applications it can process per personnel year and how many applications it likely could process with its current staffing level. After the Legislature determines its desired amount of statewide school facilities funding for 2017-18, it then could use OPSC's staffing analysis to set an appropriate staffing level moving forward.

Expenditure Audits

State Requires Local Independent Audits of Certain School Records and Expenditures. The state requires schools to hire independent auditors to verify various school records, such

as attendance data, and to determine whether certain expenditures, such as for energy efficiency projects, are spent in accordance with state law. The independent auditors report their findings to local school boards and the State Controller's Office.

OPSC Conducts Audits of SFP Expenditures. State law requires districts to submit annual summary reports of state facility expenditures to OPSC. The office may choose to audit these reports, though this is not required. Currently, OPSC reviews only a subset of projects, generally those deemed to be higher risk, based on factors such as the size of the project. If OPSC finds ineligible expenditures, the State Allocation Board can seek to have the funds repaid to the state. If a district fails to pay within 60 days, the board may request that the State Controller's Office deduct the funds from the district's next LCFF apportionment.

Recent Report Cites Concerns Over OPSC Audits. The Office of State Audits and Evaluations (OSAE), a division of the state Department of Finance, conducted a review of OPSC's audit practices in September 2015. It found that \$3 billion (41 percent) of Proposition 1D funding had not been audited to date. The OSAE sampled \$300 million of these unaudited expenditures, finding that \$3 million (1 percent) was spent on ineligible items. The OSAE also found that OPSC does not conduct site visits to verify actual construction or purchases.

Governor Proposes to Require Local Independent Audits of SFP Expenditures. The Governor proposes to amend state law to add state facility bond expenditures to local school audit requirements. Under the Governor's proposal, OPSC would no longer perform audits at the completion of a project. Instead, OPSC would assist districts in filling out newly required upfront grant agreements outlining SFP terms, conditions, and accountability measures. The Governor is pursuing

this by requesting the State Allocation Board to enact a regulatory change, with the new upfront agreements expected to be implemented as early as April.

Shifting Auditing Function to Local Level Has Merit, Recommend Adopting Proposal.
 Though the OSAE review found only a tiny fraction of unallowable expenditures, we believe the Governor's proposal still has merit. First, it would ensure each district's SFP expenditures were subject to audit, whereas currently OPSC only examines a

subset of projects statewide. Second, it treats facility expenditures the same as many other district expenditures, which are audited locally. Third, the proposal builds upon existing state efforts to shift accountability to the local level. For these reasons, we recommend adopting the Governor's proposal. We recommend the Legislature also gather more information at spring budget hearings about the effect of the proposal on OPSC's workload, including the number of positions it might free up for project application reviews.

SUMMARY OF RECOMMENDATIONS

Proposition 98

- Expect the 2015-16 guarantee not to change much in the coming months. Expect the 2016-17 guarantee to rise or fall about 50 cents for each dollar of higher or lower state tax revenue.
- Expect the 2017-18 minimum guarantee to exceed the administration's January estimate by as much as \$1.5 billion due to increases in state tax revenue.
- Continue to rely upon a mix of one-time and ongoing spending in 2017-18, as this would minimize the likelihood of programmatic cuts to schools the following year were the economy to experience a downturn.

Local Control Funding Formula (LCFF)

- Designate the bulk of any new K-12 Proposition 98 ongoing spending for LCFF implementation, as LCFF fosters local flexibility while also providing additional funding for disadvantaged students.
- Exhaust other options for achieving one-time budget solutions in 2016-17 before deferring LCFF payment.

Special Education

- Take time to explore possible changes to special education funding, as many options exist and redesigning the system could have significant implications for many stakeholders.

Preschool

- Reject proposal to allow part-day State Preschool programs to serve children over the income threshold. If providers continue having trouble earning their contracts, recommend redistributing unearned funding to other part-day State Preschool providers that can serve additional low-income children.
- Allow all types of providers, not only local education agencies, to apply for new full-day State Preschool slots if additional slots are funded the next few years. Over longer term, consider options for encouraging local education agencies to run more full-day State Preschool programs—options such as addressing funding disparities between State Preschool and Transitional Kindergarten or changing eligibility requirements so that each program serves a distinct group of students.

- Reject three proposals to align State Preschool more closely with Transitional Kindergarten. Instead, pursue program alignment more holistically by considering eligibility criteria, program standards, and funding levels in tandem.
- Adopt Governor’s proposal regarding Transitional Kindergarten and Kindergarten flexibility, but, in tandem, establish differential funding rates for full-day and part-day programs.

Education Mandates

- Develop a less costly approach for making one-time payments toward the K-12 mandates backlog. Our recommended plan reduces costs by having schools write-off all remaining mandate claims as a condition of receiving payments.
- Add a new mandate—Training for School Employee Mandated Reporters—to the K-12 mandates block grant and increase block grant funding by \$41.9 million.
- Add a new mandate relating to the California Assessment of Student Performance and Progress to the K-12 mandates block grant and increase block grant funding by \$37.8 million. Of this amount \$25 million reflects the costs associated with the new mandated activities and \$12.8 million is a shift of existing, related assessment funding.

School Facilities

- Direct the administration to provide more information during spring budget hearings on how to address the \$2.4 billion backlog of school facility projects as quickly as possible.
- Adopt the Governor’s proposal to shift auditing of school facility expenditures from the state Office of Public School Construction to local independent auditors.

Contact Information

Edgar Cabral	K-12 Education in Context	319-8343	Edgar.Cabral@lao.ca.gov
Natasha Collins	Federal Funds for K-12 Education	319-8335	Natasha.Collins@lao.ca.gov
Kenneth Kapphahn	Overview of the Governor’s Budget Pensions	319-8339	Kenneth.Kapphahn@lao.ca.gov
Ryan Anderson	Local Control Funding Formula Special Education	319-8308	Ryan.Anderson@lao.ca.gov
Virginia Early	Preschool	319-8309	Virginia.Early@lao.ca.gov
Dan Kaplan	Education Mandates School Facilities	319-8352	Dan.Kaplan@lao.ca.gov

LAO Publications

This report was reviewed by Jennifer Kuhn. The Legislative Analyst’s Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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BILL ANALYSIS

Senate Appropriations Committee Fiscal Summary
Senator Kevin de León, Chair

AB 2160 (Ting) - Cal Grant Awards: GPA Verification

Amended: June 18, 2014 Policy Vote: Education 6-0
 Urgency: No Mandate: Yes
 Hearing Date: August 4, 2014
 Consultant: Jacqueline Wong-Hernandez

This bill meets the criteria for referral to the Suspense File.

Bill Summary: AB 2160 requires the California Student Aid Commission (CSAC) to require electronic submission of the grade point average (GPA) of all 12th grade students at public schools and charter schools and, with specified exceptions, deems all 12th grade students in a California public school to be Cal Grant applicants for this purpose. This bill requires that parents be notified of such, and that they be provided an opportunity to opt out of such designation by a school district or charter school.

Fiscal Impact:

Mandate: Potentially significant reimbursable mandate on school districts to electronically submit the GPAs of every 12th grade student, with specified exceptions, and to administer an opt-out system for families.
 CSAC administration: Potentially significant workload to receive and process additional GPAs, and to provide technical assistance to schools and school districts. This workload would be off-set, to some degree, by a reduction in the number of hard copy GPAs that CSAC processes.
 Cal Grant awards: Potentially significant Cal Grant costs (General Fund), to the extent that this bill results in more Cal Grant awards.

Background: Existing law requires GPAs for Cal Grant A and B applicants to be submitted to CSAC; requires GPAs to include a certification by a school official that the GPA is accurately reported; authorizes CSAC to establish grace periods for the receipt of GPAs and corrections; and, establishes Legislative intent that high schools and institutions of higher education certify GPAs of students in time to meet Cal Grant application deadlines. (Education Code § 69432)

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A school district is prohibited from permitting access to pupil records without written parental consent with some exceptions, as specified. School districts are authorized to release information from pupil records to agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. (EC § 49076)

The federal Family Educational Rights and Privacy Act (FERPA) regulations authorize an educational agency or institution to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one of several specified conditions. These include an instance in which the disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to: a) determine eligibility for the aid; b) determine the amount of the aid; c) determine the conditions for the aid; or, d) enforce the terms and conditions of the aid. (34 CFR 99.31(a)(4))

Proposed Law: This bill deems each student enrolled in 12th grade in a California public school to be a Cal Grant applicant, and requires every school district, or charter school, by October 15 annually, to:

- a) Notify the parent/guardian of each 12th grade student that the student will be deemed a Cal Grant applicant.
- b) Provide an opportunity for the student to opt out of being automatically deemed a Cal Grant applicant.

This bill requires that the CSAC require all public high schools, including charter schools, to provide an electronic submission of a GPA for each 12th grade student, each academic

year, with specified exceptions.

Staff Comments: In order to apply for a Cal Grant award, a student must complete the Free Application for Federal Student Aid (FAFSA) or a Dream Act application, and the CSAC must receive the student's verified GPA. Currently, there is no standard practice for submitting GPA verification to the CSAC. Some schools submit hard copy verification forms, others submit GPAs electronically, and still others rely on their students to submit the verification forms themselves (once signed by a

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school official).

This bill requires the CSAC to require public schools to submit the GPAs of all of their 12th grade students (with specified exceptions) to the CSAC each year. While schools currently verify student GPAs upon student request, and some have systems for communicating all GPAs to the CSAC, the only statutory "requirement" on schools is legislative intent language specifying that schools "certify the grade point averages of their students in time to meet the application deadlines" of the Cal Grant. This bill enacts a new universal requirement to electronically transfer every 12th grade student's GPA, which will likely constitute a significant reimbursable mandate on public schools. Transferring GPAs to the CSAC electronically could ultimately save staff time and school resources compared to a hard copy process that may exist at a school. However, whatever process the school currently uses is at local option and, thus, not reimbursable. This requirement will make the act of transferring GPAs a reimbursable mandate, even for schools that were already submitting GPAs to the CSAC electronically.

In order to comply with FERPA protections, this bill deems each student enrolled in 12th grade in a California public school to be a Cal Grant applicant. Under FERPA, a school can transfer certain student information to other entities as part of an application for financial aid; since this bill would make every 12th grade student an applicant, GPAs could be transferred as a batch. Separate from FERPA compliance, this bill does require an opt-out process.

This bill requires every school district, or charter school, by October 15 annually, to: a) notify the parent/guardian of each 12th grade student that the student will be deemed a Cal Grant applicant; and, b) provide an opportunity for the student to opt out of being automatically deemed a Cal Grant applicant. This bill's requirement for schools to administer an opt-out process for students will also likely be deemed by the Commission on State Mandates to be reimbursable.

Staff notes that the opt-out provision may need clarification. The bill language specifies that parents and guardians receive notifications that "the pupil will be deemed a Cal Grant applicant unless the pupil opts out". Typically, a parent or guardian makes that decision when a pupil is under age 18; once

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a pupil is 18, he or she can make those decisions. This bill will impact students that are likely to be 17 and 18-year-olds, and who may be 17 when a parent receives the opt-out notification but turn 18 before the GPA would actually be sent to the CSAC. The author may wish to clarify intent regarding how schools should handle the required opt-out process.

The most significant cost of this bill will likely be in increased Cal Grant application completions, and the resulting increase in Cal Grant awards. This bill is likely to increase application completion rates, but it is not known what that increase will yield in terms of actual awards. If, for example, the measure were to result in 4,000 more awards in the first year dispersed across UC and CSU so as to average to \$7,000 each, the cost of the additional awards would be about \$28 million in the first year, growing annually thereafter as additional cohorts were added.

BILL ANALYSIS

SENATE COMMITTEE ON EDUCATION
 Carol Liu, Chair
 2013-2014 Regular Session

BILL NO: AB 2160
 AUTHOR: Ting
 AMENDED: June 18, 2014
 FISCAL COMM: Yes HEARING DATE: June 25, 2014
 URGENCY: No CONSULTANT: Kathleen
 Chavira

SUBJECT : Cal Grant GPAs.

SUMMARY

This bill requires the California Student Aid Commission to require electronic submission of the GPA of all 12th grade students at public schools and charter schools, with specified exceptions, deems all 12th grade students in a California public school to be Cal Grant applicants for this purpose, requires that parents be notified of such and that pupils be provided an opportunity to opt out of such designation by a school district or charter school.

BACKGROUND

Current law requires GPAs for Cal Grant A and B applicants to be submitted to CSAC; requires GPAs to include a certification by a school official that the GPA is accurately reported; authorizes CSAC to establish grace periods for the receipt of GPAs and corrections; and, establishes legislative intent that high schools and institutions of higher education certify GPAs of students in time to meet Cal Grant application deadlines. (EDC § 69432)

A school district is prohibited from permitting access to pupil records without written parental consent but makes some exceptions, as specified. Current law authorizes school districts to release information from pupil records to agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid.

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However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid. (EDC § 49076)

The federal Family Educational Rights and Privacy Act (FERPA) regulations authorize an educational agency or institution to disclose personally identifiable information from an education record of a student without consent if the disclosure meets one of several specified conditions. These include an instance in which the disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to:

- a) Determine eligibility for the aid;
- b) Determine the amount of the aid;
- c) Determine the conditions for the aid; or
- d) Enforce the terms and conditions of the aid. (34 CFR 99.31(a)(4))

ANALYSIS

This bill :

- 1) Deems each student enrolled in 12th grade in a California public school to be a Cal Grant applicant.

- 2) Requires every school district, or charter school, by October 15 annually, to:
- a) Notify the parent/guardian of each 12th grade student that the student will be deemed a Cal Grant applicant.

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- b) Provide an opportunity for the student to opt out of being automatically deemed a Cal Grant applicant.
- 3) Requires that the California Student Aid Commission require electronic submission of a grade point average (GPA) for each 12th grade student at public schools, including charter schools, each academic year.
- 4) Provides for an exception to the electronic submission of GPA requirements for:
- a) Students who have opted out.
 - b) Students permitted, at the discretion of the CSAC to submit a GPA in a nonelectronic format or to provide tests scores in lieu of a GPA.

STAFF COMMENTS

- 1) Need for the bill . According to the author, while some districts already provide GPAs to CSAC for all or some students, many do not. The author notes that Los Angeles and San Francisco unified school districts are already providing GPAs for all high school seniors to CSAC and, according to the author, report that costs for computer programming are minor and absorbable and districts experienced an overall cost savings associated with high school counselors no longer being required to complete paper forms for students. The author also notes that CSAC reported processing over 70,000 paper GPA forms in 2013, taking significant staff time. The author believes that overall cost savings associated with this bill could result in more time for high school counselors and CSAC to outreach to students encouraging Free Application for Federal Student Aid (FAFSA) completion. Without legislation, the author argues "it would take several years for all school districts to implement the best practice in

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this bill."

- 2) Education Trust-West Report . In 2013 the Education Trust-West issued its report The Cost of Opportunity which found that only 54% of California's 12th graders completed a FAFSA in 2012, and only 50% completed the both the FAFSA and submitted a GPA verification, both steps necessary to apply for a Cal Grant by the March 2nd deadline. In 2014, a follow up Equity Alert entitled Doorways to College Aid: Boosting Access to Financial Aid in California found that in 2013 the rates of completion of the FAFSA and Cal Grant applications increased statewide by 7% and 8% respectively for a total of 25,000 additional FAFSA completions and more than 30,000 additional Cal Grant applications. However, 42% (170,000) of 12th graders from the class of 2013 still did not complete a Cal Grant application.

The report notes the higher completion rates were the results of efforts at the local level which include an early focus on FAFSA completion and the electronic

submission of GPAs for all students. An analysis of districts using electronic GPA found a 10 percent boost in Cal Grant Completion for those districts. The average Cal Grant completion rate for these districts was 71 percent, compared to 56 percent for other districts. The report also noted that some districts are hesitant to adopt this practice due to privacy concerns.

Among other things, the report recommended that all high schools and districts should electronically submit GPA and graduation verification for all high school seniors. This bill implements this recommendation.

- 3) Privacy rights . The federal Family Educational Rights and Privacy Act (FERPA) applies to all schools that receive federal funding through the U.S. Department of Education and protects the privacy of student

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educational records. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's educational record. However, schools are authorized to disclose records without consent to specific parties or under specific conditions, including to appropriate parties in connection with financial aid to a student. This exemption is currently used to authorize the provision of student GPAs to CSAC when a student is applying for financial aid.

This bill deems all 12 graders to be Cal Grant applicants, but, in essence would require districts to disclose the GPAs of students who are not necessarily applying, and may never apply, for financial aid. Although this bill was amended in the Assembly Education Committee to require the written permission of parents or guardians prior to submitting the GPAs of students who are not seeking financial aid, it was recently amended to replace that requirement with an "opt out" provision for students. Notwithstanding the laudable intentions of the bill, to broaden access to the Cal Grant program, the Committee may wish to consider whether the provision of an "opt out" alternative sufficiently assures the privacy of students and families who might choose not to participate in a state financial aid program.

SUPPORT

Association of Independent California Colleges and Universities
California Association of School Business Officials
California School Boards Association
California State Student Association
California State University
San Francisco Unified School District
The Education Trust West
University of California
University of California Student Association

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OPPOSITION

_____ None received.

BILL ANALYSIS

SENATE RULES COMMITTEE	AB 1091
Office of Senate Floor Analyses	
(916) 651-1520 Fax: (916)	
327-4478	

THIRD READING

Bill No: AB 1091
 Author: Eduardo Garcia (D)
 Amended: 6/1/15 in Assembly
 Vote: 21

SENATE EDUCATION COMMITTEE: 9-0, 7/15/15
 AYES: Liu, Runner, Block, Hancock, Leyva, Mendoza, Monning,
 Pan, Vidak

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/27/15
 AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza, Nielsen

ASSEMBLY FLOOR: 77-2, 6/3/15 - See last page for vote

SUBJECT: Student financial aid: Cal Grant Program

SOURCE: Author

DIGEST: This bill authorizes the California Student Aid Commission (CSAC) to require verification of high school graduation to be electronically submitted for high school graduates for the purpose of determining financial aid eligibility, as specified, and requires the electronic submission of grade point average (GPA) information on a standardize form.

ANALYSIS:

Existing law:

1) Authorizes the Cal Grant program, administered by the CSAC, to provide grants to financially needy students to attend a

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college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. The program consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs, and eligibility is based upon financial need, GPA, California residency and other criteria. (Education Code § 69430-69433)

- 2) Prohibits a school district from permitting access to pupil records without written parental consent but makes some exceptions, as specified. Existing law authorizes school districts to release information from pupil records to agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents, may be disclosed only as necessary for the purpose to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid. (EC § 49076)
- 3) Requires GPAs for Cal Grant A and B applicants to be submitted to CSAC; requires GPAs to include a certification by a school official that the GPA is accurately reported; authorizes CSAC to establish grace periods for the receipt of GPAs and corrections; and, establishes legislative intent that high schools and institutions of higher education certify GPAs of students in time to meet Cal Grant application deadlines. (EC § 69432)
- 4) Requires a GPA for all high school seniors at public schools to be submitted to CSAC electronically by a school or school district official. Requires a school district to provide an opportunity for a student and/or guardian to opt out and

requires students and/or guardians to be notified of the opportunity to opt out. (EC § 96432.9)

This bill:

- 1) Authorizes the CSAC to require verification of high school graduation to be electronically submitted for high school graduates who graduated from a public school, including charter schools, in the prior academic year.

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- 2) Provides for an exception to the electronic submission of high school graduation information for students who have opted out, as specified under existing law.
- 3) Requires the electronic submission of GPA information on a standardize form.
- 4) Declares legislative intent that high school districts verify the graduation of their students in time to meet the established deadlines and that the CSAC make available to high schools or high school districts a list of seniors who have and have not completed the Free Application for Federal Student Aid (FAFSA) or the California Dream Act Application.
- 5) Establishes if the Commission on State Mandates determines that this bill contains costs mandated by the state, the state shall reimburse the applicable entities.

Comments

Need for the bill? According to author, many students often times become overwhelmed with the Cal Grant application process and fail to submit verification of high school graduation to CSAC. The author further asserts that missing this important step could make the difference between a student attending college or not. This bill aims to streamline the financial aid process and increase Cal Grant and FAFSA completion rates by requiring the electronic submission of high school graduation information.

Existing process for verification. According to the CSAC the method for providing verification varies depending on the school district. For the most part, it is the responsibility of the school district to submit the information to CSAC; however, if the district fails to provide the information, the responsibility falls on the student. Generally, most submissions are electronic, but thousands of paper forms are submitted that have to be keyed in manually. This bill seeks to give the CSAC the authority to create a standardized process for collecting information directly from school districts when determining Cal Grant eligibility.

Privacy rights? The federal Family Educational Rights and Privacy Act applies to all schools that receive federal funding

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Page 4

through the U.S. Department of Education and protects the privacy of student educational records. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's educational record. However, schools are authorized to disclose records without consent to specific parties or under specific conditions, including to appropriate parties in connection with financial aid to a student. This exemption is currently used to authorize the provision of the student's GPA and graduation information to CSAC when a student is applying for financial aid.

FISCAL EFFECT: Appropriation: No Fiscal
Com.:YesLocal: Yes

According to the Senate Appropriations Committee:

The CSAC indicates one position and \$120,000 will be needed to design, implement, and provide support to schools and school districts for the new tool within its existing Grant Delivery System. (General Fund)

Unknown, potentially significant reimbursable state mandate costs if the Commission on State Mandates determines this bill to impose a mandate should the CSAC require verification of high school graduation to be electronically submitted for all former grade 12 students who graduated. The potential for it to be determined a mandate is unclear. If so determined, it could create pressure to increase funding for the K-12 Mandate Block Grant, to reflect the inclusion of the new mandate.

SUPPORT: (Verified8/27/15)

California School Boards Association
Coachella Valley Economic Partnership
The Education Trust-West

OPPOSITION: (Verified8/27/15)

None received

ASSEMBLY FLOOR: 77-2, 6/3/15

AYES: Achadjian, Alejo, Travis Allen, Baker, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

NOES: Bigelow, Beth Gaines
NO VOTE RECORDED: Thurmond

Prepared by:Olgalilia Ramirez / ED. / (916) 651-4105
8/31/15 11:43:40

**** END ****

BILL ANALYSIS

SENATE RULES COMMITTEE	AB 2908
Office of Senate Floor Analyses	
(916) 651-1520 Fax: (916)	
327-4478	

CONSENT

Bill No: AB 2908
 Author: Committee on Higher Education
 Amended: 4/11/16 in Assembly
 Vote: 21

SENATE EDUCATION COMMITTEE: 9-0, 6/8/16
 AYES: Liu, Block, Hancock, Huff, Leyva, Mendoza, Monning, Pan, Vidak

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 5/12/16 (Consent) - See last page for vote

SUBJECT: Postsecondary education: omnibus

SOURCE: Author

DIGEST: This bill corrects technical errors and oversights, and makes non-controversial and conforming changes to various provisions of the Education Code.

ANALYSIS:

Existing law:

- 1) Requires the Legislative Analyst's Office (LAO) to report to the Legislature on the expenditures of the University of California (UC) and California State University (CSU). (Education Code § 66028.6)
- 2) Requires the governing boards of each community college district, the CSU Trustees, the Hastings College of Law Board of Directors, the UC Regents, and the governing boards of any

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postsecondary educational institution receiving public funds for student financial assistance to make a report containing data on hate crimes, as specified, available to the LAO. (EC § 67380)

- 3) Authorizes California Student Aid Commission (CSAC) to require school districts and charter schools to submit the grade point averages (GPAs) of all grade 12 pupils every year, unless a pupil and/or his or her parent or guardian has opted out of the GPA submission to CSAC; and, specifies that school districts and charter schools shall notify grade 12 pupils and/or their parent or guardian if the pupil is under 18 years of age, in writing, about the GPA submission to CSAC, no later than October 15 every year. (EC § 69432.9)
- 4) Requires the LAO to report to the Legislature on the outcomes of the Cal Grant C program on or before April 1, 2015, and on or before April 1 of each odd numbered year thereafter. (EC § 69439)
- 5) Requires the LAO to report to the Legislature on the status update of CSU's online education programs, as specified, on or before October 1, 2017. (EC § 89226)

This bill:

- 1) Extends the due date for the LAO to report on CSU's online courses, as specified, from October 1, 2017 to October 1, 2018.
- 2) Reassigns, from the LAO to the UC Regents and CSU Trustees the reporting requirement to the Legislature on UC and CSU expenditures.

- 3)Removes the requirement for postsecondary institutions to submit hate violence reports to the LAO; and, specifies that the postsecondary institutions shall still complete reports and post their findings publicly on their respective Internet Web sites.
- 4)Authorizes the CSAC to require a GPA submission no later than October 1 of each academic year.

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- 5)Specifies that the GPAs for grade 12 students are to be submitted by October 1, of each academic year.
- 6)Moves the date for which a school district or charter school is required to submit GPA.
- 7)Changes the date from October 15 to January 1 for when schools are required to notify parents that his or her student will be deemed a Cal Grant applicant and GPA submitted to CSAC, unless the student opts out. Further requires that parents be notified when students are in grade 11, instead of grade 12.
- 8)Extends the due date for the LAO to report on Cal Grant C from April 1, 2015 to April 1, 2018 and requires CSAC, instead of the LAO, to submit the report with more limited information on or before April 1, 2020 and each even-numbered year thereafter.
- 9)Makes clarifying and technical changes to an incorrect cross reference in the Education Code.

Comments

- 1)Non-controversial amendments. This bill is the annual higher education omnibus clean-up bill and proposes technical, non-controversial amendments to existing law.

By tradition, if any affected agency, the Department of Finance, or any of the four legislative caucuses objects to a provision in the bill or one that is being considered, that particular provision cannot be included.
- 2)Conforming to new Free Application for Federal Student Aid (FAFSA) timeline. On September 14, 2015, President Obama announced significant changes to the FAFSA. Starting this year, the FAFSA will be available to students on October 1, 2016, rather than on January 1, 2017. The earlier submission date will be a permanent change, enabling students to complete and submit a FAFSA on October 1 every year. This bill authorizes CSAC to adjust the GPA submission date thereby conforming to the new FAFSA release date.

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- 3)Workload demands on the LAO. AB 770 (Vasconcellos, Chapter 1187, Statutes of 1973) created the California Postsecondary Education Commission (CPEC) and made it responsible for the planning and coordination of postsecondary education. CPEC was charged with providing analysis, advice, and recommendations to the Legislature and the governor on statewide policy and funding priorities. Governor Brown used his line item veto power to defund CPEC as part of his 2011-2012 budget. On November 18, 2011, CPEC closed its office and ceased operations.

In the absence of CPEC, the state has asked the LAO to conduct many of the duties CPEC would traditionally perform, including researching, writing, reviewing new programs and issuing reports. Staff notes that the LAO has reached its capacity with the volume of reports and studies assigned to the Office on an annual basis. This bill seeks to extend deadlines and make adjustments to specified reports thereby allowing more time for completion and alleviating workload.

FISCAL EFFECT: Appropriation: No Fiscal
Com.:YesLocal: Yes

SUPPORT: (Verified 6/21/16)

None received

OPPOSITION: (Verified 6/21/16)

None received

ASSEMBLY FLOOR: 78-0, 5/12/16

AYES: Achadjian, Alejo, Travis Allen, Arambula, Atkins, Baker,

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Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Calderon,
Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper,
Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines,
Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson,
Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger
Hernández, Holden, Irwin, Jones, Kim, Lackey, Levine, Linder,
Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina,
Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen,
Patterson, Quirk, Ridley-Thomas, Rodriguez, Salas, Santiago,
Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber,
Wilk, Williams, Wood, Rendon
NO VOTE RECORDED: Burke, Jones-Sawyer

Prepared by:Olgalilia Ramirez / ED. / (916) 651-4105
6/22/16 15:15:08

**** END ****

1 KAMALA D. HARRIS
Attorney General of California
2 CONSTANCE L. LELouis
Supervising Deputy Attorney General
3 SETH E. GOLDSTEIN
Deputy Attorney General
4 State Bar No. 238228
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-2364
Fax: (916) 324-8835
7 E-mail: Seth.Goldstein@doj.ca.gov
*Attorneys for Defendants and Respondents State of
8 California, Department of Finance, and California
State Controller*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF ALAMEDA

11
12
13
14 **CALIFORNIA SCHOOL BOARDS
ASSOCIATION, and its EDUCATION
15 LEGAL ALLIANCE; SAN DIEGO
UNIFIED SCHOOL DISTRICT; BUTTE
16 COUNTY OFFICE OF EDUCATION; SAN
JOAQUIN COUNTY OFFICE OF
17 EDUCATION; and CASTRO VALLEY
UNIFIED SCHOOL DISTRICT,**

18 Plaintiffs and Petitioners,

19 v.

20
21 **STATE OF CALIFORNIA; COMMISSION
ON STATE MANDATES; JOHN CHIANG
22 in his official capacity as California State
Controller; MICHAEL COHEN, in his
23 official capacity as Director of the California
State Department of Finance,**

24 Defendants and
25 Respondents.
26
27
28

Case No. RG11554698

**OPPOSITION TO PETITION FOR WRIT
OF MANDATE (SECOND CAUSE OF
ACTION)**

Date: April 27, 2015

Time: 1:30 p.m.

Dept: 14

Judge: The Honorable Evelio Grillo

Action Filed: January 6, 2011

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INTRODUCTION

The Legislature has absolute authority over its school districts, which are subdivisions of the state. Article XIII B, section 6, which requires the state to reimburse local governments for the cost of mandated programs (otherwise known as mandates), does not change the plenary authority of the state over its schools. In other words, the Legislature has the authority to direct schools on their spending priorities for the use of state money.

At issue in this case are two school programs and the state's ability to prioritize funding for them. First, for behavioral intervention plans, a type of mandated special education program, the Legislature directed the school districts to first use state special education funding appropriated to the districts to pay for this mandate. Second, for the cost of a mandated second science course, the Legislature directed the school districts to first use three other sources of state funds that the Legislature appropriated to the districts to pay for this mandate. Contrary to the claims of petitioners, no constitutional provision limits the Legislature's authority to prioritize school districts' use of state funds in the ways at issue here.

Petitioners' grievances about state funding and mandates law in particular are with the amount of funds they are receiving from the Legislature, in spite of the fact that schools receive approximately 40% of the state's general fund each year. Allegations of inadequate state school funding are a recurring issue in state politics. But the historical background provided by petitioners is neither relevant nor dispositive of the relatively straightforward legal issue here: whether the funding provisions for behavioral intervention plans and the second science course are constitutional.

Contrary to the claims of petitioners, the California Supreme Court has already stated that a program is not a mandate if the Legislature provides funds for a local agency sufficient to cover the cost of the program. The funding provisions here are slightly different but functionally identical—here a program has been determined to be a mandate, and the question is whether the Legislature could direct school districts to use specific state funds first to comply with the cost of the mandate. And the answer is yes, as petitioners, despite their many arguments, point to no constitutional provision that prohibits the practice. Moreover, the amount of funding provided for

1 a specific mandate would in no way alter or change the actual amount of funding going to schools,
2 as this is controlled by another constitutional provision (Proposition 98, discussed below at
3 Background Section III) that petitioners do not even mention. Finally, despite petitioners' claims
4 that this new legislation violates separation of powers principles, no decision by the quasi-judicial
5 administrative agency that determines mandate claims prohibits the Legislature from
6 prospectively changing state law.

7 Accordingly, this court should deny the petition.

8 BACKGROUND

9 I. STATE OVERSIGHT OVER SCHOOLS

10 The issues in this case concern the role of the state and its school districts. It is not an equal
11 relationship—the Legislature has the power to create, abolish, or otherwise alter the boundaries of
12 its districts, and is actually the beneficial owner of all school property. (*California Teachers*
13 *Ass'n v. Hayes* (1992) 5 Cal.App.4th 1513, 1524-5.) State control over its school districts occurs
14 because “education and the operation of the public schools remain matters of statewide rather
15 than local or municipal concern.” (*Id.*, p. 1524.) “The Legislature’s power over the public school
16 system has been variously described as exclusive, plenary, absolute, entire, and comprehensive,
17 subject only to constitutional constraints.” (*Ibid.*) “School moneys belong to the state, and the
18 apportionment of funds to a school district does not give that district a proprietary right therein. It
19 follows that the Legislature can transfer property and apportion debts between school districts as
20 it sees fit.” (*Id.*, p. 1525, citations omitted.)

21 II. OVERVIEW OF CALIFORNIA MANDATES LAW

22 In 1978, voters adopted Proposition 13, which added article XIII A to the state Constitution.
23 This Proposition “largely transferred control over local government finances from the state’s
24 many political subdivisions to the state, converting the property tax from a nominally local tax to
25 a de facto state-administered tax subject to a complex system of intergovernmental grants.”
26 (*California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 244-245.) The following
27 year, voters adopted Proposition 4, which added article XIII B to the state Constitution. These
28 two constitutional provisions “work in tandem, together restricting California governments’

1 power both to levy and to spend for public purposes.” (*City of Sacramento v. California* (1990)
2 50 Cal.3d 51, 59 fn. 1.)

3 Article XIII B includes section 6, the constitutional provision at issue in this case. This
4 section requires the Legislature to provide funding to local government when it requires local
5 government to provide a new program or higher level of service. (Cal. Const. art. XIII B, § 6.)¹
6 “The concern which prompted the inclusion of section 6 in article XIII B was the perceived
7 attempt by the state to enact legislation or adopt administrative orders creating programs to be
8 administered by local agencies, thereby transferring to those agencies the fiscal responsibility for
9 providing services which the state believed should be extended to the public.” (*County of Los*
10 *Angeles v. California* (1987) 43 Cal.3d 46, 56.) Thus, section 6 prohibits “the state from shifting
11 financial responsibility for carrying out governmental functions to local agencies, which are ‘ill
12 equipped’ to assume increased financial responsibilities because of the taxing and spending
13 limitations that articles XIII A and XIII B impose.” (*County of San Diego v. California* (1997) 15
14 Cal.4th 68, 81.) However, “[a] state requirement that an entity redirect resources is . . . not a
15 reimbursable mandate, only a new *cost* is reimbursable.” (*Grossmont Union High School Dist. v.*
16 *California Dept. of Education* (2009) 169 Cal.App.4th 869, 876.)

17 In 1984, the Legislature enacted a comprehensive statutory scheme to resolve issues
18 relating to claims under section 6, including processes for determining whether a statute imposes
19 state-mandated costs on a local agency and for reimbursing such costs. (Gov. Code, § 17500 et
20 seq.) As part of this statutory scheme, the Legislature created the Commission on State
21 Mandates, a quasi-judicial agency vested with the sole and exclusive authority to adjudicate all
22 disputes over the existence and reimbursement of state-mandated programs within the meaning of
23 section 6. (*Kinlaw v. State of California* (1991) 54 Cal.3d 326, 342-43; Gov. Code, §§ 17551,
24 17552.)

25 Local agencies and school districts file claims with the Commission for reimbursement of

26 ¹ The Constitution provides that “Whenever the Legislature or any state agency mandates a new
27 program or higher level of service on any local government, the State shall provide a subvention of funds
28 to reimburse that local government for the costs of the program or increased level of service. . . .” (Cal.
Const., art. XIII B, § 6.)

1 state-mandated costs under section 6. (Gov. Code, §§ 17551, 17560.) The first claim filed by a
2 local agency or school district alleging that a statute or an executive order imposes a reimbursable
3 state-mandated program is a “test claim.” (*Id.*, § 17521.) Filing a test claim is the “sole and
4 exclusive procedure” for claiming and obtaining reimbursement for costs mandated by the State.
5 (*Id.*, § 17552.) The Commission holds a public hearing on the test claim, at which time evidence
6 may be presented by the claimant, the Department of Finance, any other state department or
7 agency affected by the claim, and any interested organization or individual. (*Id.*, § 17553.)

8 If the Commission determines that a state-imposed mandate exists, the Commission must
9 then determine the amount of reimbursement and adopt parameters and guidelines for
10 reimbursement of any claims relating to the test claim legislation. (§ 17557.) The Legislature
11 may choose to appropriate funds to reimburse the affected local governments for the costs of the
12 mandate, or the Legislature may choose to suspend operation of the mandate by not funding it at
13 all. (See Cal. Const., art. XIII B, § 6, subd. (b); §§ 17581, 17581.5.) The Commission then
14 submits the adopted parameters and guidelines to the State Controller’s Office, which issues
15 claiming instructions for each mandate that requires reimbursement. (*Id.*, § 17558.)

16 The Controller is responsible for paying and auditing reimbursable state-mandated claims.
17 (Gov. Code, §§ 17561, 17616.) The fundamental starting point for any mandates reimbursement
18 is the confirmed presence of *actual costs*. (Cal. Const., art. XIII B, § 6 see also Gov. Code,
19 §§ 17514, 17522, subd. (b); § 17558.5, subd. (a).) Accordingly, the Controller may reduce the
20 amount of any claim that it determines to be unsupported, or otherwise excessive or unreasonable.
21 (Gov. Code, § 17561, subd. (d)(2).)

22 **III. PROPOSITION 98**

23 After the voters passed Propositions 13 and 4 in the late 1970’s, school funding was further
24 affected by 1988’s Proposition 98. Proposition 98 was adopted as a constitutional amendment to
25 article XVI, section 8, of the California Constitution. “The measure, supported by the California
26 Teachers Association and the state Parent-Teacher Association, set up two tests, later expanded
27 by the passage of Proposition 111 in 1990 to three tests, for determining the mandated minimum
28 [education] funding level for the coming year.” (*County of Sonoma v. Commission on State*

1 *Mandates* (2000) 84 Cal.App.4th 1264, 1289.) “However, Proposition 98 does not appropriate
2 funds The power to appropriate funds was left in the hands of the Legislature. Proposition
3 98 merely provides the formulas for determining the minimum to be appropriated [to schools]
4 every budget year. The state’s obligation is to ensure specific amounts of moneys are applied by
5 the state for education.” (*Id.*, p. 1290.)

6 Currently, the Proposition 98 minimum funding guarantee is more than \$60 billion a year
7 for school districts (including over \$46 billion in state general fund money appropriated to
8 schools), and school districts have received more than \$45 billion annually since 2010.
9 (Respondents’ RJN, Ex. 1, p. 6; see also Decl. of Thomas Todd, ¶ 4.) In governing the minimum
10 amount of school funding in a given year, Proposition 98 affects mandates reimbursement. If the
11 Legislature appropriates funds for a mandate, this funding is usually part of the Proposition 98
12 guarantee. (See, e.g., Ed. Code, § 41207.4, subs. (b), (c) [mandate appropriation satisfies
13 Proposition 98 guarantee; Respondents’ RJN, Ex. 2, pp. 475, 479 [traditional mandate
14 appropriations and mandate block grant appropriations part of Proposition 98 funding]; Decl. of
15 Thomas Todd, ¶ 4.) In other words, if the Legislature appropriates more mandate funds for
16 schools in a given budget year, this will usually mean less funding for other school programs.
17 (Decl. of Thomas Todd, ¶¶ 5,6.) But in any case, under the Proposition 98 guarantee, the
18 Legislature appropriates approximately 40% of the state’s general fund revenues to schools each
19 year. (Decl. of Thomas Todd, ¶ 4.)

20 **IV. CHANGES TO MANDATES LAW**

21 In 2010, the nonpartisan Legislative Analyst’s Office concluded that “virtually every aspect
22 of [the] K-14 mandate system [was] broken.” (See Respondents’ RJN, Ex. A., p. 10.) The LAO
23 reported that many mandates did not benefit students or the education system in general (*id.*,
24 p. 3), using as an example the notification of truancy mandate, which requires the state to give
25 school districts \$17 each and every time the school sends a form letter to parents notifying them
26 that their student is truant. (*Id.*, p. 16.) The report also found that the current system “reward[s]
27 districts for performing activities not only inefficiently but ineffectively” (*id.*, p. 3), stating that
28 “the more time devoted to an activity and the higher the staff member’s rank, the greater the

1 reimbursement.” (*Id.*, p. 12.) The report also found that the way the state had been funding
2 mandates was not working either, citing a backlog of outstanding obligations. (*Id.*, pp. 3, 9.)
3 Finally, the report also criticized how mandates “allow districts to claim widely different rates for
4 performing the same activities,” often because the larger or wealthier districts have staffing units
5 dedicated to processing mandates claims. (*Id.*, p. 12.) For example, it makes little sense for
6 Clovis Unified to receive \$264 per pupil for complying with the graduation requirement mandate
7 and Visalia Unified to get \$6 per pupil to comply with the same mandate. (*Ibid.*)

8 The Legislature has made a number of changes to the mandates process in recent years,
9 sometimes in an attempt to improve efficiency, other times to save money. For example, the
10 Legislature has eliminated a number of mandates in recent years. In 2004 the Legislature adopted
11 a reasonable reimbursement methodology to try to standardize claims. (Gov. Code, §§ 17557;
12 17518.5.) In 2010 the Legislature adopted a redetermination process, which allows the
13 Commission to make changes if the underlying law changes.² (Gov. Code, § 17570.) And most
14 significantly, starting in 2013-14 the Legislature adopted the mandate block grant for school
15 districts, which allows districts that participate the ability to bypass the traditional and time
16 consuming process of having to submit detailed claims listing how much time and money was
17 spent on mandated activities, and instead receive a block grant on a per student basis that
18 encompasses most education mandates. (Gov. Code, § 17581.6.)

19 Three other relatively recent changes are at issue in this writ petition. In 2010, the
20 Legislature adopted Government Code section 17557(d)(2)(B), which allows local government
21 (such as a school district) or the state to ask the Commission to amend the parameters and
22 guidelines for any mandate if one of a number of factors occurs. Also in 2010, Education Code
23 sections 56523(f) and 42238.24 were adopted, which require school districts to pay for two

24 ² This redetermination process is a common-sense provision that allows the Commission to adapt
25 to changing circumstances. For example, ballot measures approved by the voters cannot be mandates.
26 (*California School Boards Ass’n v. State* (2009) 171 Cal.App.4th 1183, 1206-1207; see also § 17556,
27 subd. (f) [reimbursable state-mandated duties do not include “duties that are necessary to implement, or
28 are expressly included in, a ballot measure approved by the voters”].) Therefore, if the people through the
initiative process adopt provisions of state law that are currently a mandate, therefore making the item no
longer a mandate, the redetermination process allows the Commission to reconsider its decision due to the
change in law.

1 specific mandates first from the funds received from the state. These provisions are described in
2 more detail below.

3 **V. THE TWO MANDATES AT ISSUE IN THIS CASE**

4 **A. Behavioral Intervention Plans (BIP)**

5 In 1990, the Legislature enacted former Education Code section 56523, which provided for
6 behavioral intervention plans for students with exceptional needs who receive special education.³
7 In 2000, the Commission found the implementing regulations for the statute to constitute a
8 mandate. (Pet. RJN, Ex. K, pp. 18-19.) Parameters and guidelines were not adopted until 2013
9 due to litigation and ultimately unsuccessful settlement activities.⁴ (Pet. RJN, Ex. N, pp. 3-5.) In
10 crafting the parameters and guidelines, the Commission looked at Education Code section
11 56523(f), which requires school districts to use special education funds appropriated to them by
12 the state to directly offset any mandated costs. The Commission therefore held that
13 appropriations made in line item 6110-161-001 (special education funding in the annual budget
14 act), are required to be used first to offset a school district's costs in complying with the BIP
15 mandate. (*Id.*, pp. 55-59). Although petitioners have brought this collateral attack on the
16 constitutionality of this offset provision, they have not specifically challenged the Commission's
17 decision.

18 In 2013, legislation to significantly reduce the significance of the BIP mandate was enacted.
19 (See Ed. Code, § 56523, subd. (a) [repealing regulations that were the basis of the mandate].)
20 Accordingly, although Education Code 56523(f) remains on the books, BIP should no longer
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23 ³ “[B]ehavioral interventions are the design, implementation and evaluation of instructional and
24 environmental modifications to produce significant improvements in behavior through skill acquisition
25 and the reduction of problematic behavior.” (Pet. RJN, Ex. K, p. 3, quoting Title 5, Cal. Code Regs,
§ 3001, subd. (f).)

26 ⁴ Petitioners spend multiple pages discussing this litigation and potential settlement, none of
27 which is actually relevant to the litigation here. While it is true that the Department of Finance agreed to
28 settle litigation related to this mandate, DOF does not have the power to force the Legislature to
appropriate funds. The Legislature declined to fund the settlement, which ultimately doomed it.

1 require anything but *de minimis* costs. Therefore, it appears that petitioners' lawsuit is aimed at
2 getting additional reimbursement for past activities rather than relief going forward.⁵

3 **B. Graduation Requirements (Second Science Course)**

4 In 1983, the Legislature added section 51225.3 to the Education Code. This section
5 requires students, beginning with the 1986-87 school year, to complete at least two science
6 courses to receive a high school diploma. Previously, only one science course was required.
7 Section 51225.3 also specifies that the curriculum must include biological and physical sciences.
8 (Educ. Code, § 51225.3, subd. (a)(1)(C).) In 1987, the Commission found this Education Code
9 provision to be a mandate and adopted a statement of decision approving the *Graduation*
10 *Requirements* test claim. (Petitioners' Request for Judicial Notice ("Pet. RJN"), Exhibit E.) The
11 following year, the Commission adopted parameters and guidelines regarding reimbursement for
12 the second science course, which have since been amended several times. (See Pet. RJN, Ex. H,
13 pp. 8-11) [chronology of graduation requirements mandate].) And in 2010, Education Code
14 section 42238.24 was adopted, which requires school districts to first use three sources of state
15 funds that the Legislature appropriated to them to pay for this mandate.

16 In 2014, graduation requirements became part of the mandates block grant (Gov. Code,
17 § 17581.6, subd. (e)(21)), which, as described above in Background Section IV, is a voluntary
18 alternative to the traditional mandates reimbursement process. More than 90% of local
19 educational agencies (school districts, charter schools, and county offices of education) accept the
20 block grant, representing 95% of the students in the state. (Respondents' RJN, Ex. 3 p. 10.) And
21 looking at school districts alone, 84% accept the block grant, serving 94% of students.
22 Accordingly, these school districts are currently receiving funding for graduation requirements
23 through the block grant. And because they are getting funding through the block grant, they are
24 not subject to the offsets. Therefore, for the vast majority of school districts, the offsets at issue
25 in this case are no longer a live controversy going forward.

26 ⁵ However, petitioners do not ask that the Legislature appropriate more money for mandates. Nor
27 can they. (See *California School Boards Ass'n v. State* (2011) 192 Cal.App.4th 770, 798 [court is
28 prohibited under separation of powers doctrine from ordering state to appropriate funds for mandate
payments].)

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ARGUMENT

I. GOVERNMENT CODE SECTION 17557(D)(2)(B) IS FACIALLY CONSTITUTIONAL

Petitioners allege that Government Code section 17557(d)(2)(B)—the section which allows local government or the state to ask the Commission to amend the parameters and guidelines for a mandate—is unconstitutional on its face. (P. & A., pp. 16-18.) But because petitioners’ challenge is entirely about how the state is allegedly construing the statute (see P. & A., p. 16:25-28), they appear to admit that the statute is not facially unconstitutional.

A facial attack on the constitutionality of a statute requires a court to start from the premise that the statute is valid, resolve all doubts in favor of its constitutionality, and uphold it unless it is in clear and unquestionable conflict with the state or federal constitutions. (*County of Sonoma v. State Energy Resources Cons. and Dev. Com.* (1985) 40 Cal.3d 361, 368.) “To support a determination of facial unconstitutionality, voiding the statute as a whole . . . , petitioners must demonstrate that the act’s provisions inevitably pose a present total and fatal conflict with applicable constitutional prohibitions.” (*Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180-181.) Given this standard, petitioners’ facial challenge must fail.

Government Code section 17557 states that a “local agency, school district, or the state may file a written request with the commission to amend the parameters or guidelines.” Subsection (d)(2) describes the types of changes that can trigger a request to amend the parameters and guidelines, with more than a half dozen possibilities. Subsection (d)(2)(B), at issue here, indicates that one of the possible reasons for local agencies, schools, or state agencies to seek to amend the parameters and guidelines is to “[u]pdate offsetting revenues and offsetting savings that apply to the mandated program and do not require a new legal finding that there are no costs mandated by the state pursuant to subdivision (e) of Section 17556.”

Petitioners claim that “[t]he state construes this to allow existing funding provided for other purposes—or even non-existent funding—to be considered offsetting revenue.” (P. & A., p. 16:25-26.) But petitioners’ contention is simply an as-applied challenge masquerading as a facial one. Section 17557(d)(2)(B) allows for local government or the state to ask the Commission to amend the parameters and guidelines for a mandate for a number of reasons. Nothing in this

1 subdivision limits the offsetting funding to existing revenue. Petitioners do not contend that the
2 statute would be unconstitutional if there was, for example, new savings that could be achieved
3 by a new or reduced program for the mandate. Nor could they, as the California Supreme Court
4 has already determined that an analogous provision is constitutional. At issue in *County of*
5 *Fresno v. State of California* (1991) 53 Cal.3d 482, was Government Code section 17556,
6 subdivision (d), which provided that the Commission should not find an item to be a mandate if
7 the local government “has the authority to levy service charges, fees, or assessments sufficient to
8 pay for the mandated program or increased level of service.” (*Id.*, p. 487, quoting Gov. Code
9 § 17556, subd. (d)(2)(B).) The Supreme Court rejected an argument that this statute was facially
10 unconstitutional, noting that under the constitution subvention is only required “only for those
11 expenses that are recoverable solely from taxes.” (*Id.*) In other words, the Supreme Court found
12 that if the local government need not use its own revenues to pay for an item, it cannot be a
13 mandate.

14 A similar logic applies here—even after a mandate has been found, the state can reduce the
15 amount of funds going to an agency if, for example, a mandate is changed in state law and
16 reduces the amount the local government must spend on the mandate (or savings are generated
17 from program cuts). Indeed, such an offset provision is already in the Government Code as
18 section 17556(e), which has provided for approximately 30 years that an item is not a mandate “if
19 the statute, executive order, or an appropriation in a Budget Act or other bill provides for
20 offsetting savings to local agencies or school districts that result in no net costs to the local
21 agencies or school districts, or includes additional revenue that was specifically intended to fund
22 the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.” (Gov.
23 Code, § 17556, subd. (e).) Similarly, all parameters and guidelines from the Commission require
24 the local government to offset savings and revenues before it can receive additional funds for
25 performing the mandate. (See, e.g., Respondents’ RJN, Ex. 5, pp. 19-20 [requiring offsetting
26 savings to be deducted and noting that “reimbursement for this mandate from any source shall be
27 identified and deducted from this claim”]); see also Pet. RJN, Ex. H, pp. 60 [noting that any
28 offsetting savings or revenues must be deducted from the costs claimed].)

1 Petitioners' dispute appears to be only with how the state is allegedly applying section
2 17557(d)(2)(B), not with the text of that provision itself. Because the offset provisions of section
3 17557(d)(2)(B) can be applied in a constitutional manner, petitioners cannot show a total and fatal
4 conflict with the applicable statutory provisions. (*Pacific Legal Foundation, supra*, 29 Cal.3d at
5 pp. 180-181.) Accordingly, petitioners' claim that the statute is unconstitutional on its face must
6 fail.⁶

7 **II. EDUCATION CODE SECTION 56523(f) IS CONSTITUTIONAL AS THE LEGISLATURE**
8 **HAS THE POWER TO IDENTIFY STATE FUNDS TO COVER THE COSTS OF A**
9 **MANDATE**

10 Petitioners also assert that Education Code section 56523(f) is unconstitutional. (P. & A.,
11 pp. 12-16.) This statute, which governs funding for BIP, was enacted in 2010 and provides that

12 Commencing with the 2010–11 fiscal year, if any activities authorized pursuant to
13 this chapter and implementing regulations are found to be a state reimbursable mandate
14 pursuant to Section 6 of Article XIII B of the California Constitution, state funding
15 provided for purposes of special education pursuant to Item 6110-161-0001 of
16 Section 2.00 of the annual Budget Act shall first be used to directly offset any
17 mandated costs.

18 (Educ. Code, § 56523, subd. (f).) Consistent with the terms of this provision, the
19 Legislature has given the school districts in the state over \$3 billion a year to pay for special
20 education programs (See DOF Interrog. Resp. # 21, attached to Decl. of Deborah Caplan), and
21 school districts are required to pay for the cost of providing behavioral intervention plan services
22 with these funds. There is no dispute that behavioral intervention plans are part of a general
23 special education program. Because the Legislature has the ability to identify what funds should
24 be used to pay for the cost of the mandate, petitioners' claim fails.

25 ⁶ To the extent that petitioners seek to have this court “construe[] [section 17557(d)(2)(B)]
26 narrowly to require that actual revenue must be provided in order to qualify as ‘offsetting revenue’” (P. &
27 A., pp. 18:2-3), petitioners' claim fails in light of their facial challenge. A statute is either facially
28 constitutional or it is not. Simply saying that a state agency is applying the statute in an unconstitutional
manner does not raise a facial challenge. (See *County of Fresno v. State of California, supra*, 53 Cal.3d
at pp. 488-489 [rejecting facial challenge when plaintiffs were arguing that the Commission was applying
section 17556(d) in an unconstitutional manner].) Nor can this Court rewrite the statute to petitioners'
liking. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 563 [“Where the words of the statute are clear, we may
not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its
legislative history”].)

1 The challenged statute is constitutional because nothing in the text of article XIII B, section
2 6 prohibits the state from utilizing these offsets.⁷ The Commission evaluated the offsets as part of
3 its 2013 decision on the parameters and guidelines. (Pet. RJN, Ex. N, pp. 56-59.) Although
4 petitioners assert that the Commission “was required to presume” that the Legislature acted in
5 conformity with the Constitution (P. & A., p. 14:19-22), here the Commission gave careful
6 consideration to the statute at issue. This Court too must start with the presumption that
7 Education Code section 56523(f) is valid. (*California Redevelopment Association*, supra, 53
8 Cal.4th at p. 254.)

9 The Commission reached its conclusion that the BIP mandate can be offset with special
10 education funds after examining several court decisions that found the Legislature is free to direct
11 school districts as to how funds must be expended. In *California Teachers Association v. Hayes*
12 (1992) 5 Cal.App.4th 1513, 1518 the Court considered the Legislature’s decision to include
13 funding for the Child Care and Development Services Act within the Proposition 98 guarantee.
14 Although plaintiffs claimed the legislation “was invalid because it divests school districts of
15 complete and total control over the funds the state is required to devote to education under
16 Proposition 98,” the Court instead found that “[n]othing in Proposition 98 states or implies that
17 school districts are to have the autonomy claimed by plaintiffs.” (*Id.*, pp. 1532-33.) The Court
18 noted that the operation of public schools is a matter of statewide concern, that school districts are
19 agents of the state “rather than independent, autonomous political bodies,” and that school
20 districts “do not have a proprietary interest in moneys which are apportioned to them.” (*Id.*, p.
21 1533.) Moreover, the Court found the Legislature’s control over school districts to be plenary.
22 (*Ibid.*) Just like in *California Teachers Association*, with respect to the BIP mandate, the
23

24 ⁷ Given the lack of a constitutional prohibition, petitioners refer to Government Code section
25 17556(e), which states that an item is not a mandate “if the statute . . . includes additional revenue that was
26 specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the
27 state mandate.” (P. & A., pp. 6, 7, citing Gov. Code, § 17556, subd. (e).) Petitioners attempt to give this
28 “additional revenue” language constitutional significance, arguing the offsets are unconstitutional because
they do not identify additional revenue. But the language petitioners cite is simply in a statute, and the
Legislature is free to enact new statutes (such as Education Code section 56523(f)) that do not contain this
requirement.

1 Legislature is directing school districts as to how funds should be expended, and nothing in the
2 text of article XIII B, section 6 prohibits this.

3 Additionally, the California Supreme Court has already stated that a program is not a
4 mandate if the Legislature provides funds for the local agency sufficient to cover the cost of the
5 program. In *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th
6 727, two school districts and a county alleged they had a right to reimbursement from the state for
7 statutory notice and agenda requirements for a number of school-related educational programs.
8 (*Id.*, pp. 730-731.) With respect to an advisory committee for the Chacon-Moscone Bilingual-
9 Bicultural Act, the Court assumed without deciding that the notice and agenda provisions for this
10 program were required by state law. But the Court still found this item not to be a mandate. The
11 Court noted the state was already giving schools funds to comply with Chacon-Moscone
12 Bilingual-Bicultural Act and allowed those funds to be used for reasonable administrative
13 expenses. (*Id.*, p. 747.) The Court stated it was clear that notice and agenda requirements were
14 reasonable administrative expenses. (*Ibid.*) Accordingly, the Court found that “the costs
15 necessarily incurred in complying with the notice and agenda requirements under that funded
16 program do not entitle claimants to obtain reimbursement under article XIII B, section 6, *because*
17 *the state, in providing program funds to claimants, already has provided funds that may be used*
18 *to cover the necessary notice and agenda-related expenses.”* (*Id.* at p. 746-7, italics added.)

19 Petitioners first try to distinguish *Kern* by asserting that the programs in that case were
20 optional (P. & A., p. 14:23-15:12), but this is simply wrong. The Court did begin its opinion by
21 discussing whether eight other programs were optional, but as to the ninth, the Court “assume[d]
22 for purposes of analysis that claimants have been legally compelled to participate in the Chacon-
23 Moscone Bilingual Bicultural Education program.” (*Id.*, p. 746.)

24 Petitioners next try to distance this case from the *Kern* holding by arguing the costs for
25 complying with the notice and agenda requirements in that case were *de minimis*. (P. & A., p.
26 15:13.) The Supreme Court did conclude that a district with ten schools might only have to spend
27 about \$10,000 in costs to comply with notice and agenda requirements. (*Kern, supra*, 30 Cal.4th
28 727, 747 fn. 16.) However, given the approximately 1,000 school districts in the state

1 (Respondents' RJN, Ex. 6, p. 1), it is unclear how *de minimis* these expenditures would actually
2 be (1,000 districts multiplied by \$10,000 would actually be \$10 million). Regardless, the
3 Supreme Court focused on whether there was sufficient funding to pay for the program, not the
4 dollar value of the program itself.

5 Although petitioners characterize the special education funding provided by Education
6 Code 56523(f) as "non-existent" (P. & A., p. 16:14), they are simply incorrect. Nothing in
7 Section 6 requires that the Legislature hold all other funding to the local government steady while
8 also providing a subvention. As long as the program at issue has received funding, the mandate
9 has been satisfied. Here, the state specifically provided special education funding to pay for the
10 costs of the mandate. Petitioners allege that BIP cost schools \$65 million a year.⁸ (P. & A.,
11 pp. 15:15.) But the state gave schools over \$3 *billion* each year to pay for special education.
12 That is clearly sufficient to pay for the costs of BIP.⁹ In other words, the special education
13 funding provided by Education Code 56523(f) is the subvention or reimbursement required by
14 article XIIB, section 6. And schools are required to offset BIP *first* before paying for other
15 special education programs, meaning that although petitioners complain that they do not have
16 enough special education funding, there will be enough for BIP. Alleged shortages elsewhere for
17 other programs, while not proven, are nevertheless simply not a constitutional problem. As the
18 Supreme Court noted, "[t]he circumstance that the program funds claimants may have wished to
19 use exclusively for substantive program activities are thereby reduced, does not in itself transform
20 the related costs into a reimbursable state mandate." (*Kern, supra*, 30 Cal.4th at p. 748; see also
21 *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1285
22 [decreases in county revenues caused by state shift of funds from counties to schools not a

23 _____
24 ⁸ As discussed above on pages 7-8, it no longer costs schools anything to comply with this
mandate as the regulations that produced the mandate were repealed in 2013-14.

25 ⁹ Note that respondents here are not arguing that BIP is not a mandate. The Commission has
26 already found it to be so, and it is undisputed that it has been treated as a mandate for many years.
27 However, starting in 2010, and until the program was discontinued in 2013-2014, the state provided funds
28 for this mandate in Item 6110-161-0001 of Section 2.00 of the annual Budget Act. (Ed. Code, § 56523,
subd. (f).) Because the state provided funds for this program, there is no additional right to reimbursement
for fiscal years 2010-2011 to 2013-2014.

1 mandate]; *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 [Court not
2 “persuaded by the argument that budget cuts in other programs trigger the subvention requirement
3 in section 6”]; *Grossmont Union High School Dist., supra*, 169 Cal.App.4th at p. 876 [“[a] state
4 requirement that an entity redirect resources is . . . not a reimbursable mandate”].)

5 Moreover, is irrelevant if a school receives less general use special education funds because
6 the overall state funding level to schools remains unchanged. As discussed above, Proposition 98
7 affects mandates reimbursement. If the Legislature appropriates funds for a mandate, this funding
8 is part of the Proposition 98 guarantee. (See, e.g., Ed. Code, § 41207.4, subs. (b), (c) [mandate
9 appropriation satisfies Proposition 98 guarantee; Respondents’ RJN, Ex. 2, pp. 475, 479
10 [traditional mandate appropriations and mandate block grant appropriations part of Proposition 98
11 funding; Decl. of Thomas Todd, ¶ 4.) Accordingly, if the Legislature appropriates more mandate
12 funds for schools in a given budget year, this will usually mean less funding for other school
13 programs. (Decl. of Thomas Todd, ¶¶ 5,6.) Therefore, even if the Legislature appropriates less
14 funds specifically for BIP, this will not change the Proposition 98 guarantee (overall amount of
15 funds going to schools). Petitioners’ claim that schools must use local funds to pay for the costs
16 of the mandate (P. & A., p. 16) is therefore both incorrect and unsupported.

17 Accordingly, petitioners’ claim that Education Code section 56523(f) is unconstitutional
18 must be denied.

19 **III. EDUCATION CODE SECTION 42238.24 IS CONSTITUTIONAL FOR THE SAME**
20 **REASONS AS SECTION 56523(f)**

21 Petitioners also challenge Education Code section 42238.24 (P. & A., pp. 8-12), which was
22 enacted in 2010. The section provides that

23 Costs related to the salaries and benefits of teachers incurred by a school district or
24 county office of education to provide [the second science course] shall be offset by
25 the amount of state funding apportioned to the district pursuant to this article, or in
26 the case of a county office of education pursuant to Article 2 (commencing with
27 Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, and the amount of state
28 funding received from any of the items listed in Section 42605 that are contained in
the annual Budget Act. The proportion of the school district’s current expense of
education that is required to be expended for payment of the salaries of classroom
teachers pursuant to Section 41372 shall first be allocated to fund the teacher salary
costs incurred to provide the courses required by the state.

1 The Legislature has given the school districts in the state between \$20 and \$30 billion in
2 three types of funding that first must be used to pay for the graduation requirements mandate.
3 (See DOF Interrog. Resp. # 13, attached to Decl. of Deborah Caplan). Consistent with the terms
4 of Education Code 42238.24, school districts are required to pay for the cost of the salaries and
5 benefits for teachers who teach the second science course with these funds.

6 The offsetting funds are in the form of 1) revenue limit funding, 2) Local Control Funding
7 Formula money (LCFF), and 3) education protection account moneys. (See DOF Interrog. Resp.
8 # 12, attached to Decl. of Deborah Caplan.) Revenue limit funding arises from the California
9 Supreme Court's decision in *Serrano v. Priest* (1971) 5 Cal.3d 584, which held that certain
10 funding disparities that existed in the 1970's between wealthy and poorer school districts violated
11 Equal Protection. (See *Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1194.)
12 Because of this decision, the Legislature adopted a system of equalized funding in which it
13 contributes to school districts to bring about an equivalency of revenues. (*Ibid.*) Revenue limit
14 funding was replaced by the LCFF in 2013-2014 (see P. & A., p. 10:20-24; Ed. Code
15 §§ 42238.02; 42238.03), but the process operates similarly to equalize funding between school
16 districts. Education protection account moneys are general purpose state aid funding pursuant to
17 Proposition 30, The Schools and Local Public Safety Protection Act of 2012. (See art. XIII, § 36,
18 subd. (e).)

19 According to petitioners, the graduation requirements mandate costs schools approximately
20 \$200 million annually. (P. & A., p. 11:22.) The Legislature has appropriated between \$20 and
21 \$30 billion a year in general purpose funding that must be used to first offset the cost of the
22 graduation requirement mandate, as discussed above, and serves as the subvention or
23 reimbursement required by article XIIB, section 6. Nothing prohibits the Legislature from
24 requiring these funds to be used on graduation requirements first. And the statute is constitutional
25 for the same reasons that Education Code section 56523(f) is constitutional, namely that the
26 Legislature has plenary authority over school districts and is free to direct them as to how funds
27 must be expended absent a constitutional provision that says otherwise. (See *California Teachers*
28 *Association, supra*, 5 Cal.App.4th at pp. 1532-33.) Additionally, a program is not a mandate if

1 the Legislature provides funds for the local agency sufficient to cover the cost of the program.
2 (*Kern, supra*, 30 Cal.4th 727, 746-7 [stating that “ the costs necessarily incurred in complying
3 with the notice and agenda requirements . . . do not entitle claimants to obtain reimbursement
4 under article XIII B, section 6, because the state, in providing program funds to claimants, already
5 has provided funds that may be used to cover the necessary notice and agenda-related expenses”].)
6 Finally, petitioners are not being required to use their own property taxes to pay for the cost of the
7 mandate—only moneys provided by the state are potentially offsetting. (See DOF Interrog. Resp.
8 # 12, attached to Decl. of Deborah Caplan [“No other revenues, including property tax revenues,
9 are potentially offsetting”].)

10 Petitioners complain that this could result in inequality contrary to *Serrano v. Priest*
11 because some basic aid districts (districts that receive only nominal state funding because of
12 higher property tax revenues) would not receive state funding to pay for graduation requirements.
13 (P. & A., pp. 12:3-9.) Yet petitioners have failed to plead an Equal Protection violation, meaning
14 they have waived this claim. But even if they had, petitioners’ assertion is simply incorrect as all
15 school districts receive education protection account moneys (as described above on page 16) that
16 can potentially be used an offset. (See art. XIII, § 36, subd. (e).)

17 Petitioners also assert that “the state’s position—if taken to its logical conclusion—would
18 effectively abolish section 6 for education agencies, since the State could designate all \$30 billion
19 in state funding as offsetting its mandate debts.” (P. & A., pp. 11:24-12:2.) Even if this were
20 true, the state has plenary authority over school districts and the power to set the education
21 spending priorities from state money. (*California Teachers Association, supra*, 5 Cal.App.4th at
22 p. 1533.) And it is well established within mandates law that “there is no basis for applying
23 section 6 as an equitable remedy to cure the perceived unfairness resulting from political
24 decisions on funding priorities.” (*City of San Jose v. State of California* (1996) 45 Cal.App.4th
25 1802, 1817.) Here the state has prioritized the mandate as the first priority to be paid from state
26 money, and the Supreme Court has already said that an item is not a mandate if the state provides
27 funding for it. (*Kern, supra*, at pp. 746-7.) Similar to the *Kern* decision, the costs of the mandate
28 may be reduced or eliminated if the state provides funding for it. Nor would this construction

1 “abolish section 6” as petitioners contend, as the Legislature could not, for example, require
2 school districts to use one of the many types of funds the state provides for schools for items
3 unrelated to the mandate.

4 Accordingly, this Court should deny petitioners’ claim that Education Code section
5 42238.24 is unconstitutional.

6 **IV. THE 2010 LEGISLATION DOES NOT VIOLATE SEPARATION OF POWERS**

7 In their final argument, petitioners contend that the 2010 legislation violates separation of
8 powers by “overriding quasi-judicial commission determinations.” (P. & A., p. 18.) Petitioners
9 allege that the Legislature has attempted to override three specific Commission decisions—a
10 1987 decision regarding graduation requirements, a 2000 decision on BIP, and a 2008 decision on
11 graduation requirements. Petitioners’ claim is meritless.

12 The first problem with petitioners’ logic is that the 1987 and 2000 determinations they point
13 to do not decide anything at issue in the 2010 legislation. For example, although petitioners
14 allege that the Commission found in 1987 that revenue limit funding could not offset the cost of
15 the mandate (P. & A., p. 19), the Commission’s decision does not so state. In fact, the parameters
16 and guidelines simply provide that “reimbursement for this mandate received from any source,
17 e.g., federal, state, block grants, etc., shall be identified and deducted from this claim.” (Pet. RJN,
18 Ex. E, p. 5.) And because the issue of revenue limits funding was not addressed at all in the
19 decision, the two bills at issue here could hardly be seen as attempting to override the
20 Commission’s decision. A similar logic applies to the claim that “the Commission determined
21 that general special education funding from the State did not constitute offsetting revenues for the
22 BIP Mandate.” (P. & A., p. 19:17-18.) Petitioners do not quote from the language of the
23 decision, but the Commission did not so find. (Pet. RJN, Ex. K, p. 18.) Instead, the Commission
24 simply held that DOF did not contend that there was evidence of offsetting savings. (*Ibid.*) If the
25 Commission did not decide a legal issue, it is obvious that when the Legislature enacts
26 subsequent legislation is not contravening anything the Commission has done. (Cf. *People v.*
27 *Gilbert* (1969) 1 Cal.3d 475, 482 fn. 7 [“[i]t is axiomatic that cases are not authority for
28 propositions not considered.”])

1 As to the 2008 decision, in that administrative process DOF opposed a reasonable
2 reimbursement methodology for the graduation requirements mandate proposed by the
3 Commission “because it does not take into consideration ‘significant increases’ in school district
4 revenue limits, or general purpose funding provided to school districts, since the mandate went
5 into effect.” (Pet. RJN, Ex. H, p. 46.) The Commission declined to adopt DOF’s
6 recommendation, noting that there was “no evidence that the state has appropriated funds
7 specifically intended to fund the cost of providing the second science course.” (*Id.*, p. 49.)

8 In making their claim that the 2010 change of law was unconstitutional, petitioners rely
9 almost entirely on *California School Boards Ass’n v. State* (2009) 171 Cal.App.4th 1183. In that
10 case, the Commission had previously determined that several pieces of legislation (including the
11 Open Meetings Act and Brown Act Reform) constituted mandates. (*Id.*, pp. 1193-97.) The
12 Legislature then enacted a statute that, among other things, “directed the Commission to ‘set-
13 aside all decisions, reconsiderations, and parameters and guidelines on the Open Meetings Act
14 (CSM-4257) and Brown Act Reform (CSM-4469) test claims.’” (*Id.*, p. 1194.) The Court of
15 Appeal found that “[t]he Legislature exceeded its power and therefore violated the separation of
16 powers doctrine when it directed the Commission to set aside and reconsider test claim
17 decisions.” (*Id.*, p. 1199.) The Court was careful to note, however, that “[i]n deciding that the
18 Legislature cannot direct, on a case-by-case basis, that a final decision of the Commission be set
19 aside or reconsidered, we do not imply that there is no way to obtain reconsideration of a
20 Commission decision when the law or material circumstances have changed.” (*Id.*, p. 1202-03.)

21 The Legislature’s actions here do not contradict the holding of *California School Boards*
22 *Ass’n*. The Legislature has not attempted to override the Commission and assert that an item is
23 not a mandate, or to redecide a specific decision. In fact, as discussed earlier, all parties in this
24 case agree that the two items are mandates. Instead, the only item at issue is the way the
25 mandates will be reimbursed. In 2008 DOF argued to the Commission that revenue limit funding
26 (as described above on page 16) could be considered when determining the reasonable
27 reimbursement methodology. At that time, there was no specific legislation that required that
28 those funds be considered offsetting. Later, the Legislature, as is its right, made specific that

1 revenue limit funds should be offsetting. As the Court of Appeal noted in *California School*
2 *Boards Ass'n*, “[o]ver time, any particular decision of the Commission may be rendered obsolete
3 by changes in the law and material circumstances that originally justified the Commission’s
4 decision. While decisions of the Commission are not subject to collateral attack, logic may
5 dictate that they must be subject to some procedure for modification after changes in the law or
6 material circumstances.” (*Id.*, p. 1202.) Such is the circumstance here. Just because the
7 Commission found an item to be a mandate in 1987 does not forever bind the Legislature’s hands
8 as to how to provide reimbursement for that mandate.¹⁰

9 Finally, petitioners’ claim fails for yet one additional reason: the doctrine of separation of
10 powers means only that while the Legislature may not readjudicate a judicial decision, it still
11 “may make a law prospectively to abrogate the effect of a judicial decision.” (*Mendly v. County*
12 *of Los Angeles* (1994) 23 Cal.App.4th 1193, 1212; see also *Anderson v. Superior Court* (1998) 68
13 Cal.App.4th 1240, 1250 [statute that prospectively abrogated effect of judicial decision relating to
14 funding of federal program did not violate separation of powers provision].) Even if the
15 Legislature did abrogate a decision here, it did so prospectively only.

16 Accordingly, petitioners’ separation of powers claim must fail.

17 CONCLUSION

18 For all of the above reasons, this Court should deny the petition.

19 Dated: April 3, 2015

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California
CONSTANCE L. LELouis
Supervising Deputy Attorney General

22 SETH E. GOLDSTEIN
Deputy Attorney General
23 *Attorneys for Defendants and Respondents*

24 _____
25 ¹⁰ Ironically, petitioners seek to have this court do the same thing they accuse the Legislature of
26 doing. In 2013, the Commission found that school districts are required to offset the cost of BIP with
27 special education funding. Rather than challenge this decision in a petition for writ of administrative
28 mandamus, the only permissible way to challenge a specific Commission decision (Gov. Code, § 17559,
subd. (b)), they have instead brought a collateral attack on the two statutes themselves. If successful, the
result would be that this Court would overturning a final decision of the Commission in a collateral attack,
the same thing petitioners accuse the Legislature of doing.

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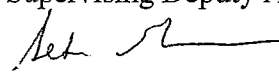
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