

COMMISSION ON STATE MANDATES

NOTICE AND AGENDA<sup>1</sup>

State Capitol, Room 126  
Sacramento, California

May 26, 2005

9:00 A.M.<sup>2</sup>

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES (action)

- Item 1      March 30, 2005  
                 May 12, 2005 (tentative)

III. PROPOSED CONSENT CALENDAR (action)

- Item 2      If there are no objections to any of the following action items designated by an asterisk (\*), the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

IV. APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181, SUBDIVISION (c).

(Note: This item is limited to appeals regarding this month's agenda items.)

- Item 3      Staff Report (if necessary)

V. HEARING TO SET ASIDE AND MODIFY COMMISSION DECISIONS PURSUANT TO COURT ORDERS (Gov. Code, § 17559, subd. (b).) (action)

- Item 4      *Order to Partially Set Aside and Modify Statement of Decision*  
                 Test Claim Decision: *Pupil Expulsions*, CSM-4455  
                 San Diego Unified School District, Claimant  
                 Education Code Sections 48900, 48900.2, 48900.3, 48900.4, 48915, 48915.1, 48915.2, 48915.7, 48916, 48918, as added and amended by Statutes 1975, Chapter 1253 (AB 1770); Statutes 1977, Chapter 965 (AB 530); Statutes 1978, Chapter 668 (AB 2191); Statutes 1982, Chapter 318 (SB 1385); Statutes 1983, Chapter 498 (SB 813); Statutes 1984, Chapters 23, 536, and 622 (AB 1619, AB 3151, and SB 1685); Statutes 1985, Chapter 318 (AB 343); Statutes 1986, Chapter 1136 (AB 4085); Statutes 1987, Chapters 383 and 942 (AB 56 and AB 2590); Statutes 1989, Chapter 1306 (SB 142); Statutes 1990, Chapter 1231 (AB 3794); Statutes 1992, Chapter 909 (SB 1930); Statutes 1993, Chapters 1255, 1256, and 1257 (AB 342, SB 1198, and SB 1130);

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<sup>1</sup>. This public meeting notice is available on the Internet at <http://www.csm.ca.gov>.

<sup>2</sup> A lunch break may be taken.

Statutes 1994, Chapters 146, 1017, and 1198 (AB 3601, AB 2752, AB 2543).

(On Remand from the California Supreme Court, *San Diego Unified School District v. State of California* (2004) 33 Cal.4th 859); (Peremptory Writ of Mandamus from the Superior Court, *San Diego Unified School District v. Commission on State Mandates* (GIC 737638))

Item 5\* Order to Partially Set Aside Portion of Statements of Decision on Incorrect Reduction Claims (IRCs) and Order to Direct State Controller to Set Aside Reduction of Reimbursement Claims for Teacher Salaries, to Reevaluate the Reimbursement Claims in Light of the Court's Ruling, and to Submit the Results of the Reevaluation to the Commission Within 60 Days

A. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number [03CS01401] in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-03 [*Graduation Requirements IRC Decision*, 4435-I-01 and 4435-I-37, Adopted September 28, 2001]

B. *San Jose Unified School District v. Commission on State Mandates, et al.*, Case Number [03CS01569] in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-05 [*Graduation Requirements IRC Decision*, 4435-I-04, Adopted May 24, 2001]

C. *Sweetwater Union High School District v. Commission on State Mandates, et al.*, Case Number 03CS01570 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-06 [*Graduation Requirements IRC Decision*, 4435-I-05, Adopted June 28, 2001]

D. *Castro Valley Unified School District v. Commission on State Mandates, et al.*, Case Number [03CS01568] in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-04 [*Graduation Requirements IRC Decision*, 4435-I-13 and 4435-I-39, Adopted August 23, 2001]

Item 6\* Order to Partially Set Aside Part 2, Issue 3 of the Statements of Decision on Incorrect Reduction Claims (IRCs) and Order Directing the State Controller to Set Aside Reduction of Reimbursement Claims for Teacher Salary Costs, to Reevaluate the Reimbursement Claims in Light of the Court's Ruling, and to Submit the Results of the Reevaluation to the Commission Within 60 Days

- A. *Clovis Unified School District v. Commission on State Mandates, et al.*, Case Number 03CS01702 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-09 [*Graduation Requirements IRC Decision*, 4435-I-35, Adopted January 24, 2002]
- B. *Grossmont Union High School District v. Commission on State Mandates, et al.*, Case Number 04CS00028 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-10 [*Graduation Requirements IRC Decision*, 4435-I-06 and 4435-I-38, Adopted January 24, 2002]

VI. RECONSIDERATION OF PRIOR STATEMENTS OF DECISION AS DIRECTED BY THE LEGISLATURE IN STATUTES 2004, CHAPTERS 895, 227, and 493 (AB 2855, SB 1102 AND SB 1895)

**(Note: Items 8, 10, and 12 will not be voted on unless the staff recommendations for Items 7, 9, and 11 respectively, are adopted.)**

- Item 7      *School Accountability Report Cards I*, 04-RL-9721-11  
 Education Code Sections 33126, 35356, 35256.1, 35258, 41409 and 41409.3, Statutes 1989, Chapter 1463 (SB 280); Statutes 1992, Chapter 759 (AB 1248); Statutes 1993, Chapter 1031 (AB 198), Statutes 1994, Chapter 824 (SB 1665); Statutes 1997, Chapter 918 (AB 568), 97-TC-21  
 Directed by Statutes 2004, Chapter 895, Section 18 (Assem. Bill No. 2855)
  
- Item 8      Proposed Statement of Decision  
*School Accountability Report Cards I*, 04-RL-9721-11  
 See Above
  
- Item 9      *Standardized Testing and Reporting (STAR)*, 04-RL-9723-01  
 Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes 1997, Chapter 828 (SB 376); Title 5, California Code of Regulations, Sections 850-874, 97-TC-23  
 Directed by Statutes 2004, Chapter 895, Section 19 (Assem. Bill No. 2855)
  
- Item 10     Proposed Statement of Decision  
*Standardized Testing and Reporting (STAR)*, 04-RL-9723-01  
 See Above
  
- Item 11     *Handicapped & Disabled Students*, 04-RL-4282-10  
 Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274 (AB 1500); California Code of Regulations, Tit. 2, §§ 60000-60200 (Emergency Regulations adopted July 12, 1986), CSM 4282  
 Directed By Statutes 2004, Chapter 493, Section 7, (Sen. Bill No. 1895)

- Item 12 Proposed Statement of Decision  
*Handicapped & Disabled Students*, 04-RL-4282-10  
See Above

VII. HEARINGS AND DECISIONS ON TEST CLAIMS, PURSUANT TO AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (Gov. Code, § 17551) (action)

**(Note: Item 14 will not be voted on unless the staff recommendation for Items 13 is adopted.)**

- Item 13 *Handicapped & Disabled Students II*, 02-TC-40/02-TC-49  
Counties of Stanislaus and Los Angeles, Claimants  
Government Code Sections 7570, 7571, 7572, 7572.5, 7572.55, 7573, 7576, 7579, 7582, 7584, 7585, 7586, 7586.6, 7586.7, 7587, 7588  
Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 107 (AB 1304); Statutes 1985, Chapter 759 (AB 1255); Statutes 1985, Chapter 1274 (AB 1500); Statutes 1986, Chapter 1133 (AB 3012); Statutes 1992, Chapter 759 (AB 1248); Statutes 1994, Chapter 1128 (AB 1892); Statutes 1996, Chapter 654 (AB 2726); Statutes 1998, Chapter 691 (SB 1686); Statutes 2001, Chapter 745 (SB 1191); Statutes 2002, Chapter 585 (SB 2012); and Statutes 2002, Chapter 1167 (AB 2781)  
California Code of Regulations, Title 2, Sections 60000-60610

- Item 14 Proposed Statement of Decision  
*Handicapped & Disabled Students II*, 02-TC-40/02-TC-49  
See Above

VIII. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. ADOPTION OF ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

- Item 15\* Regional Housing Needs Determination: Cities and Counties  
Statutes 1980, Chapter 1143 (AB 2853)  
Directed by Statutes 2004, Chapter 227, Sections 109-110 (SB1102)

- Item 16\* *Regional Housing Needs Determination: Councils of Governments*,  
Statutes 1980, Chapter 1143 (AB 2853)  
Directed by Statutes 2004, Chapter 227, Sections 109-110 (SB 1102)

B. ADOPTION OF ORDER TO INITIATE RULEMAKING PROCEEDING

- Item 17\* Appeal of Executive Director Decisions  
Proposed Amendments to California Code of Regulations, Title 2, Chapter 2.5, Article 1. General, Section 1181

IX. STAFF REPORTS

- Item 18 Chief Legal Counsel's Report (info)  
Recent Decisions, Litigation Calendar
  
- Item 19 Executive Director's Report (info/action)  
Budget, Workload, Legislation, Next Hearing

X. PUBLIC COMMENT

**SPECIAL ORDER OF BUSINESS – 1:30 P.M.**

XI. HEARING AND DECISION PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 6.5 (action)

- Item 20 Adoption of Proposed Preliminary Decision: Butte County Application for Finding of Significant Financial Distress, Welfare & Institutions Code Section 17000.6

XII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 17526. (Closed Executive Session may begin at this time or may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Case Number 03CS01069 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-01 [*Animal Adoption*]
2. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Case Number 03CS01432 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-02 [*Behavioral Intervention Plans*]
3. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number 03CS01401 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-03 [*Graduation Requirements IRC*]
4. *Castro Valley Unified School District v. Commission on State Mandates, et al.*, Case Number 03CS01568 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-04 [*Graduation Requirements IRC*]
5. *San Jose Unified School District v. Commission on State Mandates, et al.*, Case Number 03CS01569 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-05 [*Graduation Requirements IRC*]
6. *Sweetwater Union High School District v. Commission on State Mandates, et al.*, Case Number 03CS01570 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-06 [*Graduation Requirements IRC*]

7. *Clovis Unified School District v. Commission on State Mandates, et al.*, Case Number 03CS01702 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-09 [*Graduation Requirements IRC*]
8. *Grossmont Union High School District v. Commission on State Mandates, et al.*, Case Number 04CS00028 in the Superior Court of the State of California, County of Sacramento. CSM Case No. 03-L-10 [*Graduation Requirements IRC*]
9. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number BS087959, in the Superior Court of the State of California, County of Los Angeles. CSM Case No. 03-L-11 [*Animal Adoption*]
10. *County of Los Angeles and Los Angeles County Flood Control District v. State of California, Commission on State Mandates, et al.*, Case Number BS089769, in the Superior Court of the State of California, County of Los Angeles. CSM Case No. 03-L-12 [*Transit Trash Receptacles, et al.*]
11. *City of Artesia, et al. v. State of California, Commission on State Mandates, et al.*, Case Number BS089785, in the Superior Court of the State of California, County of Los Angeles. CSM Case No. 03-L-13 [*Waste Discharge Requirements*]
12. *CSAC Excess Insurance Authority v. Commission on State Mandates, et al.*, Case No. BS092146, in the Superior Court of the State of California, County of Los Angeles, CSM Case No. 04-L-01 [*Cancer Presumption for Law Enforcement and Firefighters and Lower Back Injury Presumption for Law Enforcement*]
13. *City of Newport Beach v. Commission on State Mandates, et al.*, Case Number BS095456, in the Superior Court of the State of California, County of Los Angeles, CSM Case No. 04-L-02 [*Skin Cancer Presumption for Lifeguards*]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

#### B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526. Discussion and action, if appropriate on report from the Personnel Subcommittee.

### XIII. REPORT FROM CLOSED EXECUTIVE SESSION, RECONVENE IN PUBLIC SESSION

### XIV. ADJOURNMENT

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