



July 7, 2021

Ms. Amber Alexander
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: Proposed Decision and Parameters and Guidelines Amendment

Graduation Requirements, 11-PGA-03 (CSM-4181A)

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);
as Alleged to be Modified by Education Code Section 42238.24;

Statutes 2010, Chapter 724 (AB 1610)

Department of Finance, Requester

Dear Ms. Alexander:

The Proposed Decision and Parameters and Guidelines Amendment for the above-captioned matter is enclosed for your review.

Hearing

This matter is set for hearing on **Friday, July 23, 2021**, at 10:00 a.m., via Zoom.

In response to COVID-19 and its impact on public meetings under the Bagley-Keene Open Meeting Act, Governor Newsom's Executive Order N-29-20 temporarily suspends, on an emergency basis pursuant to California Government Code section 8571, certain requirements for public meetings. Accordingly, requiring the physical presence of board members at meetings and providing a physical space for members of the public to observe and participate have been suspended until further notice, so long as the agency makes it possible for members of the public to observe and address the meeting remotely, for example, via web or audio conferencing such as Zoom.

The Commission on State Mandates (Commission) is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters.

If you want to speak during the hearing, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted. If you are participating by phone, you may dial *9 to use the "Raise Hand" feature.

There are three options for joining the meeting via Zoom:

1. Through the link below you can listen and view through your desktop, laptop, tablet, or smart phone. This will allow you to view documents being shared as well. **(You are encouraged to use this option.)**

<https://us02web.zoom.us/j/82788269589?pwd=a3VJbDhwYjZCaXo0STFIT3hpTG9nZz09>

Webinar ID: 827 8826 9589

Passcode: 563121

2. Through one tap mobile on an iPhone in the U.S. This process will dial everything for you without having to key in the meeting ID number. If you have the Zoom application on your iPhone you can view the meeting and documents being shared as well.

+16699009128,,82788269589#,,,,*563121# or
+13462487799,,82788269589#,,,,*563121#

3. Through your landline (or non-smart mobile) phone, any number works. You will be able to listen to the proceedings but will not be able to view the meeting or any documents being shared.

+1 669 900 9128 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 646 558 8656 US (New York)
+1 301 715 8592 US (Maryland)
+1 312 626 6799 US (Chicago)

Webinar ID: 827 8826 9589

Passcode: 563121

During this extraordinary time and as we explore new ways of doing business with new technologies, we ask that you remain patient with us. Please don't hesitate to reach out to us for help with technical problems at csminfo@csm.ca.gov or 916 323-3562.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness plan to testify and please specify the names and email addresses of the people who will be speaking for inclusion on the witness list so that detailed instructions regarding how to participate as a party in this meeting on Zoom can be provided to them.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Sincerely,



Heather Halsey
Executive Director

ITEM 4
PROPOSED DECISION
AND
PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498
(SB 813);

As Alleged to be Modified by Education Code Section 42238.24; Statutes 2010,
Chapter 724 (AB 1610)

Graduation Requirements

11-PGA-03 (CSM-4181A)

Department of Finance, Requester

EXECUTIVE SUMMARY

I. Summary of the Mandate

On January 22, 1987, the Commission adopted the Decision approving the *Graduation Requirements*, CSM-4181A, Test Claim. The test claim statute, Education Code section 51225.3, as added by Statutes 1983, chapter 498, increased the number of science courses required for high school graduation from one course to two courses. The Commission determined that the test claim statute constituted a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least one additional course in a biological or physical science before receiving a high school diploma. The Commission adopted Parameters and Guidelines on March 23, 1988, and has amended them many times. The last amendment was adopted November 6, 2008, and corrected on December 18, 2008, for costs incurred beginning January 1, 2005.

On July 25, 2011, the Department of Finance (Finance) filed the Request for Parameters and Guidelines Amendment alleging that Education Code section 42238.24 specifies offsetting revenues for teacher salary and benefit costs and to suggest other language changes.¹

The request was stayed pending resolution of *California School Boards Association v. State of California*.² In that case, the California School Boards Association (CSBA) and several school districts challenged the constitutionality of Education Code section 42238.24 as an offset for the *Graduation Requirements* program, arguing that the state may not identify pre-existing education funding as mandate payment, but must instead allocate additional funding to satisfy its mandate

¹ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

² *CSBA v. State of California* (2019) 8 Cal.5th 713.

reimbursement obligation under article XIII B, section 6.³ In 2019, the California Supreme Court found that the state does not violate article XIII B, section 6, or the separation of powers provision of the California Constitution when it directs the use of general education funding it already provides to school districts and county offices of education as offsetting revenue for the purpose of reimbursing state-mandated programs.⁴

On February 1, 2021, the Alameda County Superior Court resolved the remaining issues in the case on remand by entering judgment following a stipulation of the parties that Education Protection Account (EPA) funding from Proposition 30 is not offsetting revenue under Education Code section 42238.24.⁵

II. Procedural History

On July 25, 2011, Finance filed the Request for Parameters and Guidelines Amendment.⁶ On September 9, 2011, the State Controller's Office (Controller) filed comments on Finance's Request for Parameters and Guidelines Amendment and proposed additional language.⁷ On September 26, 2011, the Graduation Requirements Mandate Resolution Committee filed a request for postponement of the proceeding on the ground that Education Code section 42238.24 was the subject of a court challenge in *CSBA v. State of California*.⁸ On June 19, 2012, Commission staff placed the matter on inactive status pending the resolution of the court case. On December 19, 2019, the California Supreme Court issued its opinion in *CSBA v. State of California* (2019) 8 Cal.5th 713. On December 20, 2019, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion to the request. On April 17, 2020, Finance requested the matter be again placed on inactive status because of additional disputed issues pending before the court on remand. On April 20, 2020, CSBA and San Jose Unified School District, Clovis Unified School District, Grossmont Union High School District, Poway Unified School District, Castro Valley Unified School District, and Fullerton Joint Union High School District (School Districts) filed comments on the request.⁹ On

³ *CSBA v. State of California* (2019) 8 Cal.5th 713, 724-725.

⁴ *CSBA v. State of California* (2019) 8 Cal.5th 713, 726-730.

⁵ Exhibit L, *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁶ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

⁷ Exhibit C, Controller's Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

⁸ The Committee consists of 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-LaMirada Unified School District, Poway Unified School District, and Sweetwater Union High School District.

⁹ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020; Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

April 24, 2020, Commission staff returned the matter to inactive status, upon request from Finance.

On February 1, 2021, the court entered judgment, concluding the litigation.¹⁰ On February 16, 2021, Commission staff removed the matter from inactive status and requested simultaneous comments on the Request for Parameters and Guidelines Amendment and the application of the Court's opinion and judgment in *CSBA v. State of California*. On March 3, 2021, CSBA, Finance, and the School Districts filed comments.¹¹ On May 20, 2021, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment.¹² On June 7, 2021, Finance filed comments on the Draft Proposed Decision and Parameters and Guidelines Amendment.¹³ On June 9, 2021, the Controller filed comments on the Draft Proposed Decision and Parameters and Guidelines Amendment.¹⁴

III. Discussion

A. The Commission's Consideration of Finance's Request for Parameters and Guidelines Amendment Is Limited, Pursuant to Section 1183.17 of the Commission's Regulations, to the Offset Requirements in Section 42238.24, and Does Not Include Finance's Other Proposed Changes Which Were Submitted Without an Explanation of Why They Are Required.

At the time Finance filed the request in 2011, California Code of Regulations, title 2, former section 1183.2 required a request for parameters and guidelines amendment to include the proposed language and "a narrative explaining why the amendment is required." Finance requested the parameters and guidelines be amended to include the offset identified in Education Code section 42238.24. In its request, Finance explained that "Education Code section 42238.24 requires that state apportionment and select categorical program funding first be used by school districts and county offices of education to offset the classroom teacher salary and benefits costs incurred for courses required by the state" and included additional proposed changes in its language mark-up without explanation. Therefore, because no explanation was provided, the

¹⁰ Exhibit L, *CSBA v. State of California*, Judgement Following Stipulation, Alameda County Superior Court Case No. RG11554698.

¹¹ Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit G, Finance's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit H, School Districts' Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

¹² Exhibit I, Draft Proposed Decision and Parameters and Guidelines Amendment, issued May 20, 2021.

¹³ Exhibit J, Finance's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 7, 2021.

¹⁴ Exhibit K, Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 9, 2021.

Commission will not consider proposed language beyond the proposed inclusion of Education Code section 42238.24.

B. Proposed Changes to the Parameters and Guidelines Made in the Comments Filed by the School Districts and the Controller Regarding Local Bond Funds and Instructional Material Funding Go Beyond Finance’s Request and Have Not Been Pled in a Request for Parameters and Guidelines Amendment. Therefore, These Proposed Changes Are Not Properly Before the Commission.

The School Districts and the Controller have requested additional amendments to the Parameters and Guidelines in their comments on Finance’s request.¹⁵ These requests go beyond the scope of Finance’s Request for Parameters and Guidelines Amendment and the Commission cannot consider them without these parties filing requests for parameters and guidelines amendment pursuant to California Code of Regulations, title 2, section 1183.17(c).

C. Education Code Section 42238.24 Requires That the Proportion of the School District’s Current Expense of Education That Is Required to Be Expended on Salaries of Classroom Teachers Shall First Fund the Salary and Benefit Costs of High School Teachers Teaching State-Required Courses for High School Graduation, Pursuant to Education Code Section 51225.3(a)(1), Including the Second Science Course Mandated by Education Code Section 51225.3(a)(1)(C) Before Funding Other Educational Expenses.

Education Code section 42238.24 provides as follows:

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 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state 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.*¹⁶

The plain language of section 42238.24 requires that the costs relating to the salaries and benefits of teachers to provide the courses required by 51225.3 shall be offset by specified state funding. The last sentence of Education Code section 42238.24 requires that “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.” Section 41372(b)

¹⁵ Exhibit H, School Districts’ Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

¹⁶ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to expend 55 percent, of their “current expense of education” on the salaries of classroom teachers for grades 9 through 12.¹⁷ Thus, Education Code section 42238.24 imposes an additional requirement on districts to *first* fund the salary and benefit costs of high school teachers teaching the courses required by Education Code section 51225.3 from the 50 and 55 percent allocation of state funding apportioned to the district.¹⁸

The courses specified in Education Code section 51225.3(a)(1) include the additional science course mandated in the *Graduation Requirements* program, but also other courses required by state law for high school graduation. These include the 13 minimum general education classes required, two of which are physical education and, all of which must be year-long courses. Most public California schools require between 22 and 26 year-long courses for graduation, so the state-required classes make up approximately 50-59 percent of the courses needed to graduate.¹⁹ As a result of this mandatory offset, very rarely would a school district have costs for the teachers’ salaries and benefits to provide any of the state-required courses, including the mandated second science course, that exceed the applicable 50-55 percent of their current cost of education. Thus, under section 42238.24, only after all of the specified state funds have been expended exclusively for the teachers’ salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers’ salaries and benefits costs be claimed for the mandated second science course

There are three funding sources identified in section 42238.24 that are required to be applied first to the salary and benefit costs of teachers providing the courses required by section 51225.3, and that must be offset from the *Graduation Requirements* program. The first is “the amount of state funding apportioned to the district pursuant to this article,” which refers to the article in which section 42238.24 appears (Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code, beginning with section 42238 et seq.). These code sections set forth a method for determining the state apportionments of general revenue to districts based upon computed revenue limits per unit of average daily attendance (ADA) less property tax revenues received.

The second source of funding identified addresses funding for county offices of education in Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1. However, the correct reference should be *Article 3* (and not “Article 2”) of Chapter 12 of Part 2 of Division 1 of Title 1 which, in 2010, included sections 2550-2558.6. These code sections, as they existed when section 42238.24 was enacted in 2010, prescribed a method of determining state apportionments of general revenue to county offices of education providing instructional services based generally on computed revenue limits per unit of ADA, less property tax revenues received, and included categorical funding for specific expenses.

¹⁷ Education Code section 41372(b).

¹⁸ Education Code 51225.3(a)(2) allows districts to impose “[o]ther coursework requirements adopted by the governing board of the school district” as a condition of high school graduation.

¹⁹ Exhibit L, California Department of Education, High School Graduation Frequently Asked Questions, <https://www.cde.ca.gov/ci/gs/hs/hsgrfaq.asp> (accessed April 6, 2021), page 1.

Education Code section 42238.24 also requires an offset of “the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.” Education Code section 42605, in 2010, stated that, “recipients of funds from the [specified 39 budget act] items may use funding received ... for any educational purpose.”²⁰ These budget act items were appropriations for categorical programs for fiscal years 2008-2009 through 2012-2013. Education Code section 42605 was repealed in 2013.²¹

Finally, Finance requests that the Commission include the following sentence in the Parameters and Guidelines: “State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372” as an offsetting revenue.²² Finance has not explained this request. However, based on the plain language of section 41372 and as analyzed in the Proposed Decision, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount designated by the county superintendent of schools as the deficiency shall be made “unavailable” to the district from the apportionments made to the district after April 15 of that fiscal year, unless an exemption is granted, and the designated amount not exempted shall be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year. In such a case, a school district will be required to first spend more (up to the full the amount of the deficiency) than 50 or 55 percent of their state funding on teacher salaries and benefits for the courses required by the state, including the science course mandated in the *Graduation Requirements* program, and would have a larger offset in the next fiscal year if the district failed to comply with the required expenditures identified in Education Code section 41732 and 42238.24 in the prior fiscal year.

Therefore, with the exception of EPA funding provided by article XIII, section 36 of the California Constitution (which is not offsetting revenue within the meaning of section 42238.24), the following funds are required by Education Code section 42238.24 to be identified as mandatory offsetting revenue, reducing any costs claimed for teachers’ salaries and benefits incurred for the *Graduation Requirements* program:

- For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teachers’ salaries and benefits costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teachers’ salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers’ salaries and benefits costs be claimed for the mandated second science course;

²⁰ Education Code section 42605, as amended by Statutes 2010, chapter 328.

²¹ Statutes 2013, chapter 47.

²² Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

- For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teachers' salaries and benefits costs for the (currently 13) state required courses, may any additional remaining teachers' salaries and benefits costs be claimed for the mandated second science course; and
- The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to *first* fund the teachers' salaries and benefits costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teachers' salaries and benefits costs for the (currently 13) state-required courses, may any additional remaining teachers' salaries and benefits costs be claimed for the mandated second science course.

D. Although the Parameters and Guidelines Should Reflect the Requirements of Education Code Section 42238.24, Finance's Proposed Language Is Overbroad and Inconsistent with the Plain Language of Education Code Section 42238.24.

Finance requests that Education Code section 42238.24 be identified as offsetting revenue, however, some of Finance's proposed language is overbroad and inconsistent with the plain language of section 42238.24.

Finance's request to include any funding "pursuant to Ed. Code §§ 42238 et seq." and "State funds provided pursuant to Ed. Code section 2550 et seq." as offsetting revenue does not track the plain language of Education Code section 42238.24 and is overly broad.

Furthermore, as phrased, the proposed language does not limit the required offset to teachers' salaries and benefits, but rather proposes to identify the above funding as general offsetting revenue for "the current expense of education."²³

Accordingly, this language is not added to the Parameters and Guidelines.

E. Staff Recommends that the Parameters and Guidelines Be Amended to Identify the Offsetting Revenues Required by Education Code Section 42238.24 For Teachers' Salaries and Benefits Costs, Beginning October 19, 2010.

Based on the above analysis, staff recommends that the Commission amend Section IX. of the Parameters and Guidelines as follows:

²³ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

Any offsetting revenues 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, federal, state, and block grants shall be identified and deducted from this claim.;

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

- †Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): by restricted resources as identified by the California Department of Education California School Accounting Manual;
 - A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the Graduation Requirements program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining for teacher salary and benefits costs be claimed for the mandated second science course;
 - B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the Graduation Requirements program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course; and
 - C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and

41372 to first fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is *not* offsetting revenue within the meaning of Education Code section 42238.24.²⁴

- ~~f~~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(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials; and 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(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; ~~and other state funds, shall be identified and deducted from this claim.~~

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the *Graduation Requirements* program from claims submitted for the period beginning October 19, 2010 January 1, 2005.~~

- 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.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the *Graduation Requirements* program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

In addition, other non-substantive amendments are made to the Parameters and Guidelines to reflect this Decision and to update the boilerplate language in Section IV. Period of Reimbursement.

²⁴ *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

Government Code section 17557(d)(1) establishes the period of reimbursement for parameters and guidelines amendments as follows:

A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, 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.*²⁵

Applying the statute to the instant case, Finance filed its Request for Parameters and Guidelines Amendment on July 25, 2011, “to reflect the addition of Education Code section 42238.24....”²⁶ The next claiming deadline was in February 2012 for fiscal year 2010-2011.²⁷ The filing date of July 25, 2011 is before the February 2012 claiming deadline for fiscal year 2010-2011, thus establishing “reimbursement eligibility for *that* fiscal year.” However, Education Code section 42238.24 was not in existence at the start of fiscal year 2010-2011, having become effective on October 19, 2010.²⁸ Accordingly, the Parameters and Guidelines Amendment requiring claimants to offset teachers’ salaries and benefits costs pursuant to Education Code section 42238.24 begins on the effective date of Education Code section 42238.24, October 19, 2010.

IV. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines Amendment to partially approve the Request for Parameters and Guidelines Amendment and authorize staff to make any technical, non-substantive changes to the Proposed Decision and Parameters and Guidelines Amendment following the hearing.

²⁵ Emphasis added.

²⁶ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 1.

²⁷ Government Code section 17560(a).

²⁸ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010.

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
 AMENDMENT FOR:

Education Code Section 51225.3; as
 Added by Statutes 1983, Chapter 498
 (SB 813);

As Alleged to be Modified by
 Education Code Section 42238.24;
 Statutes 2010, chapter 724 (AB 1610)

Filed on July 25, 2011

By the Department of Finance, Requester

Case No.: 11-PGA-03 (CSM-4181A)

Graduation Requirements

DECISION PURSUANT TO
 GOVERNMENT CODE SECTION
 17500, ET SEQ.; CALIFORNIA CODE
 OF REGULATIONS, TITLE 2,
 DIVISION 2, CHAPTER 2.5,
 ARTICLE 7.

(Adopted July 23, 2021)

DECISION

The Commission on State Mandates (Commission) heard and decided this Parameters and Guidelines Amendment (PGA) during a regularly scheduled hearing on July 23, 2021. [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] the Proposed Decision and Parameters and Guidelines Amendment by a vote of [vote count will be included in the adopted Decision], as follows:

| Member | Vote |
|---|-------------|
| Lee Adams, County Supervisor | |
| Keely Bosler, Director of the Department of Finance, Chairperson | |
| Jeannie Lee, Representative of the Director of the Office of Planning and Research | |
| Sarah Olsen, Public Member | |
| Spencer Walker, Representative of the State Treasurer | |
| Jacqueline Wong-Hernandez, Representative of the State Controller, Vice-Chairperson | |

I. Summary of the Mandate and Background

On January 22, 1987, the Commission adopted its Decision approving the *Graduation Requirements*, CSM 4181A, test claim. Education Code section 51225.3, as added by the test claim statute, Statutes 1983, chapter 498, increased the number of science courses required for high school graduation from one course to two courses. The Commission determined that the test claim statute constituted a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least one additional course in a biological or physical science before receiving a high school diploma.

The Commission adopted the Parameters and Guidelines March 23, 1988, and has amended them many times. As relevant to this request, the offset paragraph in the Parameters and Guidelines adopted in 1988 stated 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.²⁹

On December 9, 2005, the Commission amended the offset paragraph of the Parameters and Guidelines 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 the 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.” Thus, the offset paragraph was amended to add the following language as required by the 2004 statute: “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.”³⁰

The last amendment was adopted November 6, 2008 and corrected in December 18, 2008 for costs incurred beginning January 1, 2005. This amendment clarified that county offices of education are eligible claimants because they provide instructional services for certain groups of students; added a reasonable reimbursement methodology for claiming increased teacher salary costs; and identified categorical funding sources as offsetting revenues for teacher salary and material and supply costs.³¹ As last amended, the Parameters and Guidelines, Section IX. Offsetting Revenue and Other Reimbursements, specify as follows:

²⁹ Exhibit L, Parameters and Guidelines for *Graduation Requirements*, CSM 4181A, adopted March 23, 1988.

³⁰ Exhibit L, Proposed Parameters and Guidelines Amendment for *Graduation Requirements*, 04-PGA-30, adopted December 9, 2005.

³¹ Exhibit L, Revised Final Staff Analysis, Proposed Amendments to Parameters and Guidelines for *Graduation Requirements*, CSM 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05 as Modified by Staff, adopted November 6, 2008.

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues 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, 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 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. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005. 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.³²

On July 25, 2011, the Department of Finance (Finance) filed a Request for Parameters and Guidelines Amendment for the *Graduation Requirements* program to add Education Code section 42238.24 as offsetting revenue for teachers' salaries and benefits costs and to suggest other language changes. Education Code section 42238.24 became effective on October 19, 2010, and states the following:

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 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state 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.*³³

³² Exhibit B, Parameters and Guidelines Amendment, *Graduation Requirements*, CSM 4181A, 04-PGA-30, 05-PGA-05, 06-PGA-05, adopted December 18, 2008.

³³ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. (Emphasis added.)

The request was stayed pending resolution of *California School Boards Association v. State of California*. In that case, the California School Boards Association (CSBA) and several school districts challenged the constitutionality of Education Code section 42238.24 as an offset for the *Graduation Requirements* program, arguing that the state may not “‘identify pre-existing education funding as mandate payment’ but must instead allocate ‘additional funding’ to satisfy its mandate reimbursement obligation under article XIII B, section 6, and that the treatment of these funds as offsetting revenues ‘allows the State to eliminate a mandate obligation without actually providing any payment by simply identifying existing funding and designating it offsetting revenues.’”³⁴ Ultimately, the California Supreme Court, in 2019, found that the state does not violate article XIII B, section 6, or the separation of powers provision of the California Constitution when it directs the use of general education funding it already provides to school districts and county offices of education as offsetting revenue for the purpose of reimbursing state-mandated programs.³⁵

On February 1, 2021, the Alameda County Superior Court, on remand of *CSBA v. State of California*, resolved the remaining issues in the case by entering judgment following a stipulation of the parties that Education Protection Account (EPA) funding from Proposition 30 is not offsetting revenue under Education Code section 42238.24.³⁶ This judgment is binding on the Commission and is discussed in the analysis below.

In 2012, the Legislature adopted the mandate block grant system as an alternative to filing reimbursement claims with the State Controller’s Office (Controller).³⁷ Beginning in fiscal year 2013-2014, the *Graduation Requirements* program became part of the mandate block grant system.³⁸

II. Procedural History

On July 25, 2011, Finance filed a Request for Parameters and Guidelines Amendment.³⁹ On September 9, 2011, the Controller filed comments on Finance’s request, in which it proposed

³⁴ *CSBA v. State of California* (2019) 8 Cal.5th 713, 724-725; CSBA also included a challenge to Government Code section 17557(d)(2)(B), as amended in 2010 (Statutes 2010, chapter 719, SB 856), which allows a parameters and guidelines amendment 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.” The court found that Government Code section 17557(d)(2)(B) facially constitutional. *CSBA v. State of California* (2019) 8 Cal.5th 713, 730-732.

³⁵ *CSBA v. State of California* (2019) 8 Cal.5th 713, 726-730.

³⁶ Exhibit L, *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court Case No. RG11554698.

³⁷ Government Code section 17581.6(a), as added by Statutes 2012, chapter 38, effective June 27, 2012; amended by Statutes 2012, chapter 575, effective September 26, 2012.

³⁸ Former Government Code section 17581.6(e)(19) (as amended by Statutes 2013, chapter 48, effective July 1, 2013); currently at Government Code section 17581.6(f)(23).

³⁹ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011.

additional language.⁴⁰ On September 26, 2011, the Graduation Requirements Mandate Resolution Committee filed a request for postponement of the proceeding on the ground that Education Code section 42238.24 was the subject of a court challenge in *CSBA v. State of California*.⁴¹ On June 19, 2012, Commission staff placed the matter on inactive status pending the resolution of the court case. On December 19, 2019, the California Supreme Court issued its opinion in *CSBA v. State of California* (2019) 8 Cal.5th 713. On December 20, 2019, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion to the request. On April 17, 2020, Finance requested the matter be again placed on inactive status because of additional disputed issues on remand of *CSBA v. State of California*. On April 20, 2020, CSBA and the School Districts (San Jose Unified School District, Clovis Unified School District, Grossmont Union High School District, Poway Unified School District, Castro Valley Unified School District, and Fullerton Joint Union High School District) filed comments on the request.⁴² On April 24, 2020, Commission staff returned the matter to inactive status.

On February 1, 2021, judgment was entered in *CSBA v. State of California*, concluding the litigation.⁴³ On February 16, 2021, Commission staff removed the matter from inactive status and requested simultaneous comments on Finance's Request for Parameters and Guidelines Amendment and the application of the Court's opinion and judgment in *CSBA v. State of California*. On March 3, 2021, CSBA, Finance, and the School Districts filed comments.⁴⁴ On May 20, 2021, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment.⁴⁵ On June 7, 2021, Finance filed comments on the Draft Proposed

⁴⁰ Exhibit C, Controller's Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

⁴¹ The Committee consists of 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-LaMirada Unified School District, Poway Unified School District, and Sweetwater Union High School District.

⁴² Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020; Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

⁴³ Exhibit L, *CSBA v. State of California*, Judgement Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁴⁴ Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit G, Finance's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021; Exhibit H, School Districts' Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

⁴⁵ Exhibit I, Draft Proposed Decision and Parameters and Guidelines Amendment issued May 20, 2021.

Decision and Parameters and Guidelines Amendment.⁴⁶ On June 9, 2021, the Controller filed comments on the Draft Proposed Decision and Parameters and Guidelines Amendment.⁴⁷

III. Party Positions

A. Department of Finance, Requester

Finance filed a Request for Parameters and Guidelines Amendment pursuant to Government Code section 17557(d)(2)(B) for the *Graduation Requirements* program to include the offset identified in Education Code section 42238.24, and proposed the following language changes:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

~~Any offsetting revenues 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, 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 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. The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.~~

Any offsetting revenues 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 provided for the current expense of education, including but not limited to, federal, state, and block grants funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)) including total science teacher salary costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498),

⁴⁶ Exhibit J, Finance's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 7, 2021.

⁴⁷ Exhibit K, Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 9, 2021.

including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement:

- State funds apportioned to school districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372;
- State Funds provided pursuant to Ed. Code section 2550 et seq.;
- Funding provided in the annual Budget for any educational purpose as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009));
- 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);
- funds appropriated from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.);
- And other state and federal funds provided for instructional purposes.

The State Controller’s Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010.

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.⁴⁸

On March 3, 2021, Finance filed comments stating, “On February 1, 2021, the case was resolved in its entirety with the stipulation of the parties that Education Protection Account funds are not offsetting revenues under section 42238.24 for the Graduation Requirements mandate. Accordingly, the Parameters and Guidelines should be amended to include the requirements of section 42238.24.”⁴⁹ On June 7, 2021, Finance filed comments on the Draft Proposed Decision and Parameters and Guidelines Amendment concurring with the recommendation of Commission staff.⁵⁰

B. State Controller’s Office

On September 9, 2011, the Controller filed comments on Finance’s Request for Parameters and Guidelines Amendment. In its comments on the proposed amendment, the Controller concurred

⁴⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, pages 1-2.

⁴⁹ Exhibit G, Finance’s Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021.

⁵⁰ Exhibit J, Finance’s Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 7, 2021, page 1.

with the request and proposed some additional changes to the language. The Controller proposed deleting the reference to the Schiff-Bustamante Standards-Based Instructional Materials Program explaining that Education Code section 60450 et seq., the statutes which delineated the program, had been repealed effective January 1, 2004, thus there would be no further appropriation requiring offset. The Controller also proposed deleting, “The State Controller’s Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010,” noting that the Controller will amend the claiming instructions for fiscal year 2010-2011 to reflect the new offset for Education Code section 42238.24.⁵¹ The majority of the Controller’s proposed changes were to citation style, removing abbreviations in favor of complete words. On June 9, 2021, the Controller filed comments on the Draft Proposed Decision and Parameters and Guidelines Amendment concurring with Finance’s Request for Parameters and Guidelines Amendment.⁵²

C. California School Boards Association

On April 20, 2020, in response to the Commission’s First Request for Simultaneous Comment, CSBA filed comments on Finance’s Request for Parameters and Guidelines Amendment in light of the California Supreme Court’s decision in *CSBA v. State of California*. CSBA asserted that the language proposed by Finance is too broad and objected to any language that was outside the scope of Education Code section 42238.24 which only provides for two sources of offsetting revenue: “the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;” and, “the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.”⁵³ CSBA also argued that the funds provided through the EPA are not offsetting revenue because the California Constitution prohibits the use of those funds to pay costs incurred by the Legislature, Governor, or state agencies. CSBA reasoned that the use of the funds as offsetting revenue would violate a constitutional guarantee and the Parameters and Guidelines must state that EPA funds are not offsetting revenue.⁵⁴ Citing the California Supreme Court’s analysis of the legislative history of Education Code section 42238.24 that it would take effect *the next fiscal year*, CSBA concluded that the Parameters and Guidelines Amendment would take effect in

⁵¹ Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011, page 2.

⁵² Exhibit K, Controller’s Comments on the Draft Proposed Decision and Parameters and Guidelines Amendment, filed June 9, 2021, page 1.

⁵³ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 3-4, 6.

⁵⁴ Exhibit D, California School Boards Association’s Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 4-5.

fiscal year 2011-2012.⁵⁵ CSBA agreed with the deletion of the Schiff-Bustamante Standards-Based Instructional Materials Program as proposed by the Controller.⁵⁶ Finally, the CSBA included its own proposed offset language.⁵⁷

On March 3, 2021, CSBA filed comments in response to the Commission's Second Request for Simultaneous Comment on Finance's Request for Parameters and Guidelines Amendment in light of the California Supreme Court's decision and the superior court's judgment on the stipulation of the parties in *CSBA v. State of California*. CSBA reasserted all its prior arguments noting that the use of EPA funds as offsetting revenue was now resolved and the Parameters and Guidelines must reflect the exclusion of EPA funds.⁵⁸

D. School Districts

On April 20, 2020, in response to the Commission's First Request for Simultaneous Comment, the School Districts filed comments on Finance's Request for Parameters and Guidelines Amendment.⁵⁹ The School Districts incorporated and agreed with CSBA's comments asserting overbroad proposed language, the exclusion of EPA funds as offsetting revenue, and the effective date of fiscal year 2011-2012. The School Districts requested clarification regarding local bond funds as offsetting revenue.⁶⁰ Pointing to an audit by the Controller of the *Graduation Requirements* claim of Grossmont Union High School District where the Controller had characterized local bonds as state funds requiring an offset without any legal basis, the School Districts asserted that the plain language of the offset language in the Parameters and Guidelines excludes local bond funds, thus offsetting revenue should be limited to state and federal funds.⁶¹ Relying on the Commission's Revised Final Staff Analysis from the 2008 amendment to the *Graduation Requirements* Parameters and Guidelines, the School Districts argued that local bonds are the proceeds of taxes because the local bond funds are secured by the

⁵⁵ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, page 6, citing *CSBA v. State of California* (2019) 8 Cal.5th 713, 719.

⁵⁶ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, page 4, footnote 2.

⁵⁷ Exhibit D, California School Boards Association's Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, page 6.

⁵⁸ Exhibit F, California School Boards Association's Comments on the Commission's Second Request for Simultaneous Comment, filed March 3, 2021.

⁵⁹ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020.

⁶⁰ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, page 3.

⁶¹ Exhibit E, School Districts' Comments on the Commission's First Request for Simultaneous Comment, filed April 20, 2020, pages 3-4, 6.

ad valorem tax and, in any case, they may only be spent on voter-approved projects.⁶² The School Districts conclude that local bond funds cannot be reimbursement within the meaning of the offset language because the bonds are debt that must be repaid.⁶³

On March 3, 2021, the School Districts filed comments in response to the Commission’s Second Request for Simultaneous Comment. Again, the School Districts incorporated CSBA’s comments and reasserted their argument that local bond funds are not offsetting revenue.⁶⁴

IV. Discussion

A. The Commission’s Consideration of Finance’s Request for Parameters and Guidelines Amendment Is Limited, Pursuant to Section 1183.17 of the Commission’s Regulations, to the Offset Requirements in Section 42238.24, and Does Not Include Finance’s Other Proposed Changes Which Were Submitted Without Explanation for Why They Are Required.

At the time Finance filed this request in 2011, and as the law exists today, all requests to amend parameters and guidelines must include the proposed language and “a narrative explaining why the amendment is required.”⁶⁵

As indicated above, Finance filed the Request for Parameters and Guidelines Amendment to include the offset identified in Education Code section 42238.24 with respect to teacher salary costs. However, Finance’s proposed language does more than simply add the offset language in Education Code section 42238.24. Finance proposes the following changes to the offsetting revenue paragraph in the Parameters and Guidelines, including changes relating to material and supply costs:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS



- ~~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~~

⁶² Exhibit E, School Districts’ Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 5-6.

⁶³ Exhibit E, School Districts’ Comments on the Commission’s First Request for Simultaneous Comment, filed April 20, 2020, pages 5-6.

⁶⁴ Exhibit H, School Districts’ Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021.

⁶⁵ California Code of Regulations, title 2, former section 1183.2 (as amended by Register 2010, No. 44); currently in section 1183.17(a).

~~mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies;~~

- ~~And other state and federal funds provided for instructional services, shall be identified and deducted from this claim.⁶⁶~~

Finance, however, has not provided “a narrative explaining why the[se] amendment[s] [are] required” in accordance with the Commission’s regulations. Therefore, the Commission will not consider the above proposed language.

B. Proposed Changes to the Parameters and Guidelines Made in the Comments Filed by the School Districts and the Controller Regarding Local Bond Funds and Instructional Material Funding Go Beyond Finance’s Request and Have Not Been Pled in a Request for Parameters and Guidelines Amendment. Therefore, These Proposed Changes Are Not Properly Before the Commission.

As indicated above, the School Districts and the Controller have requested additional amendments to the Parameters and Guidelines in their comments on Finance’s request. Specifically, the School Districts request that the Parameters and Guidelines be amended to clarify that *local* bond funds not be identified and deducted as offsetting revenue.⁶⁷ The Controller requests amendments to the instructional materials funding identified as offsetting revenue in the Parameters and Guidelines.⁶⁸

These requests go beyond the scope of Finance’s Request for Parameters and Guidelines Amendment and cannot be considered without these parties filing a request for Parameters and Guidelines Amendment. California Code of Regulations, title 2, section 1183.17(c) states the following:

The addition or substitution of requesters and supporting declarations based on the original facts alleged in an existing parameters and guidelines amendment request is not an “amendment.” *However, new proposals for amendments must be filed as a new parameters and guidelines amendment request.*⁶⁹

Although the School Districts and the Controller propose language changes that go beyond the scope of Finance’s request, they have not filed a request for parameters and guidelines amendment. Therefore, these proposed changes are not properly before the Commission and the Commission cannot consider them as part of this item.

⁶⁶ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

⁶⁷ Exhibit H, School Districts’ Comments on the Commission’s Second Request for Simultaneous Comment, filed March 3, 2021.

⁶⁸ Exhibit C, Controller’s Comments on the Request for Parameters and Guidelines Amendment, filed September 9, 2011.

⁶⁹ California Code of Regulations, title 2, former section 1183.2 (as amended by Register 2010, No. 44); currently in section 1183.17(c). Emphasis added.

C. Education Code Section 42238.24 Requires That the Proportion of the School District’s Current Expense of Education That Is Required To Be Expended on Salaries of Classroom Teachers Shall First Fund the Salary and Benefit Costs of High School Teachers Teaching State-Required Courses for High School Graduation, Pursuant to Education Code Section 51225.3(a)(1), Including the Second Science Course Mandated by Education Code Section 51225.3(a)(1)(C) Before Funding Other Educational Expenses.

Education Code section 42238.24 provides as follows:

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 *shall be offset by the amount of state funding apportioned to the district* pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, *and the amount of state 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.*⁷⁰

The plain language of section 42238.24 requires that the costs relating to the salaries and benefits of teachers to provide the courses required by 51225.3 shall be offset by specified state funding. The last sentence of Education Code section 42238.24 requires that “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.” Section 41372(b) requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to expend 55 percent, of their “current expense of education” on the salaries of all classroom teachers for grades 9 through 12. The “current expense of education” is defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.⁷¹ Thus, Education Code section 42238.24 imposes an additional requirement on districts to *first* fund the salary and benefit costs of high school teachers teaching the courses required by Education Code section 51225.3 from the 50 and 55 percent allocation of state funding apportioned to the district before funding other educational expenses (i.e., the costs of teachers teaching the courses required by the governing boards of local districts; and the remaining current expenses of education, including salaries and benefits of classified employees, and the cost for replacement books, supplies, and equipment).⁷²

⁷⁰ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

⁷¹ Education Code section 41372(b).

⁷² Education Code 51225.3(a)(2) allows districts to impose “[o]ther coursework requirements adopted by the governing board of the school district” as a condition of high school graduation.

The courses specified in Education Code section 51225.3(a)(1) include the additional science course mandated in the *Graduation Requirements* program in subdivision (a)(1)(C), but also other courses required by state law for high school graduation. Education Code section 51225.3(a)(1), states the following:

- a) A pupil shall complete all of the following while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified:
 - (A) Three courses in English.
 - (B) Two courses in mathematics. . .
 - (C) Two courses in science, including biological and physical sciences.
 - (D) Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics.
 - (E) One course in visual or performing arts or foreign language. For the purposes of satisfying the requirement specified in this subparagraph, a course in American Sign Language shall be deemed a course in foreign language.
 - (F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

The courses identified above include the 13 minimum general education classes required, two of which are physical education and, all of which must be year-long courses. Most public California schools require between 22 and 26 year-long courses for graduation, so the state-required classes make up between approximately 50-59 percent of the courses needed to graduate.⁷³

Thus, under section 42238.24, the costs incurred for teachers' salaries and benefits to provide all the courses above, including the additional science course mandated by the state, shall be offset by the amount of state funding" specified in the statute. For purposes of the *Graduation Requirements* program, this state funding to fund the teachers' salaries and benefits costs for the second science course mandated by 51225.3(a)(1)(C) shall be identified as offsetting revenue. Only if the amount of funding provided pursuant to the specified articles is insufficient to fund all of the teacher salaries and benefits to provide the state-required courses specified in Education Code section 51225.3(a)(1) is subvention required. Then, after all of these funds have been allocated to the state required courses any remaining costs for teachers' salaries and benefits for the *Graduation Requirements* program would be reimbursable. Given that Education Code section 41372(b) requires high school districts (except small districts as specified in Education Code section 41374) to expend 50 percent, and unified school districts to

⁷³ Exhibit L, California Department of Education, High School Graduation Frequently Asked Questions, <https://www.cde.ca.gov/ci/gs/hs/hsgrfaq.asp> (accessed April 6, 2021), page 1.

expend 55 percent, of their “current expense of education” on the salaries of classroom teachers for grades 9 through 12 and first expend those costs for the required courses, it is highly unlikely that a district would ever have remaining costs for teachers’ salaries and benefits for the mandated program as long as funding levels remain at or above their current levels and new state-required courses are not added.

There are three funding sources identified in section 42238.24 that are required to be applied first to the salary and benefit costs of teachers teaching the courses required by section 51225.3, and that must be offset from the *Graduation Requirements* program: (1) “the amount of state funding apportioned to the district pursuant to this article;” (2) in the case of a county office of education, the state funding apportioned “pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1;” and (3) “the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.”

“[T]he amount of state funding apportioned to the district pursuant to this article” refers to the article in which section 42238.24 appears (Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code beginning with section 42238 et seq.), which sets forth a method for determining the state apportionments of general revenue to districts based upon computed revenue limits per unit of average daily attendance (ADA) less property tax revenues received.⁷⁴ In addition, at the time section 42238.24 was enacted, several code sections provided categorical funding for specific expenses and programs.⁷⁵ The California Department of Education (CDE) describes revenue limit funding as follows:

[E]ach 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.⁷⁶

Revenue limit funding for districts was replaced by the Local Control Funding Formula (LCFF) in 2013-2014.⁷⁷ According to CDE,

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

⁷⁴ Education Code sections 42238-42250.1; California Code of Regulations, title 2, section 15370.

⁷⁵ Education Code sections 42238.15, as amended by Statutes 1993, chapter 58 (adjustments for special education, child care, instructional materials, regional occupational programs, school improvement programs, economic impact aid, staff development, and gifted and talented education); 42238.18, as amended by Statutes 1998, chapter 125 (juvenile court and community schools).

⁷⁶ Exhibit L, California Department of Education, LCFF Frequently Asked Questions, <https://www.cde.ca.gov/fg/aa/lc/lcfaq.asp#FC> (accessed April 6, 2021), page 1.

⁷⁷ Education Code sections 42238.01- 42238.07, as added by Statutes 2013, chapter 47, section 28, eff. July 1, 2013. These code sections have been amended several times, with the last amendment by Statutes 2020, chapter 24.

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.⁷⁸

For districts, the LCFF provides a rate based on the ADA in four grade spans (the base rate), adjusted for early elementary and high school base rates, and provides supplemental or concentration funding for English learners and low income students.⁷⁹

With respect to county offices of education, Education Code section 42238.24 refers to “Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1.” However, the correct reference should be *Article 3* (and not “Article 2”) of Chapter 12 of Part 2 of Division 1 of Title 1 which, in 2010, included sections 2550-2558.6.⁸⁰ These code sections, as they existed when section 42238.24 was enacted in 2010, prescribed a method of determining state apportionments of general revenue to county offices of education providing instructional services based generally on computed revenue limits per unit of ADA, less property tax revenues received, and included categorical funding for specific expenses.

Beginning in 2013-2014, the LCFF was also established for county offices of education pursuant to Education Code section 2574.⁸¹ Section 2574 provides an alternative education grant for the instructional programs provided by county offices of education, which is calculated using the per pupil revenue limit formula in Education Code section 2550 et seq.⁸² County offices of education are also entitled to supplemental and concentration grants, calculated under the regulations required for districts by Education Code section 42238.07.⁸³

In addition to the statutory changes to funding, in 2012, the voters approved Proposition 30 which added The Schools and Local Public Safety Protection Act of 2012 to the California Constitution in article XIII, section 36.⁸⁴ Derived from a temporary tax increase imposed on retailers in 2013, the Act created in the state general fund the Education Protection Account

⁷⁸ Exhibit L, California Department of Education, LCFF Frequently Asked Questions, <https://www.cde.ca.gov/fg/aa/lc/lcfffaq.asp#FC> (accessed April 6, 2021), page 1.

⁷⁹ Exhibit L, Legislative Analyst’s Office, An Overview of the Local Control Funding Formula (2013), <https://lao.ca.gov/reports/2013/edu/lcff/lcff-072913.pdf> (accessed April 6, 2021).

⁸⁰ Although Section 42238.24 refers to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 - Article 2 is entitled “Tax Override for Outdoor Science and Conservation Program”, which did not commence with section 2550 (instead it commenced with section 2520) and was repealed by Statutes 1980, chapter 1208, some thirty years prior to enactment of Section 42238.24. Instead, Article 3. “Computation of Revenue Limits” of Chapter 12 of Part 2 of Division 1 of Title 1 commenced with section 2550 when section 42238.24 was enacted.

⁸¹ Education Code section 2574 was added by Statutes 2013, chapter 47.

⁸² Education Code section 2574(c)(1). Education 2574(a) also provides LCFF for the counties’ oversight responsibilities, which are *not* at issue in the *Graduation Requirements* program.

⁸³ Education Code section 2574(c)(2), (3).

⁸⁴ Proposition 30 of 2012.

(EPA) to provide new general purpose, unrestricted educational funding.⁸⁵ The EPA funds may not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government; the recipients — community college districts, county offices of education, school districts, and charter schools — have sole authority to determine how the EPA funds are spent.⁸⁶ EPA funding is required to be provided in proportion to the revenue limits calculated, for districts, pursuant to Education Code section 42238, and for county offices of education, pursuant to section 2558, as they both read on November 6, 2012.⁸⁷ As indicated in the judgment in *CSBA v. State of California*, EPA funding from Proposition 30 is *not* offsetting revenue under Education Code section 42238.24.⁸⁸

Education Code section 42238.24 also identifies a third source of funding to be offset as follows: “[c]osts 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 shall be offset by . . . the amount of state funding received from any of the items listed in Section 42605 that are contained in the annual Budget Act.” Section 42605 of the Education Code, in 2010, stated that, “recipients of funds from the [specified 39 budget act] items may use funding received . . . for any educational purpose.”⁸⁹ These budget act items were appropriations for categorical programs, and for fiscal years 2008-2009 through 2012-2013, districts and county offices of education were authorized to use the former categorical program funds in the list “for any educational purpose.” Education Code section 42238.24 now requires districts to use these funds for the “costs related to the salaries and benefits of teachers incurred . . . to provide the courses specified in paragraph (1) of subdivision (a) of Section 51225.3” and to identify the funds used from section 42605 for the *Graduation Requirements* mandate as offsetting revenue. Education Code section 42605 was repealed in 2013.⁹⁰

Finally, Finance requests that the Commission include the following sentence in the Parameters and Guidelines: “State funds apportioned to districts and county offices of education from the State School Fund pursuant to Ed. Code section 41372” as an offsetting revenue.⁹¹ Finance has not explained this request. However, as shown in the analysis below, section 41372 does not provide a new source of funding as offsetting revenues. Nevertheless, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount of the deficiency shall be withheld by the county superintendent of schools from the apportionments made to a district after April 15 for the current fiscal year and added to the next

⁸⁵ California Constitution, article XIII, section 36(f).

⁸⁶ California Constitution, article XIII, section 36(e)(5)-(6).

⁸⁷ California Constitution, article XIII, section 36(e)(3)(B), as amended by Proposition 55, approved Nov. 8, 2016, eff. Nov. 9, 2016.

⁸⁸ Exhibit L, *CSBA v. State of California*, Judgement Following Stipulation, Alameda County Superior Court Case No. RG11554698.

⁸⁹ Education Code section 42605, as amended by Statutes 2010, chapter 328.

⁹⁰ Statutes 2013, chapter 47.

⁹¹ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

fiscal year for the district to spend on teacher salaries and benefits, increasing the amount of the offsetting revenues for that next fiscal year, unless an exemption is granted.

As explained above, Education Code section 42238.24 identifies the following three sources of funds as offsetting revenues: the state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (beginning with section 42238 et seq.); the state funding apportioned to county offices of education pursuant to Article 3 (commencing with Section 2550); and the state funding apportioned pursuant to Education Code section 42605. Education Code section 42238.24 then references section 41372 and directs school districts to *first* expend, from the state funding identified in the first sentence, the required percentages of the current expense of education (either 50 or 55 percent) on the teacher salary costs incurred to provide the courses required by the state. This is shown in the italicized language of Education Code section 42238.24 below.

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 shall be offset by the amount of state funding apportioned to the district pursuant to this article, or in the case of a county office of education pursuant to Article 2 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, and the amount of state 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.*⁹²

For purpose of background, the funds appropriated by the Legislature pursuant to Article 2, Article 3, and section 42605 are transferred to the State School Fund for allocation by the Controller.⁹³ Several times a year, the Controller is required to draw warrants from the State School Fund in favor of the county treasurer of each county in the amounts certified by the Superintendent of Public Instruction to the school districts under the jurisdiction of the county superintendent of schools of that county.⁹⁴ All moneys received by the treasurer of any county from the apportionments of the State School Fund shall be immediately credited by the treasurer to the school districts of the county exactly as apportioned by the Superintendent of Public Instruction.⁹⁵ The county superintendent of schools has the responsibility to maintain the fiscal oversight of each school district in his or her county.⁹⁶ As part of this responsibility, the county superintendent of schools is required to audit the funds of each local educational agency each May, and verify how the funds were expended.⁹⁷ As required by section 41372, 50 or 55 percent

⁹² Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010. Emphasis added.

⁹³ Education Code sections 14002, 14002.05.

⁹⁴ Education Code section 14041.

⁹⁵ Education Code section 14043.

⁹⁶ Education Code section 1240.

⁹⁷ Education Code section 41020.

of the current expense of education shall be expended on teacher salaries and benefits, and section 42238.24 requires that the districts first pay the salaries and benefits of the teachers teaching the courses required by the state.

Pursuant to Education Code section 41372, if the county superintendent of schools having jurisdiction over the district determines, on the basis of an audit conducted pursuant to Education Code section 41020, that a school district has *not* expended the required percentage of the current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, the county superintendent of schools shall, “in the apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of this apportionment or apportionments equal to the apparent deficiency in district expenditures.” Any amount designated by the county superintendent of schools “shall be deposited in the county treasury to the credit of the school district, but shall be *unavailable* for expenditure by the district” pending the determination to be made by the county superintendent of schools on any application for exemption which may be submitted to the county superintendent of schools. If the exemption is granted by the county superintendent of schools, the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the county superintendent of schools shall order the designated amount or amount not exempted to be *added* to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

Accordingly, if a district fails to first expend 50 or 55 percent of their “current expense of education” on the salaries and benefits of teachers providing the courses required by state law for high school graduation, the amount designated by the county superintendent of schools as the deficiency shall be “unavailable” to the district from the apportionments made to the district after April 15 of that fiscal year, unless an exemption is granted, and the designated amount not exempted shall be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year. In such a case, a school district will be required to first spend the amount designated in addition to the 50 or 55 percent of the current expense of education on teacher salaries and benefits for the courses required by the state, including the science course mandated in the *Graduation Requirements* program, and will have a larger offset in a fiscal year if the district failed to comply with the required expenditures identified in Education Code section 41732 and 42238.24 in the prior fiscal year.

Therefore, with the exception of EPA funding provided by article XIII, section 36 of the California Constitution (which is not offsetting revenue within the meaning of section 42238.24), the following funds are required by Education Code section 42238.24 to be identified as offsetting revenue, reducing any costs claimed for teacher salary and benefit costs incurred for the *Graduation Requirements* program:

- For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for

the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course;

- For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course; and
- The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to *first* fund the teacher salary and benefit costs incurred for all 13 state required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

D. Although the Parameters and Guidelines Should Be Amended to Reflect the Requirements of Education Code Section 42238.24, Finance’s Proposed Language Is Overbroad and Inconsistent with the Plain Language of Education Code Section 42238.24.

Finance proposes the following language:

IX. OFFSETTING REVENUES AND OTHER REIMBURSEMENTS

Any offsetting revenues 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 provided for the current expense of education, including but not limited to, federal, state, and block grants funding listed below, and pursuant to Ed. Code §§ 42238 et seq. (as amended by Stats. 2010, ch. 724, (AB 1610, § 16, eff. Oct. 19, 2010)) including total science teacher ~~salary~~ costs and indirect costs of providing the second science course, and materials costs of supplying the second science course, as required by Ed. Code section 51225.3 (as amended by Stats. 1983, ch. 498), ~~including related indirect costs,~~ that are funded by restricted resources as identified by the California Department of Education California School Accounting Manual, shall be identified and deducted from this claim for reimbursement: ;

[¶]

- State Funds provided pursuant to Ed. Code section 2550 et seq.
- Funding provided in the annual Budget for any educational purpose as specified in Ed. Code § 42605, (added by Stats. 2009, Third Extraordinary Session, ch. 12, (SB 4, § 15, eff. Feb. 20, 2009));

¶¶⁹⁸

Finance’s request to identify any funding “pursuant to Ed. Code §§ 42238 et seq.” as offsetting revenue misconstrues Education Code section 42238.24. As explained above, Education Code section 42238.24 refers specifically to “this article” — Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2. The proposed language does not track the plain language of Education Code section 42238.24 and is overly broad.

Similarly, Finance’s request to include “State funds provided pursuant to Ed. Code section 2550 et seq.” as offsetting revenue is inconsistent with the plain language of Education Code section 42238.24. As explained above, Education Code section 42238.24 requires that costs be offset pursuant to Article 3 “(commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1.”

Furthermore, as phrased, the proposed language does not limit the required offset to teachers’ salaries and benefits, but rather proposes to identify the above funding as general offsetting revenue for “the current expense of education.” As indicated above, the “current expense of education” is defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment.⁹⁹ Education Code section 42238.24, however, limits the offsetting revenues to teacher salaries and benefits as follows: “[c]osts 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 shall be offset by the amount of state funding apportioned to the district . . .”

Accordingly, this proposed language is overbroad and inconsistent with law, is not included in the Parameters and Guidelines.

E. The Parameters and Guidelines Are Amended to Identify the Offsetting Revenues Required by Education Code Section 42238.24 For Teacher Salary and Benefit Costs, Beginning October 19, 2010.

Based on the above analysis, the Commission amends Section IX. of the Parameters and Guidelines as follows:

Any offsetting revenues 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, federal, state, and block grants shall be identified and deducted from this claim.;

⁹⁸ Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 2.

⁹⁹ Education Code section 41372(b).

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

- ~~†~~Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): by restricted resources as identified by the California Department of Education California School Accounting Manual;
 - A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
 - B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
 - C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits

costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is *not* offsetting revenue within the meaning of Education Code section 42238.24.¹⁰⁰

- ~~f~~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(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials; and 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(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim.

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 January 1, 2005.~~

- 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.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

In addition, other non-substantive amendments are made to the Parameters and Guidelines to reflect this Decision and to update the boilerplate language in Section IV. Period of Reimbursement.

Government Code section 17557(d)(1) establishes the period of reimbursement for parameters and guidelines amendments as follows:

A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, 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.*¹⁰¹

¹⁰⁰ CSBA v. State of California, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

¹⁰¹ Emphasis added.

Applying the statute to the instant case, Finance filed a Request for Parameters and Guidelines Amendment on July 25, 2011, “to reflect the addition of Education Code section 42238.24....”¹⁰² The next claiming deadline was in February 2012 for fiscal year 2010-2011.¹⁰³ The filing date of July 25, 2011, is before the claiming deadline thus establishing “reimbursement eligibility for *that* fiscal year,” fiscal year 2010-2011. However, Education Code section 42238.24 was not in existence at the start of fiscal year 2010-2011, having become effective on October 19, 2010.¹⁰⁴ Accordingly, the Parameters and Guidelines Amendment requiring claimants to offset teachers’ salaries and benefits costs pursuant to Education Code section 42238.24 begins October 19, 2010.

V. Conclusion

Based on the foregoing, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines Amendment.

Adopted: 03/23/88
Amended: 08/24/88
Amended: 01/24/91
Amended: 12/09/05
Amended: 11/6/08
Corrected: 12/18/08
Amended: 07/23/21

PARAMETERS AND GUIDELINES AMENDMENT

(CSM 4181 A, ~~11-PGA-0304~~ ~~PGA-30, 05~~ ~~PGA-05, 06~~ ~~PGA-05~~)

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements

EFFECTIVE FOR REIMBURSEMENT CLAIMS FOR INCREASED COSTS BEGINNING OCTOBER 19, 2010 JANUARY 1, 2005

I. SUMMARY OF THE MANDATE

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.

II. ELIGIBLE CLAIMANTS

¹⁰² Exhibit A, Request for Parameters and Guidelines Amendment, filed July 25, 2011, page 1.

¹⁰³ Government Code section 17560(a).

¹⁰⁴ Statutes 2010, chapter 724 (AB 1610), effective October 19, 2010.

The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

III. PARAMETERS AND GUIDELINES AMENDMENT

~~The parameters and guidelines amendment adopted on November 6, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, to replace the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. The parameters and guidelines amendment also clarifies the activities of supplying the new science class, acquiring and remodeling additional space, and acquiring additional equipment, which may be claimed using the actual cost claiming method. Finally, this parameters and guidelines amendment adds language regarding the reimbursement of teacher salary costs to Section X, Offsetting Savings, consistent with the court's ruling in *San Diego Unified School District v. Commission on State Mandates*, Sacramento County Superior Court Case No. 03CS01401; and identifies funds appropriated from restricted resources specifically to pay teacher salary costs and instructional materials in Section IX, Offsetting Revenue and Other Reimbursements.~~

On July 25, 2011, the Department of Finance filed the Request for Parameters and Guidelines Amendment to identify offsetting revenues for teacher salary and benefit costs pursuant to Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610). On July 23, 2021, following a stay of this matter pending the outcome of litigation in *California School Boards' Association (CSBA) v. State of California*,¹⁰⁵ the Commission adopted a Decision to amend Section XI., Offsetting Revenue and Other Reimbursements, to incorporate the requirements of Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610) for teacher salary and benefit costs incurred beginning October 19, 2010. These parameters and guidelines have been amended in accordance with that Decision.

IV. PERIOD OF REIMBURSEMENT

The period of reimbursement for this parameters and guidelines amendment begins on January 1, 2005 October 19, 2010.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

¹⁰⁵ *CSBA v. State of California* (2019) 8 Cal.5th 713; Judgment Following Stipulation (on remand), Alameda County Superior Court, Case No. RG11554698.

4. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs incurred for that fiscal year.
5. If revised claiming instructions are issued by the State Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
6. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
7. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

~~Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:~~

- ~~1. A school district may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.~~
- ~~2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.~~

~~Reimbursable actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

~~There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.~~

V. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the

reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

- A. Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space necessary for the mandated additional year of science instruction, 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.
- B. Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for the mandated additional year of science instruction.
- C. Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction essential to maintaining a level of instruction sufficient to meet college admission requirements.
- D. Increased cost to school district for staffing the new science class mandated. Reimbursement for this activity is based on the reasonable reimbursement methodology identified in Section XII of these parameters and guidelines.

Reimbursement is not required for other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants).

- E. Increased cost for supplying the new science class mandated with science instructional materials (textbooks, materials, and supplies).

VI. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section V. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VII. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY (Teacher Salary Costs)

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, ~~subdivision (b)~~, and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514.
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.

- (5) An interested party.
2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

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.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VIII. RECORD RETENTION

A. Actual Costs

Pursuant to Government Code section 17558.5, ~~subdivision~~ (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹⁰⁶ is subject to the

¹⁰⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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. All documents used to support the reimbursable activities, as described below, must be retained during the period subject to audit. 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.

For this program, supporting documentation shall include the following:

1. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
2. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.
3. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.
4. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.
5. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.

B. 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 chapter¹⁰⁷ 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.

¹⁰⁷ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

IX. OFFSETTING REVENUES AND ~~OTHER REIMBURSEMENTS~~

Any offsetting revenues 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 applicable state funds, federal, state, and block grants shall be identified and deducted from any claim submitted for reimbursement.;

The following offsetting revenues are specifically identified for this program and shall be identified and deducted from this claim:

- †Total science teacher salary and benefit costs, including related indirect costs, that are funded from the following sources as required by Education Code section 42238.24 (Stats. 2010, ch. 724, AB 1610): by restricted resources as identified by the California Department of Education California School Accounting Manual;
 - A. For school districts, the amount of state funding apportioned pursuant to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code (commencing with section 42238 et seq.) for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.
 - B. For county offices of education, the amount of state funding apportioned pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code for the courses specified by Education Code section 51225.3(a)(1) and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the *Graduation Requirements* program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required

courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

C. The amount of state funding received from any of the items listed in Education Code section 42605 from fiscal years 2008-2009 through 2012-2013 and required by Education Code sections 42238.24 and 41372 to first fund the teacher salary and benefit costs incurred for all 13 state-required courses, which are used for the second science course mandated in the Graduation Requirements program by Education Code section 51225.3(a)(1)(C) (as amended by Stats. 1983, ch. 498). These funds are a mandatory offset and only after all of these funds have been expended exclusively for the teacher salary and benefits costs for the (currently 13) state required courses, may any additional remaining teacher salary and benefits costs be claimed for the mandated second science course.

Education Protection Account funding provided by article XIII, section 36 of the California Constitution is *not* offsetting revenue within the meaning of Education Code section 42238.24.¹⁰⁸

- ~~f~~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(a)(1)(C) (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(a)(1)(C) (as amended by Stats. 1983, ch. 498) with instructional materials and supplies; and other state funds, shall be identified and deducted from this claim.

~~The State Controller's Office (SCO) will adjust the claims for any prior reimbursements received for the Graduation Requirements program from claims submitted for the period beginning January 1, 2005.~~

- 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.

The State Controller's Office (Controller) will adjust the claims for any prior reimbursements received for the *Graduation Requirements* program from claims submitted for the period beginning October 19, 2010 (the period of reimbursement for this amendment).

X. 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.

¹⁰⁸ *CSBA v. State of California*, Judgment Following Stipulation, Alameda County Superior Court, Case No. RG11554698.

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)~~.

XI. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, ~~subdivision (c)~~, the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than ~~60~~ 90 days after receiving the amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The ~~revised~~ claiming instructions shall be derived from the ~~test claim~~ decisions on the test claim and the ~~amended~~ parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, ~~subdivision (d)(2)~~, issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the amended parameters and guidelines adopted by the Commission.

XII. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, ~~subdivision (d)~~, and California Code of Regulations, title 2, section 1183.17 ~~1183.2~~.

XIII. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines and amendments thereto ~~are Statement of Decision~~ is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record ~~for the test claim~~. The administrative record, ~~including the Statement of Decision~~, is on file with the Commission.

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 July 7, 2021, I served the:

- **Proposed Decision and Parameters and Guidelines Amendment issued July 7, 2021**

Graduation Requirements, 11-PGA-03 (CSM-4181A)
Education Code Section 51225.3; as Added by Statutes 1983, Chapter 498 (SB 813);
As Alleged to be Modified by Education Code Section 42238.24;
Statutes 2010, Chapter 724 (AB 1610)
Department of Finance, Requester

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 July 7, 2021 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: 7/1/21

Claim Number: 11-PGA-03

Matter: Graduation Requirements (CSM-4181A)

Requester: Department of Finance

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*

Requester Representative/Requester Contact

Education Systems Unit, 915 L Street, 7th Floor, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Associate General Counsel, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3266

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@comcast.net

Keith Bray, General Counsel/Chief of Staff, *California School Boards Association*

3251 Beacon Blvd, West Sacramento, CA 95691

Phone: (916) 669-3273

kbray@csba.org

Mike Brown, *School Innovations & Advocacy*
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

Guy Burdick, *Consultant, MGT Consulting*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 833-7775
gburdick@mgtconsulting.com

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

Evelyn Calderon-Yee, *Bureau Chief, State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Carolyn Chu, *Senior Fiscal and Policy Analyst, Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.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

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

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

Juliana Gmur, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
juliana.gmur@csm.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

Chris Hill, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

Tiffany Hoang, Associate Accounting Analyst, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 323-1127
THoang@sco.ca.gov

Jason Jennings, Director, *Maximus Consulting*
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (804) 323-3535
SB90@maximus.com

Angelo Joseph, Supervisor, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 323-0706
AJoseph@sco.ca.gov

Christian Keiner, *Dannis Woliver Kelley*
2087 Addison Street, 2nd Floor, Berkeley, CA 94704
Phone: (510) 345-6000
ckeiner@dwkesq.com

Doug Kimberly, Superintendent, *Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7000
Doug.Kimberly@leusd.k12.ca.us

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

Lisa Kurokawa, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

Audin Leung, Student Leader, *Free the Period California*
1 Shield Ave, Pierce Co-op TB14, Davis, CA 95616
Phone: (415) 318-9343
freetheperiod.ca@gmail.com

Everett Luc, Accounting Administrator I, Specialist, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0766
ELuc@sco.ca.gov

Jill Magee, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

Darryl Mar, Manager, *State Controller's Office*
3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 323-0706
DMar@sco.ca.gov

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

Lourdes Morales, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

Marilyn Munoz, Senior Staff Counsel, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 628-6028
Marilyn.Munoz@dof.ca.gov

Melissa Ng, Staff Finance Budget Analyst, *Department of Finance*
915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Melissa.Ng@dof.ca.gov

Michelle Nguyen, *Department of Finance*
Education Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Michelle.Nguyen@dof.ca.gov

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

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

Ned Resnikoff, Fiscal & Policy Analyst, K-12, *Legislative Analysts' Office*
925 L Street, Suite 1000, Sacramento, CA 95816
Phone: (916) 319-8332
Ned.Resnikoff@lao.ca.gov

Sandra Reynolds, President, *Reynolds Consulting Group, Inc.*

P.O. Box 891359, Temecula, CA 92589-1359
Phone: (888) 202-9442
rcginc19@gmail.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) 323-3562
carla.shelton@csm.ca.gov

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

Natalie Sidarous, Chief, *State Controller's Office*
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: 916-445-8717
NSidarous@sco.ca.gov

Joe Stephenshaw, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.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

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

William Tunick, Attorney, *Dannis Woliver Kelley*
2087 Addison Street, 2nd Floor, Berkeley, CA 94704
Phone: (510) 345-6000
wtunick@dwkesq.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

Michelle Valdivia, *Department of Finance*
Education Systems Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Michelle.valdivia@dof.ca.gov

Marichi Valle, *San Jose Unified School District*
855 Lenzen Avenue, San Jose, CA 95126

Phone: (408) 535-6141
mvalle@sjusd.org