BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Government Code Section 54952 Statutes of 1993, Chapter 1138 Education Code Section 35 147 Statutes of 1994, Chapter 239 Filed on December 26 1995 By Kern High School District, Claimant, and Consolidated on September 9, 1998 with Portions of CSM 4469 By Kern High School District, San Diego Unified School District, and County of Santa Clara, Claimants	No. CSM 4501 and Portions of CSM 4469 Relating to Government Code Section 54952 *School Site Councils and Brown Reform Act* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ. ; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7 *(Adopted on April 27, 2000)*

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on April 27, 2000.

Paula Higashi

Paula Higashi, Executive Director

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STATEMENT OF DECISION

This test claim was heard by the Cornmission on State Mandates (Commission) on February 27, 1997, March 27, 1997, November 30, 1999 and March 30, 2000.

The following parties appeared at the February 27, 1997 hearing: Mr. Ron Fontaine appeared on behalf of claimant, Kern High School District, Mr. Keith Petersen appeared on behalf of Education Mandated Cost Network, Mr. Leonard Kaye appeared on behalf of the County of Los Angeles, Mr. Allen Burdick appeared on behalf of California State Association of Counties, Ms. Marcia Faulkner appeared on behalf of the County of San Bernardino, Mr. James A. Cunningham appeared on behalf of San Diego Unified School District, Dr. Carol Berg appeared on behalf of Education Mandated Cost Network, Mr. James M. Apps appeared for the Department of Finance, and Mr. Frank Moore appeared on behalf of the Department of Finance, Education Systems Unit.

The following parties appeared at the March 27, 1997 hearing: Mr. Keith Petersen appeared on behalf of both claimant Kern High School District and Education Mandated Cost Network, Mr. Leonard Kaye appeared on behalf of the County of Los Angeles, Mr. Allen Burdick appeared on behalf of California State Association of Counties, Ms. Marcia Faulkner appeared on behalf of the County of San Bernardino, Mr. James A. Cunningham appeared on behalf of San Diego Unified School District, Dr. Carol Berg. appeared on behalf of Education Mandated

Cost Network, Mr. James M. Apps appeared for the Department of Finance, and Mr. Tom Newton and Mr. James Ewert appeared on behalf of the California Newspaper Publishers' Association.

The following parties appeared at the November 30, 1999 hearing: Mr. Ron Fontaine appeared on behalf of the Kern High School District, Mr. Jim Cunningham appeared on behalf of co-claimant San Diego Unified School District, Dr. Carol Berg appeared on behalf of the Education Mandated Cost Network, Mr. Paul Minney of Girard and Vinson appeared on behalf of Mandated Cost Systems Inc., and Ms. Jeannie Oropeza and Mr. Pete Cervinka appeared on behalf of the Department of Finance.

At the March 30, 2000 hearing: Mr. Ron Fontaine appeared on behalf of the Kern County High School District, Mr. Jim Cunningham appeared on behalf of co-claimant San Diego Unified School District, Dr. Carol Berg appeared on behalf of the Education Mandated Cost Network, Mr. Paul Minney of Girard and Vinson appeared on behalf of Mandated Cost Systems, Inc., and Ms. Jeannie Oropeza and Ms. Leslie Lopez appeared on behalf of the Department of Finance.

The Commission heard and decided this test claim on March 30, 2000, during a regularly scheduled hearing.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq., article XIII B, section 6 of the California Constitution and related case law.

The Commission, by a vote of 4-2, approved this test claim,

BACKGROUND AND FINDINGS OF FACT

The Test Claim Legislation

This test claim has been filed on two statutes. The first statute is Government Code section 54952. Section 54952 was amended in 1993, became operative on April 1, 1994, and clarifies the definition of "legislative body, " for purposes of compliance with the Brown Act, as follows:

> "As used in this chapter, 'legislative body' means:
>
> "(a) The governing body of a local agency or any other local body created by state or federal statute.
>
> " (b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have continuing subject matter jurisdiction, or a meeting schedule ***fixed by charter, ordinance,***

resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter. " (Emphasis added.)

The second test claim statute is Education Code section 35147, which was enacted as an urgency measure and became effective on July 21, 1994. The statute exempts eight (8) specified school site councils and advisory committees from the open meeting requirements established in the Brown Act, the Education Code, the Bagley-Keene Open Meeting Act and, instead, imposed an abbreviated set of open meeting requirements.

Education Code section 35 147 provides, in relevant part, the following:

> "(a) Except as specified in this section, any meeting of the councils or committees specified in subdivision (b) is *exempt from the provisions of this article, the Bagley-Keene Open Meeting Act . . . , and the Ralph M. Brown Act.. .*
>
> "(b) The councils and school site advisory committees established pursuant to Sections 52012, 52065, 52176, and 52852, subdivision (b) of Section 54425, Sections 54444.2, 54724, and 62002.5, and committees formed pursuant to Section 11503 or Section 2604 of Title 25 of the United States Code, *are subject to this section.*
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> "(c) Any meeting held by a council or committee specified in subdivision (b) shall be open to the public . . . [the] public shall be able to address the council or committee. . . . . Notice of the meeting shall be posted at the school site . . . 72 hours before the time set for the meeting . . . [and] shall specify the date, time, and location and contain an agenda describing each item of business . . . The council or committee may not take any action on any item of business unless that item appeared on the posted agenda.. . . If a council or committee violates the . . . requirements of this section . . . committee shall reconsider the item at its next meeting, after allowing for public input on the item.
>
> "(d) Any materials provided to a school site council shall be made available to any member of the public who requests the materials pursuant to the California Public Records Act. . . ." (Emphasis added.)

Thus, as of July 21, 1994, the specified school site councils and advisory committees were exempted from the full Brown Act provisions regarding special meetings, emergency meetings, closed sessions, and civil and criminal sanctions. However, these bodies are still required to perform the following activities for regular meetings:

- meetings must be open;
- any member of the public may address the council or committee;
- notice of the meeting must be posted 72 hours before the time set for the meeting;
- the notice must specify the date, time and location of the meeting and contain an agenda describing each item of business to be discussed or acted upon;

- the council or committee may not take action on any item of business unless that item appeared on the posted agenda;
- the council or committee must reconsider the item, after allowing for public input, if the procedural meeting requirements are violated; and
- all material provided to the council or committee shall be made available to the public.

Issue 1: Do Government Code Section 54952 and Education Code Section 35147 Impose a New Program or Higher Level of Service upon School Districts Pursuant to Article XIII B, Section 6 of the California Constitution?[1]

In order for a statute, which is the subject of a test claim, to impose a reimbursable state mandated program, the statutory language must direct or obligate an activity or task upon local governmental entities. Further, the required activity or task must be new or it must create an increased or higher level of service over the former required level of service. To determine if a required activity is new or imposes a higher level of service, a comparison must be undertaken between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must be state mandated.[2]

As indicated above, the test claim statute requires the performance of open meeting activities by specified school site councils and advisory committees. School site councils and advisory committees are formed to advise school districts and governing boards on particular school programs or issues and, thus, carry out a basic governmental function by providing a service to the public. Such activities are not imposed on state residents generally. Accordingly, the Commission found the first requirement necessary to determine whether the Legislature has imposed a reimbursable state mandated program is satisfied.

The Commission continued its inquiry to determine if the test claim legislation constitutes a new program or higher level of service and imposes "'costs mandated by the state" upon school districts. The claimants acknowledge that Education Code section 35 147, as amended in 1994, relieves school site councils and advisory committees from the full set of Brown Act requirements. However, the claimants contend that Government Code section 54952, as amended in 1993, imposed a new program on school districts by defining, for the first time, school site councils and advisory committees as "legislative bodies" required to perform the open meeting activities prescribed in the Brown Act.

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[1] Section 6 of article XIII Estates: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975. "

[2] *County of Los Angeles v. State of California (1987) 43* Cal.3d *46, 56; Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d *521, 537; Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d *830, 835.*

Were school site councils and advisory committees required to comply with the Brown Act prior to 1993?

Prior to the enactment of the 1993 test claim legislation, "legislative body" of a local agency required to comply with the Brown Act was defined in several statutory provisions. Government Code section 54952.3 defined "legislative body" to include any advisory commission, advisory committee or advisory body of a local agency created by charter, ordinance, resolution, or any similar formal action of a local agency. Section 54952.3 provided in relevant part the following:

> "As used in this chapter 'legislative body' also includes any advisory commission, advisory conxmittee or advisory body of a local agency, *created by charter, ordinance, resolution, or by any similar formal action* **of** *a legislative body or member* **of** *a legislative body* **of** *a local agency.* "
>
> " 'Legislative body' as defined in this section does not include a committee solely composed of members of the governing body of a local agency which are less than a quorum of such governing body. " (Emphasis added.)[3, 4]

In addition, Government Code section 54952.5 defined "legislative body" to include planning commissions, library boards, recreation commissions, and other permanent boards or cornmissions of a local agency. That section stated the following:

> "As used in this chapter, 'legislative body' also includes, but is not limited to, planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency. "[5]

According to the opinion of the Attorney General's Office, Government Code section 54952.5 was added by the Legislature in 1961 to repudiate the court's decision in *Adler v. Culver City Council,*[6] which held that the Brown Act was not meant to apply to planning commissions or other bodies of an *"advisory"* nature.[7] The Attorney General's Opinion states the following:

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[3] Government Code section 54952.3 was added in 1968 (Stats. 1968, c. 1297), last amended in 1981 (Stats 1981, c. 968) and repealed in 1993 (Stats. 1993, c. 1138).

[4] The courts have construed the phrase "similar formal action" in former Government Code section 54952.3 broadly to prevent evasion. *(Joiner v. Sebastopol* (1981) 125 Cal.App.3d 799, 805, fn. 5; *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 792. (Exhibit D of the Administrative Record, Bates pages 75 and 79.)

[5] Government Code section 54952.5 was added in 1961 (Stats. 1961, c. 1671) and repealed in 1993 (Stats. 1993, c. 1138).

[6] *Adler* v. *Culver City Council* (1960) 184 Cal.App.2d 763.

[7] 42 Opinions of the California Attorney General 61, 64-65 (1963). (Exhibit D of the Administrative Record, Draft Staff Analysis, Bates page 92.)

> "We believe that there is little, if any, strength left to Adler v. Culver *City*. . . . Contrary to Adler, the law now specifically applies to *advisory* boards such as planning commissions. "[8] (Emphasis added.)

The 1993 test claim legislation amended the Brown Act to consolidate the definitions of "legislative body" previously found in sections 54952.3 and 54952.5 into one section, Governrnent Code section 54952. Governrnent Code sections 54952.3 and 54952.5 were repealed. Government Code section 54952, subdivision (b), now provides the following:

> "A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, of formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter. "

More importantly, the test claim legislation also added subdivision (a) to section 54952, which provides that, for purposes of the Brown Act, the term "legislative body" includes:

> "The governing body of a local agency *or any other local body created by state or federal statute.* " (Emphasis added.)

The claimants contend that *all* of the school site councils and advisory committees specified in the test claim legislation are local bodies created by state or federal statute and, thus, became subject to the Brown Act when subdivision (a) was added to section 54952.

The Commission noted, however, that legislative history of the Brown Act reflects confusion regarding when these school site councils and advisory committees became subject to the open meeting requirements of the Brown Act. Some analysts agree with the claimants that school site councils and advisory committees became subject to the Brown Act with the test claim statute that amended Government Code section 54952. The Ways and Means Comrnittee Analysis states that:

> "'As of April 1, 1994 [when section 54952 was amended by the test claim statute] school site councils have been subject to the state's open meetings laws."[9]

The claimants also cite a letter from the author of the test claim statute, Education Code section 35147, to Governor Wilson, which states that:

> "California School Boards Association came to me earlier this year requesting language to correct an oversight in the new Brown Act laws which became

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[8] ***Id.*** at p. 67.

[9] Ways and Means Committee Analysis for Education Code section 35147 (See Exhibit E of the Administrative Record, Bates page 155, Claimants' response to Draft Staff Analysis).

effective April 1, 1994 [i.e., the amendments to Government Code section 549521. The new law contained changes in the definition of 'legislative body' and unbeknownst to the education community when the Brown Act bills were moving through the Legislature in the summer of 1993, this *new* definition included school site councils. " (Emphasis added.)"

Conversely, in 1994, the Assembly Committee on Local Government, in its bill analysis for Education Code 35 147, questioned whether school site councils and advisory committees were subject to the Brown Act *prior* to the enactment of the test claim legislation amending Government Code section 54952. The bill analysis states, in relevant part, the following:

> "Major comprehensive revisions to the Ralph M. Brown Act were enacted last year by . . .Chapter 1138, Statutes of 1993. These revisions will be effective April 1, 1994, so that local governments have an opportunity to become familiar with them. . . . "
>
> "In revising the Act, there was interest in making it more understandable to the public and local governments. For example, the Act defines 'legislative body' to include a body on which local agency officers serve in their official capacity, a body exercising authority delegated by a legislative body, an advisory body, and permanent boards or commissions. [Citations omitted.] SB 1140 repealed the various definitions of 'legislative body', and clarified and consolidated them into a single section (Government Code section 54952). . . . "
>
> "Certain school groups now assert that this revision to the 'legislative body' definition affects school site councils and school site advisory committees, because the new definition includes 'the governing body of a local agency or any other local body created by state or statute', and wish to exempt these entities from the Ralph M. Brown Act and the Bagley-Keene Open Meeting Act. . . . "
>
> *"Provisions of the Ralph M. Brown Act effective until April 1, 1994 (which do not include the 1993-94 revisions)* [i.e., the law in effect prior to the test claim legislation], *provide that a 'legislative body' includes 'any advisory commission, advisory committee or advisory body* ***of*** *a local agency, created by charter, ordinance, resolution, or by any similar formal action* ***of*** *a legislative body* ***of*** *a local agency. '* Because the school advisory groups exempted by this bill were created by the local agency legislative body, one could argue that *these entities are covered under current law (without the 1993-94 amendments) and that districts have simply ignored open meeting laws* ***for*** *these advisory groups. "* (Emphasis added). [11]

The Cornmission agreed with claimant's position that school site councils and advisory committees, "*created* by state or federal law," first became subject to the Brown Act on April 1, 1994 when amended Government Code section 54952 became effective. Thus, the

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[10] Exhibit E of the Administrative Record, Bates page 159, Claimants' Response to Draft Staff Analysis.

[11] Exhibit D of the Administrative Record, Bates page 101.

Commission's next step was to determine whether the test claim school site councils and advisory committees were "*created* by state or federal statute. "[12]

The school site councils and advisory committees at issue in this test claim were established as part of the following programs:

- School Improvement Program;
- Native American Indian Early Childhood;
- Chacon-Moscone Bilingual-Bicultural Education Act;
- School-Based Coordination Program;
- Compensatory Education Program;
- Migrant Education Program;
- Motivation and Maintenance Program; and
- Federal Indian Education Program.

School Site Councils for the School Improvement Program, Bilingual Education Program, School-Based Coordination Program, and the Motivation and Maintenance Program

The Cornmission found that the school site councils and advisory committees for the School Improvement Program, the Bilingual Education Program,. the School-Based Coordination Program, and the Motivation and Maintenance Program were created by state statute and not by the action of the school district.

The Commission further found that under these programs, the state *requires* school districts to establish these bodies even if the district does not participate in the programs. For example, under the School Improvement Program, the governing board of each school district "*shall*" adopt policies to ensure that a school site council is established at each school site "to consider whether or not *it* wishes the local school to participate in the school improvement program."[13] The Commission found the same requirement is imposed on school districts under the School-Based Coordination Program[14] and the Motivation and Maintenance Program. [15]

In the case of the Bilingual Education Program, the Commission recognized that the law provides that each district with more than 50 pupils of limited English proficiency, and each

[12] Staff notes that the issue of whether the school site councils and advisory committees are mandated by the state or federal government is *not* an issue before the Commission. Rather, the issue is whether the test claim legislation constitutes a new program or higher level of service mandated by the state on these school site councils and advisory committees.

[13] Education Code, section 52011, subdivision (b). (Exhibit G of the Administrative Record, Bates page 225.)

[14] Education Code, section 52852.5, subdivision (b). (Exhibit G of the Administrative Record, Bates page 230.)

[15] Education Code, section 54725. (Exhibit G of the Administrative Record, Bates page 229.)

school with more than 20 pupils of limited English proficiency, "*shall* establish a districtwide [or school level] advisory committee on bilingual education?' [17]

Based on the foregoing analysis, the Commission found that school site councils and advisory committees for the School Improvement Program, the Bilingual Education Program, the School-Based Coordination Program, and the Motivation and Maintenance Program were created by state statute. Thus, the Commission found that these local bodies first became subject to the open meeting requirements of the Brown Act when the Government Code section 54592 was amended. Accordingly, the Cornmission determined that Government Code section 54592 constitutes a new program for these local bodies.

The Advisory Committees for the Native American Indian Earlv Childhood Education Program, Migrant Education Program, the Compensatory Education Program, and the Federal Indian Education Program

The Commission found that the foregoing advisory committees and programs were created under either federal or state statutes. While the Commission noted that the enabling statutes for these advisory committees and programs were expressed in discretionary terms (i.e., with the use of the word "may", for example), the Cornmission found that a district's creation of an advisory committee or program is *required* by statute *as a condition of participation and receipt of funds.* For example:

Native American Indian Early Childhood Education Program

Under the Native American Indian Early Childhood Education Program, the Commission observed that while a governing board of specified school districts "may apply" to the Superintendent of Public Instruction for a project and receive funds, [18] the law provided that each school district and individual school receiving funds "shall" establish a district-wide or school parent advisory group. [19]

Migrant Education Program

Similarly, the Commission observed that under the Migrant Education Program, school districts are eligible to apply for funding to serve migrant pupils upon application.[20] However, the law provides that, as a condition of receiving funds under this program, the school district is required to comply with the rules and regulations adopted by the Superintendent of Public Instruction, which "*requir[es]* each operating agency receiving migrant education funds or

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[16] Education Code, section 52176, subdivisions (a) and (b). (Exhibit G of the Administrative Record, Bates page 233.)

[17] Although the School Improvement Program and the Bilingual Education Program sunsetted on June 30, 1987, Education Code section 62002.5 requires that the school site councils in existence as of January 1, 1979, continue subsequent to the termination of funding. (Exhibit G of the Administrative Record, Bates page 235.)

[18] Education Code, section 52063. (Exhibit G of the Administrative Record, Bates page 236.)

[19] Education Code, section 52065. (Exhibit G of the Administrative Record, Bates page 237.)

[20] Education Code, section 54443.1, subdivision (g). (Exhibit G of the Administrative Record, Bates page 238.)

services to actively solicit parental involvement in the planning, operation, and evaluation of its programs through the establishment of, and consultation with, a parent advisory council. "[21]

Compensatory Education Program

The Commission noted that the Compensatory Education Program was enacted to guide local school districts in making applications for federal funds under the Elementary and Secondary Education Act of 1965 to improve the educational abilities of disadvantaged minors. The Cornmission observed that under the Federal Act,[22] a local educational agency may participate in the program and receive funds "only if" the agency implements programs, activities, and procedures *with the consultation and involvement of parents.* The Comrnission also noted that each local educational agency receiving funds is also required to *develop, jointly with parents,* a comprehensive compensatory education plan.[23] The Commission found that, consistent with these federal requirements, the state requires that "whenever" the comprehensive plan establishes a school advisory committee, the procedures adopted for the selection of the committee shall specify that parents constitute a majority of the membership.[24]

Federal Indian Education Program

Finally, the Commission observed that the Federal Indian Education Program provides grants to local educational agencies for Indian education. The Commission found that in order to receive the funds, the local educational agency is required to establish an advisory committee composed of at least half parents to develop and provide written approval of a program that substantially increases the educational opportunities of Indian children.[25]

Based on the foregoing analysis, the Commission found that these advisory committees and programs were created under federal, and in most cases state statutes, and as such, the Commission found that these local bodies first became subject to the open meeting requirements of the Brown Act when the Government Code section 54592 was amended. Accordingly, the Commission determined that Government Code section 54592 constitutes a new program for these advisory committees and programs.

Issue 2: Are the Advisory Committees for the Federal Indian Education Program and the Compensatory Education Program Mandated by Federal Law Rather than State Law?

The Department of Finance contended that federal law, rather than state law, mandates the advisory committee for the Federal Indian Education Program and the Compensatory Education Program. Accordingly, it is the Department's position that, pursuant to Government

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[21] Education Code, section 54444.2, subdivision (a)(l). (Exhibit G of the Administrative Record, Bates page 240.)

[22] Education Code, section 54420. (Exhibit G of the Administrative Record, Bates page 242.)

[23] Title 20, United States Code, section 6319. (Exhibit G of the Administrative Record, Bates page 244.)

[24] Education Code, section 54425, subdivision (b). (Exhibit G of the Administrative Record, Bates page 243.)

[25] Title 25, United States Code, section 2604. Staff notes that this program was repealed in 1994 and renumbered as Title 20, United States Code, section 7881. The requirement to establish an advisory committee can now be found in Title 20, United States Code, section 7814. (Exhibit G of the Administrative Record, Bates page 250.)

Code section 17556, subdivision (c), the Commission shall not find "costs mandated by the state" if "the statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."[26]

The Commission found that the Federal Indian Education Program and the Compensatory Education Program are advisory committees created by federal law which are required to comply with the Federal Advisory Committee Act.[27] However, in order to determine whether the open meeting requirements imposed by the test claim statute are the same, or exceed, the federal open meeting requirements under Government Code section 17556, subdivision (c), the Commission recognized that it must compare the requirements under the Federal Advisory Act with the Brown Act. The following table was prepared in order to assist the Commission in determining whether the requirements under the test claim legislation exceeded those required under the Federal Advisory Act:

Federal Advisory Committee Act Title 5, U.S.C., App.2, § 10	**Brown Act, Education Code Section 35147**
Each advisory committee meeting shall be open to the public.	Each meeting shall be open to the public.
Interested persons shall be permitted to attend, appear before, and file statements with the advisory committee.	Any member of the public shall be able to address the committee during the meeting.
Materials shall be made available for public inspection.	Materials shall be made available for public inspection.
Detailed minutes of each meeting shall be kept.	
An employee or officer of the Federal Governrnent shall be designated to attend each meeting of the advisory committee.	
"Timely" notice of the meeting shall be published in the Federal Register.	Notice of the meeting shall be posted at the school site, or other appropriate place accessible to the public.
	Notice shall be posted at least 72 hours before the time set for the meeting.
	The notice shall specify the date, time, and location of the meeting.
	The notice shall contain an agenda describing each item of business to be discussed or acted upon.

[26] See also Government Code section 17513 defining "costs mandated by the federal government" as:

> ". . . . any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district."

[27] Title 5, United States Code, Appendix 2.

Based on its analysis of this comparison, the Commission found that the notice and agenda requirements imposed by the test claim statute are broader and exceed the requirements of the Federal Advisory Cornmittee Act .[28] Accordingly, the Commission found that the activities of preparing and posting of the notice and agenda do *not* irnpose "costs mandated by the federal government" since these requirements exceed the mandate of the federal law.

CONCLUSION

Based on the foregoing analysis, the Cornmission concludes that the test claim legislation constitutes a reimbursable state mandated program for the following activities:

For the periods between April 1, 1994 through July 21, 1994

- the cost of preparing a single agenda containing a brief general description of each item on an agenda;
- the cost for posting that single agenda; and
- the costs necessary to provide the opportunity for the public to address the legislative body on items included on each agenda

for all meetings conducted by the test claim school site councils and advisory committees.

For the periods after July 21, 1994

- the cost of preparing a single agenda containing a brief general description of each item on an agenda;
- the cost for posting that single agenda; and
- the costs necessary to provide the opportunity for the public to address the legislative body on items included on each agenda

for only general open meetings conducted by the test claim school site councils and advisory committees.

[28] See Title 5, United States Code, Appendix 2, section 10. (Exhibit J of the Administrative Record.)