



February 14, 2017

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



Dear Ms. Halsey:

As requested in your letter of January 17, 2017, the Department of Finance (Finance) has reviewed the test claim submitted by Fresno Unified School District (claimant) asking the Commission to determine whether the specified costs incurred for the *School Employees: Sick Leave, Test Claim (16-TC-01)*, are reimbursable state mandated costs.

This test claim references Education Code section 44977.5, added by the enactment of AB 375 (Chapter 400, Statutes of 2015), requiring school districts to provide differential pay benefits for up to 12 weeks if a certificated employee is absent for maternity or paternity leave. In Section 5, beginning on page 5 of the test claim, the claimant has identified new duties, which it asserts are reimbursable state mandates. Specifically, the claimant identifies one-time activities for the development and implementation of internal policies, training, procedures, and forms relating to the administration of differential pay for maternity or paternity leave for certificated employees. In addition, the claimant identifies the cost of the differential pay due a certificated employee on maternity or paternity leave.

As a result of our review, we respectfully submit the following comments and conclusions.

To the extent that AB 375 may result in the need for school districts to develop and implement internal policies, training, procedures, and forms to administer differential pay for certificated employees on maternity or paternity leave, Finance concurs that recognizing these activities as one-time state-reimbursable costs would be consistent with the Commission's 2003 decision regarding the *Differential Pay and Reemployment Program*, (99-TC-02). Additionally, consistent with this decision, the activities required by AB 375 may require school districts to process paperwork to administer differential pay for certificated employees on maternity or paternity leave, which would likely be determined to be an ongoing, state-reimbursable cost.

Given that the claimant did not differentiate the costs for one-time activities from the cost for ongoing activities in the test claim, the one-time costs are indeterminable from the test claim. However, total annual state-wide cost claims for the reimbursable costs of the existing *Differential Pay and Reemployment Program* for each of the fiscal years from 1998-99 through 2010-2011 ranged between \$3,000 and \$33,000, with more recent years' state-wide cost claims in the few thousands of dollars annually. This overall reduction in cost claims is likely reflective of a shift from more-significant one-time start-up costs, to relatively absorbable ongoing costs in the administration of the *Differential Pay and Reemployment Program*. Therefore, Finance anticipates that the ongoing costs associated with the administration of providing differential pay to certificated employees on maternity or paternity leave (when considering a greater number of certificated employees are likely to be eligible for this benefit than are eligible for the *Differential*

*Pay and Reemployment Program*) would likely be less than the low tens of thousands of dollars annually.

Finance finds that the cost of the differential pay compensation for certificated employees on maternity or paternity leave is not a state-reimbursable cost. In the Statement of Decision for the *Differential Pay and Reemployment Program*, the Commission concluded based on several instances of case law that, "the cost of a particular benefit to public employees is increased in certain circumstances, but there is no concomitant increase in the level of service to the public...[t]herefore, the Commission finds no new program or higher level of service within the meaning of article XIII B, section 6, for any increased costs for the amount of differential pay compensation...". The Commission further cited the California Supreme Court in *City of Anaheim v. State of California (1987) 189 Cal.App.3d. 1478*, wherein the Court concluded that while the local agency was faced with a higher cost of compensation to its employees, "This is not the same as a higher cost of providing services to the public." Therefore, the cost of the additional employee compensation is not state-reimbursable.

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

Sincerely,

  
JEFF BELL  
Program Budget Manager 

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

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

On February 14, 2017, I served the:

**Finance Comments**

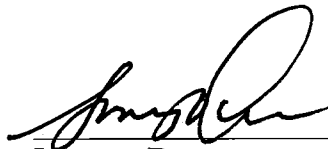
*School Employees: Sick Leave, 16-TC-01*

Education Code Section 44977.5; Statutes 2015, Chapter 400 (AB 375)

Fresno Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 14, 2017 at Sacramento, California.



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Lorenzo Duran  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/19/17

**Claim Number:** 16-TC-01

**Matter:** School Employees: Sick Leave

**Claimant:** Fresno Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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