

July 11, 2024

Heather Halsey
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Commission on State Mandates
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Response to Test Claim 23-TC-02, Transitional Kindergarten Program Test Claim

Dear Heather Halsey:

The Department of Finance has reviewed Test Claim 23-TC-02, submitted to the Commission on State Mandates (Commission) on January 22, 2024, by the Hope Elementary School District and Sunnyvale School District (Claimants).

The test claim alleges state-mandated, reimbursable costs associated with Chapter 44, Statutes of 2021 (Assembly Bill [AB] 130), which requires school districts and charter schools to admit age-eligible children to Transitional Kindergarten (TK) programs and maintain TK programs in accordance with specified student to teacher ratios and classroom sizes as a condition of receipt of apportionment.

As detailed below, Finance is concerned that the Claimants' statements regarding mandated higher level of services and unfunded costs are not substantiated because: (1) the TK expansion does not constitute a new program or higher level of service; (2) the associated costs are fully funded through a combination of state funding and local property tax revenues, per school finance statutes; and (3) it is uncertain if the test claim was filed in a timely manner.

Concerns:

1. The Claimants state that basic aid school districts receive property tax revenue instead of funding under the Local Control Funding Formula (LCFF), and as a result, did not receive funding from the state to implement the requirements of AB 130. Finance maintains that basic aid districts do receive funding through the LCFF, as outlined in Education Code sections 42238.02 for the activities required by AB 130, contrary to the Claimants' arguments. While the state calculates an LCFF entitlement pursuant to this primary statute for every school district, including basic aid districts, how the entitlement is funded varies between districts.

The LCFF calculations determine the amount of Proposition 98 General Fund a local educational agency (LEAs) should receive, based on demographic inputs, average daily attendance, programmatic add-ons and a series of other apportionment calculations that adjust the flow of state funds throughout the fiscal year (Section 42238.02). Each LEA's LCFF entitlement is funded through a combination of funding sources: local property tax revenues (Section 42238.02(j)(1)-(7), the Education Protection Account (EPA) (Section 42238.02(j)(8), and state aid through the LCFF (Section 14002). In a basic aid district, local property tax revenues exceed the applicable district's LCFF entitlement target (Section 42238.02 (o), so the district would not receive additional state aid to meet their entitlement and therefore is able to keep any additional property taxes collected, for their local educational priorities. This does not mean basic aid districts do not receive any state aid. They still receive state funding through the LCFF via the Minimum State Aid (MSA) pursuant to Section 42238.03 and the Education Protection Account pursuant to Section 36 of Article XIII of the California Constitution, and, more broadly, they will often receive other miscellaneous funding outside of the LCFF upon qualification, such as the Expanded Learning Opportunities Program (ELOP), Proposition 28 funding, and other programs enacted through legislation.

Education Code Sections 42238.02 and 42238.03, which carry the LCFF apportionment legislation, guarantee that no school district would receive less state aid from the LCFF than it received in 2012-13 through the previous revenue limits system; most schools satisfy this provision through the LCFF target entitlement, but basic aid districts—which do not need additional state aid to meet this LCFF target—receive the MSA to fulfill this requirement. Moreover, Section 6 of Article IX of California's Constitution guarantees all school districts receive at least \$120 per student from the state, which is where the “basic aid” term originates. Additionally, EPA funding, which was first enacted through the passage of Proposition 30 in 2012, is generated through increased tax revenues. For basic aid districts, EPA funding provides at least \$200 per student and is determined by attendance data at all school districts, charter schools, and county offices of education. This funding can be applied to costs related to TK pupil instruction, among other allowable services.

TK attendance costs are included in 2022-23 and 2023-24 principal apportionment calculations, which means all apportionment-generating local educational agencies, which includes basic aid districts, will receive ongoing LCFF funding for TK pupils. Nothing precludes these funds—whether generated through property taxes or through Proposition 98 General Fund as calculated through the LCFF to meet the target LCFF entitlement—from being used for TK costs. Finance is not aware of any law or restriction that would preclude the use of these funds for TK costs. Finance is also not aware of any law that entitles a basic aid district to a specific amount of excess property taxes. Rather, for purposes of computing the Proposition 98 minimum guarantee, implementing statute, Section 41202 (g), defines the term “Allocated local proceeds of taxes”

to include local revenues used to offset LCFF state aid (references to Section 42238 have been defined to mean 42238.02 as implemented pursuant to Section 42238.03 pursuant to Section 42338.06). Additionally, per AB 130, the specified activities are required as a condition of receipt of apportionment.

For the Sunnyvale School District, the 2023-24 Second Principal Apportionment (P-2) LCFF entitlement is \$65.4 million and local property tax revenue is estimated at \$105.6 million. For the Hope Elementary School district, the 2023-24 P-2 LCFF entitlement is \$9.5 million, and local property tax revenue is estimated at \$12.5 million. Finance contends that the Claimants have not clearly demonstrated the manner in which these funds have fallen short of meeting their statutory obligations in the test claim. Furthermore, if the Commission does not deny this test claim, these funding sources should be considered as offsetting revenues during the Statewide Cost Estimate process and development of the reimbursement methodology specified in Government Code Section 17557.

Finance further contends that the Claimants have sufficient funding to cover costs incurred to implement AB 130 through their computed local control funding formula entitlement. Moreover, even if the property tax revenues were to become insufficient to pay for a district's LCFF apportionment, moving that district out of basic aid status, the statutory formulas would require the state to provide increased funding through the LCFF to meet its statutory obligations, which includes TK expansion costs. This scenario has not occurred for the Claimants, which indicates their entitlement for meeting statutory obligations is fully funded by offsetting local property tax revenues.

2. A test claim must be filed within 12 months of the effective date of the statute or within one year of when increased costs were first incurred to implement the alleged mandate. The Claimants declared increased costs were first incurred on July 1, 2023. However, AB 130 requirements to 1) limit class sizes to 24 pupils, and 2) expand TK eligibility, as specified, while maintaining a ratio of one adult for every 12 pupils, went into effect in the 2021-22 and for the 2022-23 school year, respectively. To the extent increased costs were incurred prior to July 1, 2023, as per when the respective requirements of AB 130 were in effect, this creates uncertainty as to whether the test claim is within the allowable filing parameters.

Additionally, TK admission has been required since the 2012-13 school year, pursuant to Chapter 705, Statutes of 2010 (Senate Bill 1381), and Finance is not aware of any previous mandate claims. To the extent that administration of the existing program was altered and resulted in increased costs at the discretion of the Claimants, those costs are not reimbursable. This could include enrolling TK students earlier than the timeframe specified in AB 130 or establishing classes at a lower enrollment level than required or location that necessitated more teachers or classified employees. Additionally, Finance has the following concerns with the Claimants' costs:

- Sunnyvale School District declared increased costs to fund three additional teachers at \$1 million from July to December 2023 and estimates the district will incur an additional \$1.3 million from January 2024 to June 2024. For the costs incurred between July-December 2023, this equates to an average cost of roughly \$339,000 per teacher, inclusive of salary and benefits. The estimated costs to fund the three teachers from January-June 2024 equate to roughly \$430,000 per teacher, inclusive of salary and benefits. For 2024-25, the increased estimated cost to fund three additional teachers is \$514,000 in 2024-25, or \$171,000 per teacher. It is unclear why the 2023-24 salary and benefits costs are significantly higher than in 2024-25, or if the 2023-24 expenses include additional costs outside the scope of the alleged mandate.
- Sunnyvale School District declared increased costs to fund three classified employees (paraeducators) of \$386,000 from July to December 2023 and estimates that the district will incur an additional \$578,000 from January 2024 to June 2024. For the costs incurred between July-December 2023, this equates to an average cost of roughly \$129,000 per paraeducator, inclusive of salary and benefits. The estimated costs to fund the three paraeducators from January-June 2024 equate to roughly \$192,000 per paraeducator, inclusive of salary and benefits. For 2024-25, the increased estimated cost to fund three additional paraeducators is \$162,000 in 2024-25, or \$54,000 per paraeducator. Similarly, it is unclear why the 2023-24 salary and benefits costs are significantly higher than in 2024-25, or if the 2023-24 expenses include additional costs outside the scope of the alleged mandate.
- Hope Elementary School District declared the increased estimated cost to fund two additional teachers at roughly \$355,000 in 2023-24. However, the Pay09a report submitted as documentation identifies three teachers being supported in 2023-24. This report does not identify full-time equivalents (FTEs) to determine if this did equate to two teachers throughout the schoolyear. Without such confirmation, this may demonstrate TK costs incurred prior to July 1, 2023, for one teacher. A similar issue presents for the classified staff costs, but only for the time period of July 1 to December 31, 2023.
- Hope Elementary School District reported average daily attendance (ADA) for TK at 30 and 43 at the 2022-23 and 2023-24 P-2 reporting periods, respectively, for an increase of 13 ADA. Using ADA as a reasonable proxy of enrollment, it is unclear why two additional teachers as well as two additional classified staff (or three additional teachers and classified staff per the Pay09a) to serve that increase were required in 2023-24 to adhere to AB 130.
- Hope Elementary School District declared increased estimated costs to fund three- and one-half additional teachers and three- and one-half additional classified staff for 2024-25. If the increase in ADA/enrollment follows a similar trend as 2023-24, is unclear why that level of additional resources for the two additional months of eligible students is required.

Finance believes the Commission should deny reimbursement for these costs due to the reasons listed above.

Finance also notes that the declaration of both Claimants stated increased costs in 2024-25 related to enrolling TK students from September 2 through April 2. Given that is the same admission timeframe as 2023-24, there should be no additional costs incurred.

If the test claim is not denied, Finance believes a further examination of both Claimants' estimated costs is warranted and should be pursued by the Commission.

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

Sincerely,

Chris Ferguson

Chris Ferguson
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 July 11, 2024, I served the:

- **Current Mailing List dated July 10, 2024**
- **Finance's Comments on the Test Claim filed July 11, 2024**

Transitional Kindergarten Program, 23-TC-02
Statutes 2021, Chapter 44, Section 60 (AB 130);
Education Code Section 48000, Effective July 9, 2021
Hope Elementary School District and Sunnyvale School District, Claimants

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 11, 2024 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/10/24

Claim Number: 23-TC-02

Matter: Transitional Kindergarten Program

Claimants: Hope Elementary School District
Sunnyvale 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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