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RECEIVED
April 21, 2025
**Commission on
State Mandates**

LATE FILING

April 21, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: *Transitional Kindergarten, 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*

Dear Ms. Gmur:

Hope Elementary School District and Sunnyvale School District, (“Claimants”) have reviewed the comments submitted by the California Department of Education (“CDE”) regarding the Draft Proposed Decision (“DPD”) dated April 17, 2025, and provide the following comments.

I. *Test Claim Statutes Mandate Transitional Kindergarten Program*

The clear language and the plain meaning of the test claim statute is to provide the TK program. Courts begin their analysis with the statutory language, giving words their ordinary and commonsense meaning, considering the statute as a whole. If the language is clear and unambiguous, the analysis ends there, and the statute is applied as written. “The fundamental task of statutory construction is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute.” (*People v. Trevino* (2001) 26 Cal.4th 237, 240.) The State is resolute there is no discretionary power given to the school districts on whether to provide TK.

Claimants agree with the State that “Education Code Section 48000 creates an integrated statutory framework that effectively requires any LEA offering kindergarten to implement TK,” and “Section 48000(c)(1) mandates admission for children meeting specific birth date criteria according to the phased implementation schedule. The statutory language states that these children “shall be admitted” to TK,

using mandatory rather than permissive language.” The State asserting TK being a two-year program provides more support the test claim statute is a reimbursable mandate.

II. Practical Compulsion Through ADA Funding Structure

Claimants agree with the State that practical compulsion exists and the Claimants have "no true option or choice" in implementing TK program. The State addresses the substantial penalties consisting of Loss of Core Operational Revenue, Risk to Kindergarten ADA and Enrollment Pipeline Disruption.

Accordingly, practical compulsion exists where “the State were to impose a substantial penalty upon any local entity that declined to participate.” (*Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 731.)

III. Apportionment Funding Not Provided to Claimants

“Education Code section 48000 provides that the requirements for the TK program are “a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300, and Chapter 3 (commencing with Section 47610) of Part 26.8, as applicable.” (DPD, p. 29.)

It is undisputed Claimants were excluded from receiving an apportionment for pupils in a transitional kindergarten program. Districts that received apportionment for the TK program also receive LCFF funding. Nonetheless, the State takes the indefensible position Claimants are required to provide the TK program thru their LCFF funding. Nothing in the test claim statute states or infers Claimants are exempt from receiving apportionment funding nor that Claimants are required to use their LCFF funding in lieu of receiving the apportionment.


Conclusion

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. The test claim statute includes mandatory language requiring all school districts to provide the TK program and that basic aid school districts are practically compelled by the Department of Education. Claimants have incurred costs for providing these services without state funds specifically allocated to reimburse the claimants for the costs incurred. Accordingly, all of the legal requirements have been met for the Commission to determine the test claim statute is a reimbursable state mandate.

Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

April 21, 2025


Arthur M. Palkowitz
Representative for the Claimants

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 April 23, 2025, I served the:

- **Current Mailing List dated April 22, 2025**
- **Claimants' Late Comments on the Draft Proposed Decision filed April 21, 2025**

Transitional Kindergarten, 23-TC-02

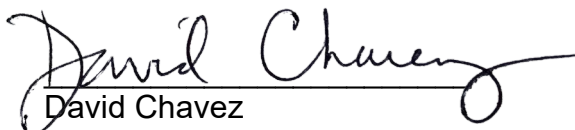
Statutes 2021, Chapter 44, Section 60 (AB 130);

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 April 23, 2025 at Sacramento, California.



David Chavez

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/22/25

**Claim
Number:** 23-TC-02

Matter: Transitional Kindergarten

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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