

ARNOLD SCHWARZENEGGER  
GOVERNOR



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## REPORT TO THE LEGISLATURE: DENIED MANDATE CLAIMS

January 1, 2009 – December 31, 2009

Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814  
(916) 323-3562  
[www.csm.ca.gov](http://www.csm.ca.gov)



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## INTRODUCTION

The Commission on State Mandates (Commission) is required to annually report to the Legislature on the number of claims it denied during the preceding calendar year and the basis on which each of the claims was denied.<sup>1</sup>

This report includes a summary of two Statements of Decision adopted by the Commission during the period from January 1, 2009 through December 31, 2009. The complete text of the Statements of Decision may be found at [http://www.csm.ca.gov/denied\\_mandates.shtml](http://www.csm.ca.gov/denied_mandates.shtml).

The decisions are based on the administrative record of the claims and include findings and conclusions of the Commission as required by the California Code of Regulations, Title 2, section 1188.2.

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<sup>1</sup> Government Code section 17601.



## **SUMMARY OF DENIED CLAIMS<sup>2</sup>**

### ***Surplus Property Advisory Committees***

02-TC-36

Education Code Sections 17387, 17388, 17389, 17390, 17391  
Statutes 1982, Chapter 689, Statutes 1984, Chapter 584, Statutes 1986, Chapter 1124,  
Statutes 1987, Chapter 655, Statutes 1996, Chapter 277

Clovis Unified School District, Claimant

Test Claim Filed on June 25, 2003

Statement of Decision Adopted on January 30, 2009

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The test claim statutes involve the disposal of surplus or excess real property owned by school districts. The test claim alleged that a state-mandate exists by requiring school districts to appoint, supervise, and consult with a surplus property advisory committee to assist in the adoption and implementation of policies and procedures governing the use or disposition of excess school property.

The Commission denied this test claim. The Commission found that the test claim statutes (Ed. Code, §§ 17387, 17388, 17389, 17390, 17391; Statutes 1982, chapter 689, Statutes 1984, chapter 584, Statutes 1986, chapter 1124, Statutes 1987, chapter 655, Statutes 1996, chapter 277) are not a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Because there is no legal or practical compulsion to designate as surplus or transfer school district property, neither formation of the advisory committee, nor the committee's activities are state mandates imposed on a school district. As an alternative ground for denial, the Commission found that section 17388 is not a new program or higher level of service because a statute provided for the formation of the advisory committee before Statutes 1982, chapter 689, the earliest test claim statute pled by claimant.

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<sup>2</sup> The Commission's complete Statements of Decision for these claims may be found at [http://www.csm.ca.gov/denied\\_mandates.shtml](http://www.csm.ca.gov/denied_mandates.shtml).

## *Extended Opportunities Programs and Services*

02-TC-29

Education Code Sections 69640, 69641, 69641.5, 69643, 69648, 69649, 69652, 69655 and 69656 as amended by Statutes 1984, Chapter 1178; Statutes 1985, Chapter 1586; Statutes 1990, Chapter 1352; Statutes 1990, Chapter 1455

California Code of Regulations, Title 5,  
Sections 56200, 56201, 56202, 56204, 56206, 56208, 56210, 56220, 56222, 56224, 56226, 56230, 56232, 56234, 56236, 56238, 56240, 56252, 56254, 56256, 56258, 56260, 56262, 56264, 56270, 56272, 56274, 56276, 56278, 56280, 56290, 56292, 56293, 56295, 56296, and 56298  
(As added or amended by Register 76, No. 41, Register 77, No. 34, Register 79, No. 32, Register 80, No. 06, Register 81, Nos. 03 & 19, Register 83, No. 18, Register 87, No. 40, Register 90, No. 49, Register 91, No. 29, and Register 97, No 46

EOPS Implementing Guidelines,  
Chancellor of the California Community Colleges (January 2002)

West Kern Community College District, Claimant

Test Claim Filed on June 13, 2003  
Statement of Decision Adopted on July 31, 2009

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The Extended Opportunities and Services Program (EOPS) provides academic and financial support to community college students whose educational and socioeconomic backgrounds might otherwise prevent them from successfully attending college. Services are specifically designed for at-risk students and their special needs. Community college districts are encouraged to participate in EOPS by both legislative intent language and state (and potentially federal) funding that is provided specifically for EOPS.

The claimant requested reimbursement to provide certified directors, instructors and counselors for students; to comply with new minimum standards; to petition for waivers of minimum standards and staffing requirements; to enter into education plans and mutual responsibility contracts; to verify student eligibility and compliance; and to utilize specific accounting standards and procedures in order to implement the EOPS program.

The Commission denied the test claim, finding that the test claim statutes and executive orders do not require the community colleges to perform any state-mandated activities and, thus, do not impose a state-mandated program as follows:

1. The requirement to perform the downstream activities delineated by Education Code sections 69640, 69641, 69641.5, 69643, 69648, 69649, 69652, and 69655, and California Code of Regulations, title 5, sections 56206, 56208, 56210, 56230, 56232, 56234, 56236, 56238, 56254, 56256, 56258, 56260, 56262, 56264, 56270, 56272, 56274, 56276, 56278, 56280, 56290, 56293, 56295, 56296, 56298 are triggered by a district's voluntary decision to establish an EOPS program and to request and accept state funding.
2. Education Code Section 69656, California Code of Regulations, title 5, sections 56200, 56201, 56202, 56204, 56220, 56222, 56224, 56226, 56540, 56252, 56292, and the EOPS Implementing Guidelines do not require community college districts to perform any activities.