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**REPORT TO THE  
LEGISLATURE:  
DENIED MANDATE CLAIMS**

**January 1, 2025 –  
December 31, 2025**

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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 one test claim that the Commission denied during the period from January 1, 2025, through December 31, 2025. The complete text of the decision for the denied claim may be found on the Commission's website at <https://www.csm.ca.gov/report-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 1187.11.

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

**SUMMARY OF DENIED CLAIMS**  
***Transitional Kindergarten, 23-TC-02***

Education Code Section 48000, Statutes 2021, Chapter 44, Section 60 (AB 130)

Hope Elementary School District and Sunnyvale School District, Claimants

Test Claim Filed: January 22, 2024

Decision Adopted: May 23, 2025

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This Test Claim alleges new state-mandated activities and costs arising from amendments to Education Code section 48000 found in Statutes 2021, chapter 44, section 60 (AB 130), relating to the transitional kindergarten (TK) program.<sup>2</sup> Existing law requires, as a condition of receiving an apportionment of funds for TK pupils, school districts to maintain a TK program, defined as “the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.”<sup>3</sup> Prior law provided, “[a]s a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Education Code section 46300,” school districts and charter schools shall ensure that a child, who will have their fifth birthday between September 2 and December 2 from the 2014-2015 school year onwards, be admitted into a transitional kindergarten program maintained by the school district or charter school.<sup>4</sup> The apportionment promised comes from the increase in the school district’s average daily attendance (ADA) caused by TK pupils attending the program.<sup>5</sup> ADA is the total number of days of pupil attendance divided by the total number of days in the regular school year.<sup>6</sup> ADA is used in calculating how much funding the state shall set aside for education each year under Proposition 98, and how much of that funding each school district is entitled to under the Local Control Funding Formula (LCFF) and from constitutionally guaranteed minimums.<sup>7</sup>

The 2021 test claim statute expands the birthdate range used to determine who shall be admitted into TK programs incrementally over several years, so that by the 2025-2026 school year, as a condition of receipt of apportionment for pupils in a TK program, school districts shall ensure that children who will have their fourth birthday by September 1 shall be admitted into a TK program maintained by the school district or charter school.<sup>8</sup> The test claim statute also imposes new conditions on school districts and charter schools for receipt of apportionment for pupils in a TK program, requiring the school districts and charter schools to maintain an average TK class enrollment of

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<sup>2</sup> TK and transitional kindergarten are used interchangeably throughout this Decision.

<sup>3</sup> Education Code section 48000(d).

<sup>4</sup> See Education Code section 48000(c)(1)(C), as amended by Statutes 2010, chapter 705 (SB 1381), section 3.

<sup>5</sup> Education Code section 46300(g). See also, Statutes 2010, chapter 705, section 5.

<sup>6</sup> Education Code section 46301.

<sup>7</sup> California Constitution, article IX, section 6; article XIII, section 36; article XVI, section 8; Education Code section 42238.02.

<sup>8</sup> Education Code section 48000(c)(1)(G), as amended by Statutes 2021, chapter 44 (AB 130), section 60.

not more than 24 pupils for each schoolsite; and, beginning with the 2022-2023 school year, to maintain an average of at least one adult for every 12 pupils in a TK classroom.<sup>9</sup> Education Code section 48000(e), as originally added in 2010 and continues today, provides that “a transitional kindergarten program shall not be construed as a new program or higher level of service.”<sup>10</sup>

The claimants, interested parties and persons, and the California Department of Education (CDE) contend the test claim statute imposes a state-mandated program to provide a TK program as specified in the statute and raise arguments in favor of school districts being both legally and practically compelled to provide a TK program and comply with the new requirements.

The Commission does not need to reach a decision on whether the new requirements are mandated by the state. The question whether there is a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution considers multiple elements, all of which must be satisfied to approve a claim.<sup>11</sup> As explained below, the state has provided additional revenue intended to fund the costs of the TK program and, therefore, pursuant to Government Code section 17556(e), there are no costs mandated by the state.

The test claim statute states that the required activities are a “condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300.”<sup>12</sup> Education Code section 46300(g)(1) expressly states that in computing the ADA of a school district, “there shall be included the attendance of pupils in . . . a transitional kindergarten program after they have completed one year in that program if . . . (B) The pupils participated in a transitional kindergarten program pursuant to subdivision (c) of Section 48000.”<sup>13</sup>

Article XVI, section 8(b) of the California Constitution (Proposition 98) provides the formulas used to determine how much funding the state shall set aside for public education each year, consisting of a mix of state General Fund revenue and local proceeds of taxes adjusted by ADA.<sup>14</sup> “Local proceeds of taxes” includes any local property tax revenue that offsets a school district’s funding entitlement.<sup>15</sup> In 2022, the Legislature added Education Code section 41204.7, which requires the Director of Finance to factor any increases in the amount of funding school districts are entitled to

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<sup>9</sup> Education Code section 48000(g), as amended by Statutes 2021, chapter 44 (AB 130), section 60.

<sup>10</sup> Education Code section 48000(e), as amended by Statutes 2010, chapter 705 (SB 1381), section 3.

<sup>11</sup> See *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

<sup>12</sup> Education Code section 48000(c)(1), (g).

<sup>13</sup> Education Code section 46300 (as last amended by Statutes 2010, chapter 705).

<sup>14</sup> California Constitution, article XVI, section 8(b)(2) and (3).

<sup>15</sup> Education Code section 41202(g).

as a result of the changes in ADA from the TK program into its Proposition 98 calculations, starting with fiscal year 2022-2023.<sup>16</sup>

The LCFF then apportions the Proposition 98 funds to school districts. The total of a school district's base, supplemental, and concentration grants, and any add-ons, is the school district's LCFF entitlement.<sup>17</sup> The LCFF entitlement now includes the additional ADA for TK pupils for those schools that provide a TK program, which is adjusted annually for inflation, along with a 10.4 percent adjustment to the kindergarten through grade three base rate that is conditional on the school district maintaining an average class size for kindergarten through grade three students of 24 pupils, plus an add-on equal to \$2,813 adjusted annually per ADA generated from TK pupils intended to support the costs to maintain an average of at least one adult for every twelve pupils in a TK classroom. In total, school districts are entitled to at least \$12,932 per unit of ADA generated by TK pupils for a school district to admit all pupils born within the mandatory date ranges, maintain a maximum average TK class size of 24 pupils per school site, and maintain an average of one adult for every twelve pupils in a TK classroom.

Each school district's LCFF entitlement is then satisfied by first crediting each school district with its share of local property tax revenue.<sup>18</sup> For the majority of school districts, local property tax revenue is not enough to meet its LCFF entitlement, and the state covers the difference using its remaining Proposition 98 funding. For a small number of school districts including the claimants, their local property tax revenue meets or exceeds their LCFF entitlement. These districts are referred to as basic aid districts, because they do not receive additional state aid to meet the entitlement, but the state still provides them with the following minimum amount of additional state funding guaranteed by the state Constitution<sup>19</sup>: \$120 per pupil ADA but not less than \$2,400 total;<sup>20</sup> and the Education Protection Account provides additional funding at minimum \$200 per unit of ADA.<sup>21</sup> Additionally, when creating the LCFF, the Legislature included a provision that no district would receive less state aid than it received in fiscal year 2012-2013 for pre-existing programs that were replaced by the LCFF.<sup>22</sup>

Government Code section 17556(e) provides that the Commission shall not find costs mandated by the state when "[t]he statute, executive order, or an appropriation in a Budget Act or other bill . . . includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate." The Commission finds that the state has provided additional revenue through the LCFF specifically intended to fund the costs of the TK program, including

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<sup>16</sup> Education Code section 41204.7 (Statutes 2022, chapter 52).

<sup>17</sup> Exhibit L (18), Petek, *The Local Control Funding Formula for School Districts and Charter Schools*, LAO, January 2023, (accessed on January 24, 2025), page 7.

<sup>18</sup> Education Code section 42238.03(c)(1)(A).

<sup>19</sup> Exhibit L (18), Petek, *The Local Control Funding Formula for School Districts and Charter Schools*, LAO, January 2023, (accessed on January 24, 2025), page 7.

<sup>20</sup> California Constitution, article IX, section 6.

<sup>21</sup> California Constitution, article XIII, section 36(e)(3)(B). This funding is separate and in addition to the funding requirement in article IX, section 6.

<sup>22</sup> Education Code 42238.03(e)

the new requirements, in an amount sufficient to fund the costs of the program and, thus, there are no costs mandated by the state pursuant to Government Code section 17556(e).

Here, the Legislature has added funding specifically for the TK program through the LCFF. Each student that attends a TK program generates ADA for the school district, which is used in calculating school district apportionments under the LCFF.<sup>23</sup> This ADA would not otherwise exist if not for the TK program, as without transitional kindergarten, school districts are only required to admit a child into kindergarten if they will have their fifth birthday by September 1 of that school year, and the children who are eligible to enroll in TK do not meet that requirement.<sup>24</sup> As indicated above, school districts are entitled to \$12,932 per unit of ADA generated by TK pupils specifically for the program.<sup>25</sup> Just like the Supreme Court held in *California School Boards' Association v. State of California* (CSBA), the state has satisfied its funding obligations under article XIII B, section 6 of the California Constitution when it designates funds appropriated by the state for education as subventions for mandate reimbursement. Such funds "are not local proceeds of taxes."<sup>26</sup>

The court in CSBA addressed a challenge by school districts to legislation that required funds apportioned to school districts under Proposition 98, which were previously designated as unrestricted non-mandated education funding, to first be used to pay for two state-mandated programs, including the *Graduation Requirements* program that added a mandated science course to graduate from high school, requiring school districts to incur costs including the salary and benefits of science teachers.<sup>27</sup> CSBA contended that the legislation violated the mandate reimbursement requirement in article XIII B, section 6 since additional mandate funding is required to be provided. The court disagreed. The court recognized that although the funds the claimants may have wished to use exclusively for other substantive program activities were now reduced as a result of the statute in CSBA, this did not in itself transform the costs into a reimbursable state mandate.<sup>28</sup> The court concluded, "CSBA cites no other constitutional provision or authority that bars the Legislature from identifying a portion of previously unrestricted state funding and prospectively designating it to be used to offset mandate costs. Funds so designated are not local proceeds of taxes."<sup>29</sup> The court explained that:

CSBA's insistence that article XIII B, section 6 requires the state to provide "additional" funding to cover the [Graduation Requirements] mandates ultimately rests on its contention that the Legislature may not "identify pre-existing education funding as mandate payment." But article

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<sup>23</sup> See Statutes 2010, chapter 705 (SB 1381), section 5.

<sup>24</sup> Education Code section 48000(a).

<sup>25</sup> Education Code section 42238.02(d)(1)(A), (d)(2), (d)(3), and (g)(2).

<sup>26</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 729.

<sup>27</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 719, 721-722.

<sup>28</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 727.

<sup>29</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 729.

XIII B, section 6 does not guarantee any baseline of “pre-existing education funding,” . . .<sup>30</sup>

The court also rejected CSBA’s argument that “once certain funding is defined as the education agencies’ ‘proceeds of taxes,’ it is protected by Section 6 and the State’s authority is correspondingly limited,”<sup>31</sup> as follows:

CSBA is correct that Government Code sections 7906 and 7907 define school districts’ and county superintendents’ “proceeds of taxes” to include unrestricted state education funding. But those statutes do not guarantee or lock into place any baseline of unrestricted state funding, and as explained above, article XIII B, section 6 does not preclude the Legislature from adjusting the mix of state funding allocated for unrestricted versus mandate purposes.<sup>32</sup>

Rather, the court held the Legislature has multiple methods available to it for satisfying the state’s mandate obligations, such as: 1) providing new funding; 2) eliminating a different program or funded mandate to free up funds; 3) identifying new offsetting savings or offsetting revenue; 4) designating previously unrestricted funding as prospectively allocated for the mandate; or 5) suspending the mandate and rendering it unenforceable.<sup>33</sup> “Pursuant to its broad authority over revenue collection and allocation, the Legislature may increase, decrease, earmark, or otherwise modify state education funding in order to satisfy reimbursement obligations, so long as its chosen method is consistent with Proposition 98 and other constitutional guarantees.”<sup>34</sup>

Just like the court held in *CSBA*, the state has satisfied its funding obligations under article XIII B, section 6 of the California Constitution for the TK program, including the new requirements, when it designated funds appropriated by the state specifically for the TK program for mandate reimbursement. Such funds “are not local proceeds of taxes.”<sup>35</sup>

Accordingly, there are no costs mandated by the state pursuant to Government Code section 17556(e) and, thus, the test claim statute does not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

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<sup>30</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 727.

<sup>31</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 728.

<sup>32</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 728.

<sup>33</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 726.

<sup>34</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 726.

<sup>35</sup> *California School Board Association v. State of California* (2019) 8 Cal.5th 713, 729.