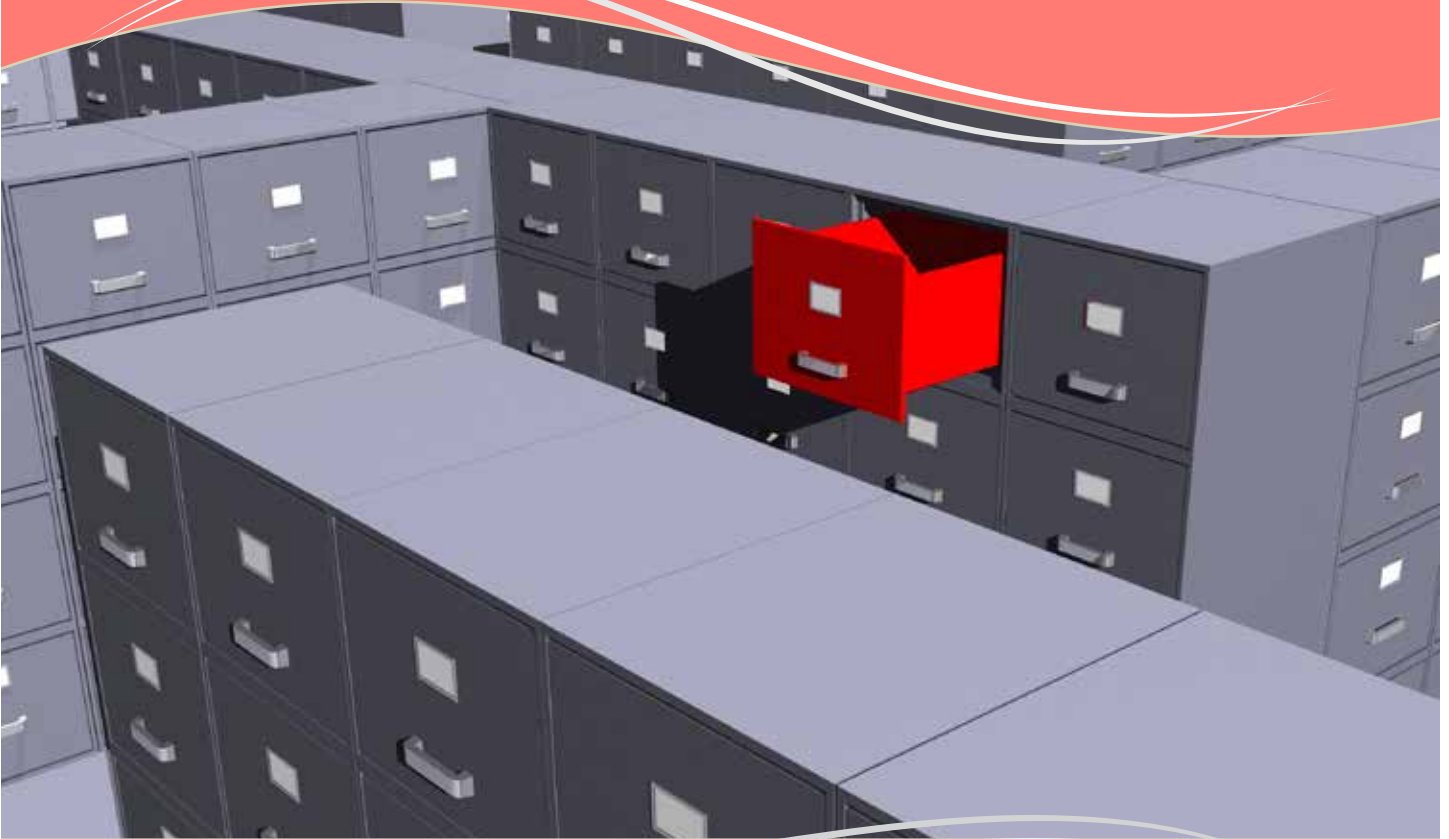


Analysis of Education Mandates



MAC TAYLOR • LEGISLATIVE ANALYST • FEBRUARY 26, 2014

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EXECUTIVE SUMMARY

Overview

The California Constitution requires the state to reimburse local governments for new programs or higher levels of service the state imposes on them. In the area of education, local governments that qualify for reimbursement include school districts, county offices of education (COEs), and community colleges—collectively referred to as local educational agencies (LEAs).

Assessment of Mandate Funding Process

Traditional Mandate Reimbursement Process Based on Claimed Costs. Under the traditional mandate reimbursement process, the Commission on State Mandates (CSM) first determines whether an activity is a mandate. Next, LEAs are required to document in detail how much they spent on a particular mandate. The LEAs then are required to submit this information on an ongoing basis to the State Controller's Office (SCO) for review and approval.

Problems With Traditional Reimbursement Process. Because reimbursements under the traditional process are based on actual costs, LEAs lack an incentive to perform required activities as efficiently as possible. The traditional process also does not consider how well an activity is performed. Because of these shortcomings, the state can end up paying some LEAs notably more than other LEAs even if they perform notably worse.

State Recently Created Two Alternative Reimbursement Systems. To address some of the flaws associated with the traditional process, the state in recent years created two alternative reimbursement systems.

- **Reasonable Reimbursement Methodology (RRM).** In 2004, the state created a new reimbursement process called an RRM. Rather than requiring LEAs to submit detailed documentation of actual costs, an RRM uses general allocation formulas or other approximations of costs. An RRM may be proposed by the Department of Finance (DOF), SCO, an affected state agency, the claimant, or any other interested party. An RRM must be approved by CSM.
- **Education Mandates Block Grants.** As part of the 2012-13 budget, the state created two block grants for education mandates. One block grant is for school districts, COEs, and charter schools (for which some mandated activities apply). The other block grant is for community colleges. Instead of submitting detailed claims on an ongoing basis that track how much time and money was spent on each mandated activity, LEAs can choose to receive funding for all mandated activities included in the block grants. Block grant funding is provided on a per-student basis, with different rates for different LEAs.

Recommend Repealing RRM Process for Education Mandates. Though the intent of both the block grants and RRMs is to provide a simpler way to distribute mandate funding to LEAs, the block

grants have several advantages. With the block grants, the Legislature can adjust funding annually based on expected costs. Moreover, the state has a strong incentive to ensure block grant funding is reasonable so that LEAs continue to participate. In contrast, RRM process, however, for other local governments, as they do not have access to a block grant.)

Recommend Assessing Multiple Sources of Information to Adjust Block Grant Funding. When the block grants were created in 2012-13, the state did not specify either how new mandates would be added to the block grants or how block grant funding would be adjusted moving forward. We recommend the Legislature make block grant funding adjustments by considering a variety of factors, including: (1) the variation in initial mandate claims submitted by LEAs, (2) the number of LEAs performing the activity, and (3) the likelihood that some initial claims may be overstated. In select cases, we recommend the Legislature also consider requesting DOF or our office to provide independent cost estimates.

Also Recommend Adjusting Block Grants for Future Cost Increases. We recommend the Legislature apply a cost-of-living adjustment (COLA) to the block grants whenever it applies a COLA to other education programs. In 2014-15, providing a 0.86 percent COLA to the block grants (consistent with other programs) would cost \$1.9 million for schools and \$0.3 million for community colleges.

Assessment of New Mandates

CSM Recently Approved Seven New Education Mandates. The CSM recently approved seven new mandates. Six of these mandates apply to schools while two apply to community colleges. (One mandate applies to both.) Most of these mandates were enacted over a decade ago, but CSM only recently completed them due to a backlog in its workload.

Governor's Budget Addresses Four of the Seven New Mandates. The Governor proposes to add three of these new mandates to the block grant and repeal one, with no adjustments to block grant funding. (The administration indicates it inadvertently omitted one other mandate from its budget proposal and intentionally omitted two other mandates because CSM had not finished them prior to the release of the Governor's budget.)

Recommend Legislature Take More Nuanced Approach. In contrast to the Governor's approach to fund or eliminate entire mandates, we recommend the Legislature assess each activity contained within a mandate. (Mandates can include anywhere from one to dozens of different requirements.) For each activity, we recommend the Legislature consider whether the requirement serves a compelling state purpose. We also recommend the Legislature consider whether the mandate produces positive results and whether less costly alternatives exist. Based on these criteria, we recommend the Legislature repeal four mandates in their entirety and take a mixed approach on three mandates. In these three latter cases, we recommend funding certain activities while repealing or modifying others. Because we estimate the costs associated with the retained activities to be minimal, we think the Legislature does not need to increase block grant funding.

INTRODUCTION

This report is about certain education activities determined to be state mandates. The report consists of two parts. In the first part, we provide background information on the state’s traditional process for reimbursing education mandates, discuss recent efforts by the state to improve this process, and recommend ways to address unresolved issues relating to reimbursements. In the second part of the report, we assess seven new

education mandates—including four mandates addressed by the Governor in his 2014-15 budget proposal—and provide recommendations on whether to fund, suspend, repeal, or modify them. The second part of this report fulfills a requirement for our office to analyze new mandates, as specified by Chapter 1124, Statutes of 2002 (AB 3000, Committee on Budget).

MANDATE REIMBURSEMENT PROCESS

TRADITIONAL PROCESS

In this section, we describe the state’s process for determining whether an activity is a reimbursable state mandate. We also describe the traditional process used by the state to provide reimbursement for these activities.

Constitution Requires the State to Reimburse Local Governments for Mandated Activities. In 1979, voters passed Proposition 4, which added a requirement to the California Constitution that local governments be reimbursed for new programs or higher levels of service the state imposes on them. In the area of education, school districts, COEs, and community colleges—collectively referred to as LEAs—may seek reimbursement for undertaking mandated activities. (Though some mandated activities also apply to charter schools, the state does not consider charter schools to be local governments.)

Multistep Process Used to Determine if an Activity Is a Mandate. As part of its response to Proposition 4, the Legislature created CSM to hear and decide claims that a state law, executive order, or regulation imposes new requirements on LEAs. Following the enactment of a new requirement, LEAs have one year to file a “test claim” with

CSM asserting the new requirement imposes a new program or higher level of service on them. Based on statutory guidelines and case law governing mandate reimbursements, CSM adopts a “Statement of Decision” articulating the reasons for determining whether a test claim is a mandate. (The box on the next page provides more detail on the rules governing mandate determinations.) Following adoption of the Statement of Decision, CSM adopts “Parameters and Guidelines” that list the specific activities that are reimbursable.

LEAs Submit Claims for Reimbursement. After CSM has approved a list of reimbursable activities for a mandate, SCO prepares claim forms. These forms require LEAs to document in detail how much they spent on a particular mandate. For example, LEAs may be required to submit copies of time sheets for staff whose job responsibilities include performing the mandated activity. The SCO then reviews these claims for the required documentation and, subject to funding in the state budget, provides reimbursement. The SCO in some cases also conducts detailed audits of claims.

Funding for New Mandates Considered in State Budget. Typically, within one year of LEAs submitting initial claims for reimbursement, CSM

prepares a statewide cost estimate based on these initial claims. After the cost estimate is prepared, mandates typically are considered for funding in the state budget. The Legislature generally has four options at this point: to fund, modify, suspend, or repeal the mandate. (Suspending a mandate relieves LEAs of performing the activity for one year only, while repealing a mandate permanently eliminates it.) As shown in Figure 1, schools and community colleges have about 40 and 14 active mandates, respectively, that are included in the state budget. Schools and community colleges each have another dozen mandates currently suspended.

State Has Considerable Backlog of Unpaid Mandate Claims. In many years, particularly during times of budgetary shortfalls, the state

has not provided funding to pay for education mandates, effectively deferring these costs. (Though a superior court in 2008 found the state’s practice of deferring education mandate payments unconstitutional, constitutional separation of powers means the courts cannot force the Legislature to make appropriations for mandates.) The state’s decisions to defer payments for mandates has contributed to a considerable backlog of unpaid mandate claims. Another factor contributing to the sizeable backlog are recent CSM decisions approving retroactive payments for two extremely expensive education mandates—Graduation Requirements and Behavioral Intervention Plans (BIP). Currently, we estimate the state’s backlog of unpaid mandate claims to total about \$4.5 billion.

Factors for Making Mandate Determinations

In making a mandate determination, the Commission on State Mandates (CSM) relies upon various rules that have been established in state law and through court rulings. To start, CSM must first consider whether the activity (1) is a new governmental program and (2) requires a higher level of governmental service. For example, state laws that apply equally to the public and private sector (such as minimum wage laws) are not considered state reimbursable mandates because they are not considered to be a “governmental program.” Even if an activity satisfies these two main criteria, various other rules can exclude an activity from being reimbursable. The main exclusions are:

- ***Federal Requirements.*** An activity required under federal law is not reimbursable even if state law requires the same activity.
- ***Voter-Imposed Requirements.*** An activity required as the result of a voter-approved measure is not reimbursable.
- ***Downstream Costs Associated With Optional Activities.*** If a local educational agency has the option of undertaking an activity, then it is not reimbursable, even if specific rules govern how the activity is to be performed.
- ***Offsetting Savings and Revenues.*** Even if an activity is found to be a mandate, it may not qualify for state reimbursement if there are offsetting savings generated by performing the activity. Similarly, any revenues available to pay for the activity may be applied as an offset.
- ***Requirements Enacted Prior to 1975.*** If a requirement was enacted prior to 1975, then it is not reimbursable.

Figure 1
Education Mandates^a

Schools	
Active	
Absentee Ballots	Interdistrict Attendance Permits
Academic Performance Index	Intradistrict Attendance
Agency Fee Arrangements	Juvenile Court Notices II
AIDS Prevention/Instruction	Law Enforcement Agency Notification ^c
Annual Parent Notification ^b	Notification of Truancy
CalSTRS Service Credit	Open Meetings/Brown Act Reform
Caregiver Affidavits	Physical Performance Tests
Charter Schools I, II, and III	Prevailing Wage Rate
Child Abuse and Neglect Reporting	Pupil Suspensions, Expulsions, and Expulsion Appeals
COE Fiscal Accountability Reporting	Pupil Suspensions and Expulsions II
Collective Bargaining	Pupil Health Screenings
Comprehensive School Safety Plans	Pupil Promotion and Retention
Criminal Background Checks I and II	Pupil Safety Notices
Differential Pay and Reemployment	School Accountability Report Cards
Expulsion of Pupil: Transcript Cost for Appeals	School District Fiscal Accountability Reporting
Financial and Compliance Audits	School District Reorganization
Habitual Truants	Teacher Notification: Pupil Suspensions/Expulsions ^d
High School Exit Examination	The Stull Act
Immunization Records (includes Hepatitis B)	Threats Against Peace Officers
Suspended	
Absentee Ballots	Mandate Reimbursement Process I and II
Brendon Maguire Act	Physical Education Reports
County Treasury Withdrawals	Pupil Residency Verification and Appeals
Grand Jury Proceedings	Removal of Chemicals
Health Benefits for Survivors of Peace Officers	School Bus Safety I and II
Law Enforcement Sexual Harassment Training	Scoliosis Screening
Community Colleges	
Active	
Agency Fee Arrangements	Health Fee Elimination
Cal Grants	Minimum Conditions for State Aid
CalSTRS Service Credit	Open Meetings/Brown Act
Collective Bargaining	Prevailing Wage Rate
Community College Construction	Reporting Improper Governmental Activities
Discrimination Complaint Procedures	Threats Against Peace Officers
Enrollment Fee Collection and Waivers	Tuition Fee Waivers
Suspended	
Absentee Ballots	Law Enforcement Jurisdiction Agreements
Brendon Maguire Act	Law Enforcement Sexual Harassment Training
County Treasury Withdrawals	Mandate Reimbursement Process I and II
Grand Jury Proceedings	Sex Offenders: Disclosure by Law Enforcement
Health Benefits for Survivors of Peace Officers	Sexual Assault Response Procedures
Integrated Waste Management	Student Records

^a Reflects name of mandate as it appears in 2013-14 Budget Act. Often, mandate includes only very specific activities associated with its name.

^b Also includes Schoolsite Discipline Rules and Alternative Schools.

^c Also includes Missing Children Reports.

^d Also includes Pupil Discipline Records.

CalSTRS = California State Teachers' Retirement System and COEs = county offices of education.

FLAWS WITH TRADITIONAL PROCESS

In this section, we discuss several flaws with the traditional mandate reimbursement process.

Claims Process Lacks Incentives for Efficiency.

Many mandate reimbursements are based on the amount of time devoted to a required activity and the salary of the staff member performing it. In other words, the more time devoted to an activity and the higher the staff member's rank, the greater the reimbursement. As a result of this reimbursement structure, districts lack an incentive to perform the required activity at the lowest cost possible. This reimbursement structure also can result in a wide variation in district reimbursement rates for the same activity.

Claims Process Ignores Effectiveness. Under the claims process, districts can claim expenses for performing an activity regardless of how well it is performed or whether its underlying policy objectives are achieved. For example, school districts receive the same amount for sending a form letter home when a student becomes a truant, regardless of whether the districts' efforts increase parental involvement or reduce dropout rates.

Payments Not Aligned With When Activities Are Performed. Historically, a long lag—from several years to multiple decades—has existed from the time legislation imposing new requirements is enacted to the time CSM releases a statewide cost estimate. In some cases, a multiyear lag emerges as the result of the multiple steps entailed in the determination process. In other cases, a multi-decade lag occurs as a result of litigation involving a CSM decision. Thus, by the time a mandate is considered for funding in the state budget, LEAs typically have already incurred costs for some time. For example, BIP requirements were enacted in 1993, yet CSM only issued Parameters and Guidelines for the mandate last year. Because the required activities have already been performed,

any funding the state provides for past costs instead is available for general purposes. (Moving forward, the average time for mandate determinations likely will decrease. In the early 2000s, CSM received a significant influx in test claims due to legislation that gave LEAs one year to submit test claims for any laws passed prior to this time. A considerable backlog in test claims developed, which CSM only now is close to eliminating.)

STATE EFFORTS TO IMPROVE TRADITIONAL PROCESS

In recent years, the state has tried to address some of the shortcomings associated with the traditional mandate reimbursement process. Below, we discuss two alternative reimbursement structures the state recently adopted to improve the way mandates are paid.

Reasonable Reimbursement Methodology

RRM Created as Alternative Way to Pay for Mandates. Chapter 890, Statutes of 2004 (AB 2856, Laird), created an alternative process for the state to make mandate reimbursements known as an RRM. Rather than requiring LEAs (and other local governments) to submit detailed documentation of actual costs, an RRM uses general allocation formulas or other approximations of costs. An RRM may be proposed by DOF, SCO, any affected state agency, the claimant, or any other interested party. The CSM reviews and approves an RRM as part of its Parameters and Guidelines for reimbursement.

RRM Intended to Address Some Problems With Reimbursement System. The RRM process was intended to alleviate local governments from the burden of documenting actual mandate costs and alleviate the state from the burden of reviewing and paying associated claims. It also was intended to address state concerns with variations in reimbursement rates across local governments. In addition, the RRM process was intended to

provide local governments with incentives to perform activities more efficiently because they are reimbursed at a fixed rate.

RRM Used Seldomly. Despite the intended benefits of RRM, the RRM process in practice has been used rarely, with approved RRM in effect for only three school mandates (and no community college mandates). In addition to being rarely used, serious disagreements have occurred between the state and LEAs over all three proposed RRM. These disagreements have created lengthy delays in the RRM approval process. In one of the three cases, decisions also were delayed due to subsequent litigation over the approved RRM.

Education Mandates Block Grants

Block Grants Also Created as Alternative Funding System. As another way to address some of the problems with the traditional mandate reimbursement system, the state two years ago created two block grants for education mandates. One block grant is for school districts, COEs, and charter schools (hereafter referred to collectively as “schools”). The other block grant is for community colleges. Instead of submitting detailed claims on an ongoing basis listing how much time and money was spent on each mandated activity, LEAs can choose to receive funding for all mandated activities included in the block grants. Except for new mandates not yet included in the state budget, all active education mandates currently are included in the block grants. (Due to concerns regarding the state’s constitutional obligation to reimburse LEAs for mandated costs, the state retained the existing mandates claiming process for LEAs not opting into the block grants.)

Block Grants Distribute Payments on Per-Student Basis. The 2013-14 budget includes block grant funding of \$217 million for schools and \$33 million for community colleges. Block grant funding is allocated to participating LEAs

on a per-student basis, as measured by average daily attendance (ADA) for schools and full-time equivalent students (FTES) for community colleges. The rate varies by type of LEA and, for schools, by grade span. The difference in rates is because different mandates apply to different LEAs and because one mandate for schools (Graduation Requirements) is exceptionally costly and only applies to high schools. The rates are as follows:

- School districts receive \$28 per student in grades K-8 and \$56 per student in grades 9-12.
- Charter schools receive \$14 per student in grades K-8 and \$42 per student in grades 9-12. (Even though charter schools are not eligible to submit mandate claims, the state included them in the block grant given some mandates apply to them.)
- COEs receive \$28 per student in grades K-8 and \$56 per student in grades 9-12. This rate applies to students enrolled in county-run programs. In addition, COEs receive an extra \$1 per student for all students located within the county, in recognition of the fact that some mandates entail broader oversight responsibilities performed by the COE.
- Community colleges receive \$28 per student.

Block Grant Participation High. As shown in Figure 2 (see next page), a sizeable majority of LEAs have chosen to participate in the block grants rather than access funding through the traditional claims process. (As noted earlier, the state has chosen to defer funding for traditional mandate claims in recent years.) This includes 84 percent of school districts, 79 percent of COEs, and nearly all charter schools and community colleges. These

Figure 2
Block Grant Participation Is High

2013-14

	Number Participating	Total Number	Percent Participating	Percent of ADA/FTES Covered
Charter schools	987	1,008	98%	99%
School districts	795	941	84	94
County offices of education	46	58	79	91
Totals	1,828	2,007	91%	95%
Community Colleges	68	72	94%	97%

ADA = average daily attendance and FTES = full-time equivalent students.

LEAs serve 95 percent of ADA at schools and 97 percent of FTES at community colleges.

UNRESOLVED ISSUES

In this section, we make two main recommendations for how the state can build upon its recent efforts to improve the mandate reimbursement system.

Streamlining Reimbursement Methods

Block Grants and RRM Serve Overlapping Purposes. The intent of both the block grant and the RRM is to provide a simpler way to distribute mandate funds to LEAs. Both methods of paying LEAs fulfill this purpose by allowing LEAs to access funding through a simple formula rather than submitting detailed claims documenting actual costs on an ongoing basis.

Block Grants Keep Budget Decisions in Regular Budget Process. One major difference between the block grants and RRMs is the block grants are considered as part of the regular budget process whereas RRMs are determined by CSM in a quasi-judicial forum. For the block grants, the Legislature can adjust funding annually based on expected costs, as it does for any other program area. Moreover, the state has a strong incentive to ensure block grant funding is reasonable so that LEAs continue to participate. If the state were

to provide insufficient funding for the block grants, LEAs could send a strong signal of their disapproval by electing not to participate. In contrast, RRMs are determined by CSM and disagreements over them must be resolved through litigation, with the judicial branch rather than the Legislature ultimately

making a budget decision—and doing so apart from other main budget decisions. As indicated earlier, disagreements between the state and LEAs also have hindered the ability of CSM to approve RRMs. In contrast, a large majority of LEAs have chosen to receive funding for mandates through the block grants, suggesting that the budget process has provided a better forum for the state and LEAs to determine reasonable reimbursement amounts than the RRM process.

Recommend Repealing RRM for Education Mandates. For the reasons cited above, we recommend the Legislature repeal the RRM process for education mandates. (However, we recommend continuing to allow the RRM process to be used for other local governments, as they do not have access to a block grant.)

Adding New Mandates to the Block Grants

No Existing Process for Adding Mandates to Block Grants. When the block grants were created in 2012-13, nearly all active mandates were included in them, along with an amount of funding similar to the amount being claimed for the included mandates. However, the state did not specify how new mandates would be added to the block grants and how block grant funding would be adjusted moving forward. In 2013-14, the state added a

few mandates to the block grants. Most notably, the state added the Graduation Requirements mandate to the schools block grant, created grade span weights (because this mandate is so costly and only affects high schools), and increased the high school rate from \$28 to \$56 per student. In contrast, the state added the Pupil Suspensions and Expulsions II mandate to the block grant but made no adjustment to block grant funding. The state also did not provide an inflation adjustment to the block grant.

Recommend Assessing Multiple Sources of Information to Adjust Block Grant Funding.

Moving forward, we recommend the Legislature take a more systematic approach when determining how to adjust block grant funding to account for new mandates. The statewide cost estimates prepared by CSM offer a reasonable starting point because they show how many initial claims have been filed and associated costs. To determine if a particular cost estimate is reasonable, we recommend the Legislature consider the following:

- ***Variation in Claims.*** Mandate claims sometimes can vary widely by district. In some cases, this variation may be related to differences in the size, type, or location of LEAs, but in other cases it may be related to differences in how efficiently LEAs perform the activity. If available data suggests the latter situation, we recommend the Legislature adjust block funding based on the rate claimed by districts performing the activity most efficiently.
- ***Number of LEAs Performing Activity.*** Often, very few LEAs submit initial mandate claims. This could be because some LEAs have not yet figured out how to track and document costs for the activity. Therefore, the statewide cost estimate prepared by CSM may not accurately reflect

costs on a statewide basis. In cases such as these, we recommend the Legislature scale up the costs based on how many LEAs are expected to be performing the mandate.

- ***Audit Results.*** The SCO only performs a full audit on about 5 percent of costs claimed for LEAs. These audits tend to be targeted to high-risk claims. Recent data indicate SCO disallows 76 percent of the audited costs claimed for schools and 56 percent for community colleges. These high disallowance rates suggest that some claims overbill the state. We recommend the Legislature take this into account when deciding how to adjust the block grants. (For example, by making a small downward adjustment to recognize some initial claims for new mandates likely include disallowed costs.)
- ***Other Cost Estimates.*** Though CSM’s statewide cost estimate provides a good starting point for considering how much funding to provide for a mandate, we recommend the Legislature also consider other cost estimates, particularly for larger mandates. For example, independent cost estimates for a mandate could be created in certain cases by our office or DOF.

Also Recommend Adjusting Block Grants for Future Cost Increases.

Because prices for goods and services can increase from year to year, the state typically provides a COLA for most education programs. We recommend the Legislature apply a COLA to the block grants whenever it applies a COLA to other education programs. In 2014-15, providing a 0.86 percent COLA to the block grants (consistent with other programs) would cost \$1.9 million for schools and \$0.3 million for community colleges.

ASSESSMENT OF NEW MANDATES

In this section, we assess and make recommendations on how to treat new mandates. In making our recommendations, we provide guidance to the Legislature on how to adjust block grant funding for mandates we recommend retaining.

CSM Recently Approved Cost Estimates for Seven New Mandates. The CSM recently approved statewide cost estimates for seven new mandates. Six of these mandates apply to schools while two apply to community colleges. (One mandate applies to both.) The test claims for most of these mandates were filed over ten years ago but CSM only recently completed them due to a backlog of test claims. Because LEAs at that time were allowed to submit test claims for requirements enacted any time after 1975, some of the test claims relate to requirements the state enacted long before the test claim was filed. For instance, the Parental Involvement mandate includes a requirement enacted in 1990.

Governor’s Budget Addresses Four of the Seven New Mandates. Of the seven new mandates, the Governor proposes to add three to the block grant and repeal one. The administration indicates it inadvertently omitted one mandate (Developer

Fees) from its budget proposal and intentionally omitted two mandates (Parental Involvement and *Williams Case Implementation*) because CSM had not adopted cost estimates for them prior to the release of the Governor’s budget. Figure 3 provides summary information for each mandate and the Governor’s proposed treatment.

Criteria for Assessing New Mandates. In assessing each mandate, we focus primarily on whether the mandate serves a compelling state purpose. In addition, we consider whether the mandate produces positive results and whether less costly alternatives exist. For mandates we recommend retaining, we estimate associated costs using the process described earlier in this report. We do not recommend making adjustments to the block grants when the estimated statewide costs for a mandate are less than \$1 million annually.

PARENTAL INVOLVEMENT PROGRAMS

A Few State-Required Parental Involvement Activities Found to Be Reimbursable Mandates. Drawing on research suggesting parental involvement can have positive effects on student achievement, the Legislature enacted several

Figure 3
New Mandates

New Mandates With Cost Estimate Adopted by CSM as of February 1, 2014

Mandate ^a	Start Date of Reimbursement Period	CSM Estimated Annual Cost Statewide	Governor’s Proposal	Governor’s Proposed Change in Block Grant Funding
Parental Involvement Program	7/1/2002	\$125,268	None	—
<i>Williams Case Implementation</i>	9/29/2004	106,183	None	—
Uniform Complaint Procedures	7/1/2002	34,751	Add to block grant	\$0
Developer Fees	7/1/2001	34,209	None	—
Public Contracts	7/1/2001	32,932	Add to block grant	0
Community College Construction	7/1/2001	22,519	Repeal	—
Charter Schools IV	1/1/2003	4,261	Add to block grant	0

^a Community College Construction applies only to community colleges. Public Contracts applies to both schools and community colleges. All other mandates apply only to schools. CSM = Commission on State Mandates.

laws relating to parental involvement beginning in 1990. Though these laws require schools to undertake a number of activities related to parental involvement, CSM determined that only a subset of these activities are reimbursable mandates. This is because some activities already are required under federal law whereas other activities are only required for schools that participate in voluntary programs. The following requirements have been found to be new state mandates.

- ***Adopting a Parental Involvement Policy.*** Schools are required to adopt a parental involvement policy that describes the manner in which parents may “share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils.” The policy is to address a range of issues—from the school describing its curriculum to parents monitoring attendance of their children. Schools must consult with parents when developing the policy and only are required to adopt a policy once.
- ***Allowing Parents to Observe Classes and Test Questions.*** Schools must allow parents to observe their child’s classroom or school activity upon written request. Schools also must allow parents to inspect test questions, except for standardized test questions.
- ***Notifying Certain Parents of Rights.*** Schools are required to notify certain parents who do not speak English as their primary language of certain rights, including the right to observe their child’s classroom, meet with their child’s teacher, volunteer at school, access their child’s school records, and participate in school committees. Schools are only required

to notify parents who speak a primary language other than English spoken by at least 15 percent of the district’s families. Schools do not have to notify parents whose home language is English or parents who speak a language spoken by less than 15 percent of families in the district.

New Local Accountability System Includes Parental Involvement. As part of the new accountability system the state adopted last year, a district must adopt a Local Control Accountability Plan (LCAP) every three years and update the plan annually. The LCAP process has two requirements related to parental involvement.

- ***Parental Involvement One of State Priority Areas for LCAPs.*** Each LCAP must address the district’s goals and proposed actions in the priority area of parental involvement.
- ***LCAPs Require Parent Consultation.*** Districts are required to submit their proposed LCAP to a parent advisory committee and, in some cases, a separate committee of parents of English learners. The committees can comment on the proposed plan, and the district must respond in writing. Districts also must solicit public feedback and hold at least two public hearings to discuss and adopt (or update) their LCAPs.

LCAP Process Has Advantages Over Existing Parental Involvement Mandates. The LCAP process has several advantages over current state mandates relating to parental involvement policies, parent rights, and notification of parent rights.

- ***Parental Involvement Policy.*** Because the LCAP process requires districts to describe actions they will take to promote parental involvement, these plans serve a

similar function as parental involvement policies. Compared to state requirements for adopting a parental involvement policy, LCAPs, however, require districts to be more specific about their goals, their proposed actions, and how they will measure progress. As noted above, the LCAP process also requires districts to submit their proposed plan to a parent advisory committee and, in some cases, a separate committee of parents of English learners, respond to any issues raised by the committees, and hold at least two public hearings to solicit feedback on the LCAP. Although the state requires districts to consult parents when adopting a parental involvement policy, districts are not required to form specific parent committees to review the policy or respond to parent concerns. Moreover, districts are required to update LCAPs annually, whereas the state does not require districts to update state-mandated parental involvement policies.

- **Parent Rights.** Districts now must identify specific actions in their LCAPs to promote parental involvement. This process could be used by districts and parents to decide which parental involvement activities are the most effective way to promote parent engagement. For instance, if parents believe that being allowed to observe classrooms or inspect test questions is important, they could use the LCAP process to request districts to include these activities in their LCAPs.
- **Notification of Parent Rights.** The LCAP process also could enable districts to decide on the most effective way to notify parents of the ways they can participate in their

child’s education (for example, a district website or school newsletter).

Recommend Repealing Parental Involvement Mandates. For these reasons, we recommend the Legislature repeal all three components of the parental involvement mandate.

WILLIAMS CASE IMPLEMENTATION

Package of Legislation Enacted Relating to Teacher Assignments, Instructional Materials, and School Facilities. From 2004 to 2007, the Legislature passed a series of laws that created new requirements for school districts and COEs relating to teacher assignment, instructional materials, and school facilities. These laws established statewide standards in these three areas, provided funding to school districts and COEs to remedy inadequacies in these areas, and created mechanisms to enforce the new standards. These laws were enacted in response to *Williams v. State of California*, in which a coalition of advocacy groups that alleged the state was responsible for addressing teacher misassignments, lack of textbooks, and poorly maintained facilities in certain low-performing schools. The CSM later determined some of the new requirements were state mandates.

Five Activities Found to Be State Mandates. The CSM determined that the following five activities relating to the *Williams* legislation are new state mandates. (The CSM determined certain other parts of the *Williams* statutes were not state mandates—either because state grant funding was provided to cover associated costs or the new requirements were associated with voluntary programs.)

- **Complaint Process.** The *Williams* legislation requires schools to address complaints in three areas: teacher misassignments and vacancies, the inadequate supply of instructional

materials, and school facilities issues that raise health or safety concerns for students or staff. Schools are required to remedy the complaints within 30 working days; report data on the nature and resolution of complaints to the school board and COE on a quarterly basis; and post notices in every classroom informing parents, students, and staff about the complaint process.

- **School Accountability Report Card (SARC) Requirements.** The *Williams* legislation requires districts and COEs to report the following additional information on the SARC: (1) data on teacher misassignments and teacher vacancies, (2) the availability of textbooks and instructional materials, and (3) needed maintenance to school facilities. (Prior to the *Williams* legislation, school districts and COEs already were required to annually produce a SARC for each of their schools and make them available to the public. A SARC contains various pieces of information relating to a school’s students, resources, and performance.)
- **Compliance Audits.** The *Williams* legislation requires existing state compliance audits to include additional information on (1) teacher misassignments, (2) whether the district has reported certain information on the adequacy of instructional materials, and (3) the accuracy of information reported on the SARC.
- **Review of Audit Exceptions.** Under state law predating *Williams*, districts are required to hire an independent auditor to conduct an annual audit of funds and expenditures to ensure the district’s

financial statements are accurate. The COEs are required to review certain issues raised in the district’s audit (“audit exceptions”) and determine whether those issues have been addressed by the district. The *Williams* legislation requires COEs to review audit exceptions related to the *Williams* areas.

- **Reporting on Fiscal Health.** The *Williams* statutes require districts to provide the COE with a copy of a “study, report, evaluation, or audit” commissioned by the Superintendent of Public Instruction, state control agencies, or a fiscal crisis team that contains evidence that the district is in fiscal distress.

Williams Purposes Now Can Be Achieved Through Other Means. As Figure 4 shows (see next page), most of the *Williams* requirements now can be met through other means. Thus, we recommend repealing most of the associated mandated activities, with the exception of *Williams*-related complaints. We recommend the Legislature create one process for all complaints, as discussed further below.

Retain Complaint Process but Merge With Existing Uniform Process. The *Williams* complaint process appears to motivate school districts to respond to *Williams*-related concerns in a timely manner. Survey data collected by the *Williams* plaintiffs, for example, indicate the vast majority of related complaints are resolved by the school district. The state, however, already has a uniform complaint process (UCP) that is intended to address all types of complaints. (As discussed later in this report, parts of the UCP also have been found to be state mandates.) Yet the existing *Williams* complaint process and UCP have different rules regarding notifying parents, processing complaints, and reporting to other agencies. We

Figure 4

Most *Williams* Requirements Now Duplicative of Other Requirements

Activity	Claimants	Assessment	Recommendation
Administer new complaint process	School districts	Unclear why <i>Williams</i> complaints have different notification and reporting procedures as well as higher priority than all other complaints.	Amend by consolidating with UCP (and improving UCP, as needed)
Report additional information on SARC	School districts, COEs	Unnecessary if LCAPs include school-level data. ^a	Repeal
Add new elements to compliance audits	School districts	Unnecessary if LCAPs include school-level data. ^a	Repeal
Review district audit exceptions	COEs	Unnecessary because of other enforcement measures.	Repeal
Forward reports on fiscal health to COEs	School districts	Unnecessary, as COEs already have access to this information.	Repeal

^a State law and regulations require school districts and COEs to report school-level data for teacher misassignments, availability of textbooks, and facility conditions. The LCAPs, however, have not yet been implemented, so the level of data districts and COEs in practice will provide is not yet clear.
UCP = Uniform Complaint Process; SARC = School Accountability Report Card; COEs = county offices of education; and LCAP = Local Control Accountability Plan.

recommend the Legislature revisit the UCP to see if improvements are needed in the areas of notifying, processing, and reporting. If the Legislature were to decide that some of the *Williams* complaint rules are better than the existing UCP rules, then the Legislature could take the best of each existing process and create one, new-and-improved complaint process. As part of this redesign, the Legislature also could consider what types of complaints should get top priority (for example, *Williams*, antidiscrimination, or special education cases), as well as the time that should be allowed to process complaints (for example, 30 days for more straightforward complaints and 60 days for complaints that require more intensive investigation).

New LCAP Process Addresses Two Williams Requirements. The LCAP process requires districts to describe their goals and proposed actions in the state priority areas known as basic services. This area requires districts to provide

school-level information in each of the three *Williams* areas. These data could duplicate the now mandated SARC reporting requirements. To the extent duplication emerges, the Legislature could eliminate the SARC reporting requirements and associated SARC compliance audit requirements in the three *Williams* areas. (Though state law and regulations relating to the LCAP overlap with these particular SARC requirements, LCAPs have not yet been implemented and the Legislature may want to monitor implementation of the LCAPs to ensure required school-level data are publicly provided and reviewed. To this end, the Legislature could request the State Board of Education (SBE) to provide a status report regarding LCAP implementation during a spring budget hearing. Depending on future LCAP implementation, the Legislature could revisit SARC reporting requirements.)

Reviewing Audit Exceptions Unnecessary Because of Other Enforcement Measures. Although other components of the *Williams*

legislation are specifically tied to teachers, textbooks, or facilities, annual financial audits are not directly related to these areas. Given the state has eliminated categorical programs for instructional materials and provides no specific funding related to teacher assignments, audit exceptions are unlikely to be directly related to whether a school districts is properly addressing issues in the *Williams* areas. Moreover, the state already has several mechanisms—such as the complaint process and LCAPs—to help enforce *Williams* requirements. Given these other mechanisms are more directly related to the three major *Williams* areas, we recommend repealing this requirement.

Fiscal Health Reporting Requirement Unnecessary Because COEs Already Have Access to District Financial Information. The state’s fiscal oversight system requires COEs to review a school district’s financial condition at various points throughout the year and determine whether the district will be able to meet its financial obligations for the next two fiscal years. Given this oversight process already requires COEs to have access to detailed school district financial information, requiring districts to forward the same or related reports to COEs for *Williams* purposes does not appear to add value. Thus, we recommend repealing the reporting requirement.

UNIFORM COMPLAINT PROCEDURES (COMPLAINTS)

State Requires Schools to Address Certain Complaints. The state requires schools to respond to certain types of complaints. In particular, schools are required to respond to complaints alleging violations of state law regarding certain educational programs, discrimination, harassment, facilities, teacher misassignments, and instructional materials. (Complaints related to these last three areas are part of the *Williams* Case Implementation

mandate discussed earlier.) Parents, students, employees, and community members can file complaints on behalf of themselves or on behalf of another individual.

For Certain Types of Complaints, State Requires Schools to Respond Using Specific Process. For complaints related to certain categorical programs, discrimination, harassment, and civil rights, the state requires schools to use its UCP to resolve the complaint. The state’s UCP establish the basic responsibilities of complainants, schools, and the California Department of Education (CDE) in resolving the issue. Schools are required to develop policies and procedures for investigating and resolving complaints consistent with the state’s UCP.

Virtually All UCP Activities, With the Exception of Investigations, Found to Be Reimbursable Mandates. Most procedural activities required under the state’s UCP have been found to be reimbursable mandates. However, activities are reimbursable only when the complaint relates to: (1) free and reduced-priced school meals; (2) adult education programs in citizenship and English; (3) most special education activities; and (4) discrimination, with the exception of discrimination relating to age, sex, and disability. (Reimbursement is not required when the complaint involves discretionary programs, such as career technical education. Reimbursement also is not required when discrimination occurs on the basis of sex, age, or disability, as federal law already requires districts to adopt policies to resolve these complaints.) The specific UCP reimbursable activities are:

- ***Adopting Complaint Procedures and Notifying the Public.*** State regulations require schools to (1) adopt policies and procedures regarding complaints, and (2) notify various school groups, including parents, of complaint procedures. Schools

only are required to adopt policies and procedures on a one-time basis and are not required thereafter to review or update them.

- **Providing Notice of Civil Remedies.** State law requires schools to inform complainants of any alternative civil remedies available to them, such as filing a civil suit in court. The school also must make this information available by publication in appropriate informational material.
- **Referring Certain Complaints.** State regulations require schools to refer certain complaints to state and federal agencies. For example, schools are required to refer complaints regarding fraud to the CDE’s Division Director and Legal Office.
- **Forwarding Information for Appeals.** State regulations require schools to forward information about complaint appeals to CDE. This includes the original complaint, the school’s decision, a summary of the

nature and extent of the investigation, a report of any action taken to resolve the complaint, and a copy of the school’s complaint procedures.

Recommend Mixed Approach for Addressing UCP Mandates. As displayed in Figure 5, we recommend the Legislature retain the requirements to adopt complaint procedures and provide notice of civil remedies and add them to the block grant. Based on initial claims, we believe adding these mandates to the block grant will result in minimal cost. Thus, we recommend not increasing block grant funding. We recommend the Legislature amend the two remaining UCP requirements relating to referring complaints and forwarding information to the CDE.

Recommend Maintaining Requirement to Adopt Complaint Policies for Accountability Purposes. Requiring schools to adopt local policies and procedures ensures that complainants have a process by which they can file and resolve complaints, which helps hold districts accountable for violations of state law. Moreover, notifying parents and other school groups about these policies and procedures informs them of the steps they

Figure 5

Recommend Retaining Some Portions of Uniform Complaint Procedures Mandate

Activity	Claimants	Assessment	Recommendation
Adopt and publish complaint procedures	School districts, COEs	Requirement helps hold schools accountable.	Retain
Provide notice of civil remedies to complainants	School districts, COEs	Requirement helps hold schools accountable.	Retain
Refer certain complaints to other state and federal agencies	School districts, COEs	Complainant better suited to work directly with other agencies.	Amend regulations to refer complainant (rather than complaint itself) to other agencies
Forward information for appeals to CDE	School districts, COEs	Stronger incentive needed to ensure districts and COEs provide requested information.	Amend regulations to indicate that withholding requested information will be viewed as a finding in favor of the complainant

COEs = county offices of education and CDE = California Department of Education.

can take to resolve any potential complaints and hold districts accountable. For these reasons, we recommend the Legislature add this requirement to the mandate block grant.

Recommend Maintaining Requirement to Provide Notice of Civil Remedies for Accountability Purposes. Providing complainants information regarding alternate means of complaint resolution provides another way of holding schools accountable for violations of state law. By providing information regarding possible civil remedies, complainants can determine which process would best fit the complaint and ensure resolution. Consequently, we recommend the Legislature add this requirement to the mandate block grant.

Recommend Streamlining Referral Process to Other State and Federal Agencies. We recommend the Legislature direct CDE to amend its regulations to require schools to refer complainants (rather than the actual complaint) to the proper agency when a complaint does not fall under their jurisdiction. Schools can help complainants by informing them of the proper agency in which to file their complaint. Complainants, however, are better positioned to file their complaint with the other agency, as they have the greatest interest in seeking quick resolution.

Recommend Creating Stronger Incentive to Forward Information Relating to Appeals. In the event of an appeal, schools have some incentive to forward complaint information to CDE to ensure their side of the case is heard. There may be cases, however, where a school believes it could benefit by withholding information regarding a complaint. For example, a school may not want to provide a summary of actions taken to resolve the complaint if it did not follow its own policies and procedures. Instead of maintaining the requirement to forward complaint information in the event of an appeal, however, we recommend the Legislature direct CDE to amend regulations to allow a school's

refusal to comply with requests for information regarding appeals to be used as a finding in favor of the complainant. This would eliminate the mandate yet provide an even stronger incentive for schools to comply with requests for information.

UNIFORM COMPLAINT PROCEDURES (COMPLIANCE)

Antidiscrimination compliance requirements are included in the UCP mandate. As they do not involve complaint procedures, however, we analyze these issues separately below.

Schools Required to Comply With State and Federal Antidiscrimination Laws. State and federal laws require schools to perform two activities to demonstrate compliance with state and federal antidiscrimination laws as they pertain to education programs. First, schools must provide a statement of intent to CDE that they will comply with antidiscrimination laws. Second, as directed by CDE, schools must file descriptions of how they complied with antidiscrimination laws.

Compliance Activities Exceeding Federal Law Found to Be State Mandates. California's antidiscrimination compliance requirements include two areas of discrimination for the purposes of education programs that are not included in federal law. Specifically, state antidiscrimination compliance requirements encompass the areas of religion and sexual orientation. Because statements of intent and reports of compliance regarding religion and sexual orientation exceed federal law, these activities are found to be state mandates. (For discrimination regarding race, color, national origin, sex, disability, and age, federal and state antidiscrimination compliance laws are the same and therefore statements of intent and reports of compliance in these areas are not considered state mandates.)

Add Statement-of-Intent Requirement to Block Grant. Requiring schools to file statements of

intent to comply with antidiscrimination law helps the state ensure schools are aware of associated legal responsibilities and requirements. Moreover, minimal additional workload likely exists to provide these statements for the areas where state law exceeds federal law. This is because federal law requires schools to provide statements of intent to comply with all federal antidiscrimination laws in a single one-page document, and state law requires schools to include statements of intent to comply with all state antidiscrimination laws within the same one-page document. Consequently, we recommend adding this requirement to the block grant but not increasing block grant funding.

Amend Compliance Report Mandate to Provide Clearer Guidance. To date, CDE has not required schools to report on how they are complying with antidiscrimination laws. (The department states that it is unclear on exactly what schools are to report and how the reports are to be used.) We recommend the Legislature provide greater clarity in this area by requiring schools to submit compliance reports to CDE if evidence of systemic discrimination emerges. For example, CDE could require compliance reports from a school that loses a certain number of discrimination-related complaint appeals (or the number of unfavorable verdicts exceeds a certain threshold of the school's enrollment). If evidence of systemic discrimination emerges, we further recommend requiring CDE to inform the Governor and Legislature.

DEVELOPER FEES

Local Governments Authorized to Levy Fees on New Developments. State law authorizes local governments, including school districts, to charge real estate developers a levy known as a developer fee. Developer fees are intended to offset costs to the local government that result from new construction. For example, a city or county could impose a

developer fee on a new housing project to pay for the costs of expanding water and sewer lines.

State Has Requirements Regarding Developer Fees and School Overcrowding. If a school district determines that overcrowding is interfering with its educational programs and cannot be mitigated by the district, then state law requires the school district to notify the city or county in which it is located. The city or county then is prohibited from approving residential development projects in areas affected by school overcrowding. However, a new development may be approved if the city or county either (1) requires the developer to pay fees or dedicate land for temporary classroom facilities or (2) makes findings that overriding fiscal, economic, social, or environmental factors justify the approval of a residential development. If the city or county chooses to levy a developer fee under these circumstances, state law requires the school district to report certain information to the city and county regarding the fee revenue it receives and its spending on facilities.

Notification and Reporting Activities Found to Be Reimbursable Mandates. The CSM found the requirement that school districts notify cities and counties about overcrowding to be a reimbursable state mandate. The CSM also found the reporting activities that districts must undertake if a fee is levied to be reimbursable state mandates.

Mandate Unnecessary Since Districts Have an Incentive to Provide Notifications. School districts are overseen by locally elected governing bodies with responsibility to ensure effective educational services are being delivered in the district. School districts, therefore, already have a strong incentive at the local level to address the effects of overcrowding, including notifying their city or county about overcrowding in order to have them levy developer fees. For this reason, the state requirement for school districts to provide this notification is unnecessary.

Recommend Repealing Mandate. Given school districts already have a strong incentive to notify their city or county about overcrowding, we recommend the Legislature repeal the provisions of state law requiring them to perform this activity. In doing so, the reporting activities would no longer be considered reimbursable state mandates because they would only occur if a school district chose to notify the city or county about overcrowding.

PUBLIC CONTRACTS

Statute Requires Schools and Community Colleges Under Specified Circumstances to Contract for Repair and Maintenance Projects. State law requires schools and community colleges to repair and maintain school property. Statute generally provides them with discretion to undertake repair and maintenance projects themselves (using district staff) or to contract with a private entity for the work. Public Contract Code, however, identifies a limited set of circumstances in which schools and community colleges *must* contract for repairs and maintenance. These conditions generally depend on the number of students served by a district and the cost and number of labor hours needed to complete the project. For example:

- A school district with *fewer than* 35,000 ADA generally must contract out for repairs and painting jobs if the project both (1) costs more than \$15,000 and (2) requires more than 350 labor hours.
- A school district with *more than* 35,000 ADA generally must contract out for repairs and painting jobs if the project both (1) costs more than \$15,000 and (2) requires more than 750 labor hours.

Statute also spells out similar conditions under which community college districts must contract for repairs and maintenance.

Certain Activities Associated With Contracting Out Found to Be Reimbursable Mandates. In June 2003, Clovis Unified School District and Santa Monica Community College District filed a test claim with CSM alleging that a number of statutory provisions related to contracting out constitute state-reimbursable mandates for districts. (These districts contended that these provisions applied to COEs too.) In May 2012, CSM determined that the requirement to contract out for repairs and maintenance does not, in itself, constitute a state-reimbursable mandate. This is because school and community college districts have been statutorily required to contract for repairs and maintenance since before 1975. (As discussed earlier, requirements that predate 1975 do not qualify as state-reimbursable mandates.) The CSM identified, however, more than a dozen reimbursable activities that are triggered when districts are statutorily required to contract for repairs and maintenance. These reimbursable activities include:

- Specifying in any bid notice the type of license that contractors must hold to perform the repair or maintenance work.
- Including a clause in contracts regarding identification of hazardous waste or other potentially harmful conditions if discovered while digging trenches or other excavations that extend deeper than four feet below the surface.
- After awarding a contract, reviewing each payment request from a contractor “as soon as practicable” to determine if the amount of the payment request is accurate.
- Returning to the contractor within seven days any payment requests that are incorrect.

- For community colleges only, undertaking efforts designed to increase participation of underrepresented contractors in district repair activities (such as creating a list of female contractors who may be qualified to bid on projects).

The CSM found that COEs are *not* eligible for reimbursement because statute gives them broad discretion to undertake repair and maintenance projects either on their own or using a contractor.

Recommend Repealing the Mandate. We recommend the Legislature repeal the Public Contracts mandate. Schools’ and community colleges’ capacity to perform repair and maintenance projects “in house” can vary from district to district. Instead of a uniform requirement, the Legislature could amend statute to allow schools and community colleges to decide for themselves the situations in which they conduct repair and maintenance activities either on their own or by contracting with a private entity. Such an approach would be consistent with how the state treats COEs, which are given wide discretion to decide on how best to undertake repair and maintenance projects.

COMMUNITY COLLEGE CONSTRUCTION

Community Colleges Must Prepare and Regularly Review Capital Construction Plans.

Under current law, each community college district is required to prepare and submit to the statewide Board of Governors (BOG) a five-year plan of its capital construction needs. Each district must regularly review its plan and annually submit any updates or changes to the BOG. Districts generally are permitted to include in their plans any information they deem pertinent. Statute identifies six specific content areas, however, that must be included.

- The current enrollment capacity at the district.
- The current capacity of the district office, libraries, and certain other district facilities.
- An inventory of district facilities and land.
- Enrollment projections for the district.
- The extent to which plans for future academic and student-service programs could affect estimated construction needs.
- An estimate of monies the district has available for the purposes of matching state funding for capital outlay projects.

CSM Approves Part of Mandate Claim. In June 2003, Santa Monica Community College District filed a claim with CSM alleging that the statutorily required capital construction plans constituted a state-reimbursable mandate. In October 2011, CSM determined that the requirement for districts to prepare and submit a five-year plan does not, in itself, constitute a state-reimbursable mandate. This is because five-year plans have been required by statute since before 1975. (As mentioned earlier, requirements that predate 1975 do not qualify as state-reimbursable mandates.) The CSM found that four of the six required content areas, however, *do* constitute state-reimbursable mandates for districts. Specifically, these requirements include all, or parts, of the last four content areas noted above.

Recommend Repealing Mandate. We recommend the Legislature repeal the Community College Construction mandate. Instead of requiring districts to include the above content in their five-year plans, the Legislature could make the four specific mandated content areas voluntary. Given that it is standard information (and required

by the California Community Colleges Chancellor's Office as a condition of a district's participation in the state's capital outlay bond program), community college districts likely would continue to include and update this content in their plans. As such, the Legislature could achieve the overall policy objective without the need for a mandate.

CHARTER SCHOOLS IV

Charter Schools Approved to Operate and Monitored by Authorizers. Charter schools are publicly funded schools that are exempt from many state laws and operate under charters that describe their educational programs. Before opening, a charter school must submit its proposed charter to an authorizer, usually the school district within which the charter school will be located. The authorizer determines if the proposed charter is consistent with sound educational practice and adequately describes the school's academic goals, governance structure, disciplinary policy, safety procedures, and audit process, among other things. If the charter is approved, the authorizer assumes the responsibility of monitoring the school for compliance with the terms of its charter.

Many Charter School Oversight Activities Already Are Reimbursable Mandates. The existing Charter Schools I-III mandates reimburse authorizers for reviewing proposed charters, holding associated public hearings, and monitoring charter schools after approval. To defray monitoring costs, the state allows authorizers to collect an oversight fee from their charter schools. This fee generally is capped at the actual cost of monitoring each charter school or 1 percent of each charter school's general-purpose state funding, whichever is lower. The Charter Schools I-III mandates currently are included in the schools block grant.

State Revises Procedures for Establishing and Operating Charter Schools in 2002. Prior to

2002, state law did not impose specific restrictions on the location of charter school facilities. A few schools used this flexibility to operate satellite facilities far from their authorizers. In response, the Legislature passed Chapter 1058, Statutes of 2002 (AB 1994, Reyes). This law requires a charter school to describe the location of facilities in its proposed charter, operate facilities only within the geographic jurisdiction of its authorizer, and, if the charter already has been approved, obtain permission from its authorizer before opening new facilities. In addition, the law specifically requires authorizers to hold public meetings to review requests to open new facilities. The law also allows for the creation of charter schools with the authority to be located throughout a county ("countywide charter schools"), provided the schools initially are approved by a COE. As of 2013-14, the state has about 35 countywide charter schools serving more than 16,000 students.

2002 Legislation Includes a Few Other Requirements. Separate from addressing concerns over charter school locations, Chapter 1058 requires all charter schools to submit annual financial data to their authorizers in a standard format. The authorizers are required to forward this data to the appropriate COE to verify their mathematical accuracy. The COE then forwards the data to CDE. Chapter 1058 also requires each proposed charter to include a plan to be followed if the school closes and a plan for notifying the parents of high school students whether courses taken at the charter school are accredited and whether they meet college admission requirements (such as through qualification for the "A-G" course requirements).

Several New Approval and Oversight Activities Found to Be Reimbursable Mandates. Several of the changes contained in Chapter 1058 have been found to be reimbursable mandates. These activities make up the Charter Schools IV mandate, as summarized below.

- **Reviewing Proposed Countywide Charter Schools.** The COEs that review proposed countywide charter schools may claim reimbursement for the activities associated with this review. The reimbursable activities are similar to those performed during the review of noncountywide charter schools.
- **Receiving Financial Information.** Authorizers can claim reimbursement for receiving financial data from the charter schools they authorize and filing this data with the appropriate COE. (Authorizers are allowed to include this cost within their oversight fee.) The COEs can claim reimbursement for filing the data with CDE.
- **Reviewing Additional Information in Proposed Charters.** Authorizers can claim reimbursement for reviewing (1) the procedures to be used if the charter school closes, (2) the description of where the charter school intends to be located, and (3) the method of notifying parents about the accreditation and A-G status of high school courses.
- **Holding Open Meetings to Review Requests for Additional Sites.** Authorizers can claim reimbursement for the cost of holding a public meeting to consider the request by an existing charter school to open an additional site.
- **Verifying Financial Information.** The COEs can claim reimbursement for verifying the mathematical accuracy of charter school financial data.

Recommend Adding Oversight Activities to Schools Block Grant While Repealing Redundant

Activities. As shown in Figure 6, we recommend the Legislature retain four components of the Charter Schools IV mandate, adding them to the schools mandates block grant. We recommend making no adjustments to schools block grant funding, as we estimate the costs of the four activities are very minor based on initial claims data. We recommend repealing the three remaining parts of the Charter Schools IV mandate. Below, we describe each of these recommendations in greater detail.

Recommend Retaining Review of Countywide Charter Schools So These Schools Can Open.

Countywide charter schools operate a variety of specialized academic programs, including state and federal job training programs, language immersion programs, and early college high schools. This instruction is often provided at sites throughout a county. Without countywide charter schools, the alternative would be to seek separate authorization from several school districts. This alternative would likely (1) hinder the ability of the charter schools to deliver specialized programs and (2) increase costs, as the work of reviewing petitions for these charter schools would be transferred to school districts. For these reasons, we recommend the Legislature retain this mandate.

Recommend Retaining Requirement to Receive Financial Data for Accountability Purposes.

The financial data collected by authorizers and COEs and reported to the state is the only consistent source of statewide information showing how charter schools spend public funds. This data is used for a variety of purposes, including (1) meeting data tracking requirements required by federal grants, (2) allowing researchers and members of the public to identify local spending patterns, and (3) helping the Legislature understand the effects of various policy decisions. In addition, having the information flow from charter schools to the state through authorizers

and COEs takes advantage of the existing reporting relationships between these entities. For these reasons, we recommend the Legislature retain these mandates. (Given that CDE intends to implement new accounting software for all schools in 2015-16, we recommend the Legislature revisit this mandate next year to see if some of the associated activities could be streamlined. With the new accounting system, charter schools may be able to transmit their data directly to the state without authorizers or COEs having to coordinate the data transfers.)

Recommend Retaining Review of Closure Procedures and School Locations for Accountability Purposes. Having an orderly closure procedure reviewed in advance helps ensure that financial assets and student academic records are treated appropriately in the event of a closure. In addition, reviewing the proposed locations of charter school sites helps an authorizer determine if the number and location of sites are justified and well aligned with a charter school’s academic

program. For example, if the charter school proposes to serve a specific student population, the authorizer would want to determine if the proposed school sites are located in areas with high concentrations of these students. Given these fiscal and academic issues, we recommend the Legislature retain these two mandates.

Recommend Repealing Overlapping Parental Notification Requirement. The parental notification requirement for high school courses overlaps with several activities required by LCAPs. Specifically, LCAPs require schools to describe and set goals related to (1) plans to promote parental involvement in local decision-making and (2) the number of students taking A-G approved courses. (All schools offering A-G courses also must be accredited.) These goals themselves are developed in consultation with parents, among other local groups. Given the public nature of the LCAP, the parental notification procedure contained in the Charter Schools IV mandate appears unnecessary.

Figure 6

Recommend Retaining Some Portions of Charter Schools IV Mandate

Activity	Claimants	Assessment	Recommendation
Review requests to establish countywide charter schools	COEs	Necessary for countywide charter schools to open.	Retain
Receive and file financial statements	Authorizers, ^a COEs	Provides financial data about charter schools to state and the public.	Retain
Review closure procedures for proposed charter schools	Authorizers	Helps minimize negative fiscal and academic effects of closure.	Retain
Review operating location of proposed charter schools	Authorizers	Awareness of proposed location essential for oversight.	Retain
Review proposed parental notification procedures	Authorizers	Activity overlaps with similar LCAP requirements.	Repeal
Hold an open meeting to consider the request for an additional school site	Authorizers	Open meetings would occur without this specific mandate.	Repeal
Verify the mathematical accuracy of financial data	COEs	Obsolete with computerized accounting system.	Repeal

^a Refers to the entity authorizing the charter schools—in most cases a school district.
COEs = county offices of education and LCAP = Local Control and Accountability Plan.

In addition, this very specific mandate could draw attention away from the more vital components of charter review, including the proposed academic program and the proposed budget.

Recommend Repealing Redundant Open Meetings Requirement. The Charter Schools IV open meetings mandate is unnecessary because existing law (1) deems any request for an additional facility to be a “material revision” of a school’s charter; (2) requires all material revisions to be approved by the authority granting the charter (a local governing board, or, in a few cases, SBE); and (3) requires local governing boards (as well as the SBE) to make decisions only in open meetings with notice to the public provided in advance of the meetings. (These open meeting requirements are contained in the Ralph M. Brown Act and the Bagley-Keene Open Meeting Act as they apply, respectively, to local governing boards and the SBE.) That is, open meetings would occur in any case without the Charter Schools IV open

meetings mandate. (Proposition 30, adopted in 2012, specifies that the state no longer is required to reimburse local governments for the costs of holding open meetings.)

Recommend Repealing Obsolete Mathematical Verification Requirement. The mandate for COEs to verify the “mathematical accuracy” of charter school financial data is modeled on existing law requiring COEs to perform a similar verification for school districts. The Legislature enacted this law in 1988, prior to the statewide adoption of a computerized accounting system. The current accounting system and its related software—now mandatory for all LEAs to use—automatically verifies the mathematical accuracy of LEA financial data before the submission to a COE. Given a more efficient way now exists to ensure mathematical accuracy, COEs no longer need to perform the function. For this reason, we recommend the Legislature repeal this mandate.

SUMMARY OF RECOMMENDATIONS

Mandate Reimbursement Process

- ✓ **Reasonable Reimbursement Methodology (RRM).** Repeal process overseen by the Commission on State Mandates to create RRM for education mandates because the education mandates block grants serve the same function through the regular budget process.
- ✓ **Funding New Mandates.** When adding mandates to the education mandates block grants, adjust funding based on a variety of factors, including: (1) the variation in initial mandate claims, (2) the number of local educational agencies (LEAs) performing the activity, and (3) the likelihood initial claims may be overstated. In select cases, request our office or the Department of Finance to provide independent cost estimates.
- ✓ **Funding Cost Increases.** Provide a cost-of-living adjustment (COLA) to block grants similar to the COLA provided to other education programs. For 2014-15, provide a 0.86 percent COLA to the block grants for schools (\$1.9 million) and community colleges (\$0.3 million).

New Mandates

- ✓ **Parental Involvement Programs.** Repeal mandate since new Local Control Accountability Plans (LCAPs) include parental involvement as a state priority area and provide greater opportunities for parental involvement.
- ✓ **Williams Case Implementation.** Repeal most mandated activities since their goals can be fulfilled through other mechanisms, including LCAPs. Merge *Williams* complaint procedures with potentially improved Uniform Complaint Procedures (UCP).
- ✓ **UCP (Complaints).** Retain two requirements that help hold schools accountable for certain law violations. Modify two requirements to improve process.
- ✓ **UCP (Compliance).** Retain one requirement that ensures schools are aware of certain legal responsibilities. Modify one requirement to provide more specificity as to when compliance reports need to be submitted to the California Department of Education.
- ✓ **Developer Fees.** Repeal mandate since schools already have a strong incentive to perform the mandated activity.
- ✓ **Public Contracts.** Repeal mandate since school districts and community colleges are better positioned to determine if contracting out is needed.
- ✓ **Community College Construction.** Repeal mandate since community colleges have strong incentive to provide information voluntarily.
- ✓ **Charter Schools IV.** Retain four activities related to oversight and fiscal accountability. Repeal two activities redundant with other state laws. Repeal one obsolete activity.

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