

1 Deborah B. Caplan [SBN 196606]  
N. Eugene Hill [SBN 032516]  
2 William Tunick [245481]  
3 OLSON HAGEL & FISHBURN LLP  
555 Capitol Mall, Suite 1425  
4 Sacramento, CA 95814  
Telephone: (916) 442-2952  
5 Facsimile: (916) 442-1280

6 *Attorneys for Petitioners/Plaintiffs*

7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE CITY AND COUNTY OF SAN DIEGO  
10

11 CALIFORNIA SCHOOL BOARDS  
ASSOCIATION, EDUCATION LEGAL  
12 ALLIANCE, SAN DIEGO COUNTY OFFICE OF  
EDUCATION, SAN DIEGO UNIFIED SCHOOL  
13 DISTRICT, CLOVIS UNIFIED SCHOOL  
DISTRICT, RIVERSIDE UNIFIED SCHOOL  
14 DISTRICT, and SAN JOSE UNIFIED SCHOOL  
DISTRICT,  
15

16 Petitioners/Plaintiffs,

17 v.

18 STATE OF CALIFORNIA; MICHAEL C.  
GENEST, in his official capacity as Director of the  
California Department of Finance; and JOHN  
19 CHIANG, in his official capacity as Controller of the  
State of California,  
20

21 Respondents/Defendants.

CASE NO.:

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF**

**(Pursuant to CCP §§ 526(a), 1060, and 1085)**

DATE:

TIME:

DEPT:

22  
23 Petitioners/Plaintiffs CALIFORNIA SCHOOL BOARDS ASSOCIATION EDUCATION  
LEGAL ALLIANCE, SAN DIEGO COUNTY OFFICE OF EDUCATION, SAN DIEGO UNIFIED  
24 SCHOOL DISTRICT, CLOVIS UNIFIED SCHOOL DISTRICT, RIVERSIDE UNIFIED SCHOOL  
DISTRICT, and SAN JOSE UNIFIED SCHOOL DISTRICT allege as follows:  
25

26 **INTRODUCTION**

27 1. In 1978 and 1979, California voters added articles XIII A and XIII B to the California  
28 Constitution, which dramatically changed the financial structure of California state and local

1 government. Article XIII A imposes significant limitations on the ability of state and local governments  
2 to impose new taxes or otherwise raise new revenues. Article XIII B imposes spending limits on state  
3 and local governments, including school districts. Article XIII B establishes an “appropriations limit”  
4 for each governmental entity based on 1978-79 expenditures and prohibits spending beyond that limit  
5 except for annual adjustments to accommodate increases in the cost of living or changes in population.

6 2. In order to prevent the State from shifting financial responsibility for new programs or  
7 services to local entities (whose taxing powers had been limited by article XIII A and who were subject  
8 to spending limits under article XIII B), section 6 of article XIII B requires that whenever the State  
9 mandates a new program or higher level of service on any local government, it “shall provide a  
10 subvention of funds to reimburse local governments for the costs of the program or increased level of  
11 service...” By its express terms, article XIII B applies to school districts as well as other governmental  
12 entities.

13 3. Despite the clear requirements of article XIII B, section 6, the State has refused to  
14 comply with its obligation to provide reimbursement under article XIII B, section 6. While the State  
15 continues to require that the programs or services be provided by school districts, and acknowledges that  
16 it is obligated to reimburse for same, it has “deferred” reimbursement to school districts by appropriating  
17 \$1,000 for a mandate and carrying the balance as a “debt” owed to the districts or by failing to  
18 appropriate funding for each mandate. The State has substituted an “IOU” for the subvention, or  
19 reimbursement, required by the Constitution, thus defeating the purposes for which the voters added  
20 article XIII B, section 6.

21 4. With the adoption of the 2007-08 Budget Act, the State once again refused to honor its  
22 reimbursement obligation. Although the estimated costs of state K-12 mandates for this fiscal year is  
23 estimated to be approximately \$160 million, the 2007-08 Budget Act appropriates only \$ 38,000 – or  
24 \$1,000 per mandate – for specified mandates. It includes no appropriation for other outstanding  
25 mandate debt to school districts. According to the Office of the Controller, the debt owed to K-12  
26 school districts and county offices of education at the end of the 2006-07 fiscal year came to almost  
27 \$900 million, with almost \$200 million more to be added for the coming year.

28 5. By these actions, Respondents/Defendants are forcing school districts to bear the costs of

1 new programs and higher levels of service mandated by the State without providing reimbursement to  
2 which Petitioners/Plaintiffs are legally entitled pursuant to article XIII B, section 6. In this action,  
3 Petitioners/Plaintiffs seek to compel Respondents/Defendants to comply with the requirements of article  
4 XIII B, section 6, by providing a full subvention of funds for all new programs or higher levels of  
5 service imposed upon the State's school districts and to set aside as unconstitutional those provisions of  
6 law by which the State has attempted to "defer" its debt to school districts.

7  
8 **PARTIES**

9 6. CALIFORNIA SCHOOL BOARDS ASSOCIATION ("CSBA") is, and was at all relevant  
10 times, a California nonprofit corporation duly formed and validly existing under the law of the State of  
11 California. CSBA is a member-driven association composed of the governing boards of nearly 1,000 K-  
12 12 school districts and county boards of education throughout California. CSBA supports local school  
13 board governance and advocates on behalf of school districts and county offices of education before  
14 state and federal education policy-makers. The EDUCATION LEGAL ALLIANCE ("Alliance") is  
15 composed of over 800 CSBA members dedicated to addressing legal issues of statewide concern to  
16 school districts. The Alliance has authorized this litigation. All references herein to "CSBA" include  
17 the Alliance. CSBA supports sufficient funding to meet the educational needs of K-12 students in  
18 public schools and opposes efforts to circumvent, bypass or manipulate constitutional funding  
19 guarantees. CSBA's purpose, among other things, is to ensure that local schools boards retain the  
20 authority and financial capacity to fully exercise the responsibilities vested in them by law, to advance  
21 appropriate educational policies on behalf of school districts, and to insure that the State of California,  
22 its officers, agents and employees properly execute those responsibilities for public education vested in  
23 them by state law. CSBA focuses on issues that have statewide consequences for public education.  
24 Members of CSBA have filed claims for reimbursement from the State of California pursuant to article  
25 XIIB, section 6 and Gov. Code §§ 17500 *et seq.* and the Commission on State Mandates has found that  
26 reimbursement is constitutionally required. The school district members of CSBA and Alliance have  
27 created budgets, allocated and expended funds in reliance upon the provisions article XIII B, section 6  
28 and the determinations of the Commission on State Mandates that they are entitled to reimbursement.  
Notwithstanding these determinations, the members of CSBA have not received reimbursement as

1 required by law. CSBA and Alliance, and the members thereof, are directly affected by action taken by  
2 the State and the Commission on the decisions in those proceedings. CSBA brings this proceeding on  
3 its own behalf and on behalf of its members who have filed such claims.

4 7. SAN DIEGO COUNTY OFFICE OF EDUCATION (“SDCOE”) is the local educational  
5 agency responsible for implementing and administering the duties of the San Diego County  
6 Superintendent of Schools and the San Diego County Board of Education conferred by article IX of the  
7 California Constitution and the laws of the State of California. It is a “local government” as that term is  
8 used in articles XIII A and XIII B of the California Constitution. SDCOE, like other county offices of  
9 education, not only has direct educational responsibilities, but also performs a variety of administrative  
10 and fiscal oversight functions for the districts within its jurisdiction. SDCOE receives funding that  
11 counts toward the minimum General Fund requirements of section 8 of article XVI of the California  
12 Constitution. SDCOE has filed claims for reimbursement for new programs and higher levels of  
13 service imposed by the State in accordance with the Commission on State Mandates’ determination that  
14 reimbursement is required and establishing the parameters and guidelines for reimbursement. SDCOE  
15 has been required to provide such programs and services notwithstanding the State’s failure to provide  
16 reimbursement as required by article XIII B, section 6. As the result of the State’s refusal to provide  
17 reimbursement as required by law, SDCOE has been and continues to be injured.

18 8. SAN DIEGO UNIFIED SCHOOL DISTRICT (“SAN DIEGO UNIFIED”) is a school  
19 district organized pursuant to law and possessing those powers set forth in article IX of the California  
20 Constitution and the laws of the State of California. It is a “local government” as that term is used in  
21 articles XIII A and XIII B of the California Constitution. SAN DIEGO UNIFIED is a K-12 public  
22 school district that is the second largest school district in the State. SAN DIEGO UNIFIED extends  
23 north to the Mira Mesa and Scripps Ranch neighborhoods, east to San Carlos and Allied Gardens, south  
24 to Bay Terraces, Paradise Hills and Logan Heights, and coastal areas from Point Loma to La Jolla. The  
25 District covers approximately 211 square miles, and has a student population of approximately 133,000.  
26 SAN DIEGO UNIFIED receives funding that counts toward the minimum General Fund requirements  
27 of section 8 of article XVI of the California Constitution. SAN DIEGO UNIFIED has filed claims for  
28 reimbursement for new programs and higher levels of service imposed by the State in accordance with

1 the Commission on State Mandates' determination that reimbursement is required and establishing the  
2 parameters and guidelines for reimbursement. SAN DIEGO UNIFIED has been required to provide  
3 such programs and services notwithstanding the State's failure to provide reimbursement as required by  
4 article XIII B, section 6. As the result of the State's refusal to provide reimbursement as required by  
5 law, SAN DIEGO UNIFIED has been and continues to be injured.

6 9. CLOVIS UNIFIED SCHOOL DISTRICT ("CLOVIS") is a school district organized  
7 pursuant to law and possessing those powers set forth in article IX of the California Constitution and the  
8 laws of the State of California. It is a "local government" as that term is used in articles XIII A and XIII  
9 B of the California Constitution. CLOVIS is a K-12 public school district that serves the cities of Clovis  
10 and Fresno, some unincorporated areas of Fresno County, and the rural community of Friant. The  
11 District covers approximately 198-square miles, and has a student population approaching 38,000.  
12 CLOVIS receives funding that counts toward the minimum General Fund requirements of section 8 of  
13 article XVI of the California Constitution. CLOVIS has filed claims for reimbursement for new  
14 programs and higher levels of service imposed by the State in accordance with the Commission on State  
15 Mandates' determination that reimbursement is required and establishing the parameters and guidelines  
16 for reimbursement. CLOVIS has been required to provide such programs and services notwithstanding  
17 the State's failure to provide reimbursement as required by article XIII B, section 6. As the result of the  
18 State's refusal to provide reimbursement as required by law, CLOVIS has been and continues to be  
19 injured.

20 10. RIVERSIDE UNIFIED SCHOOL DISTRICT ("RIVERSIDE") is a school district  
21 organized pursuant to law and possessing those powers set forth in article IX of the California  
22 Constitution and the laws of the State of California. It is a "local government" as that term is used in  
23 articles XIII A and XIII B of the California Constitution. RIVERSIDE is a K-12 public school district  
24 that serves much of the City of Riverside, as well as the Highgrove and Woodcrest areas outside the  
25 City. The District covers approximately 92-square miles, and has a student population of approximately  
26 42,000. RIVERSIDE receives funding that counts toward the minimum General Fund requirements of  
27 section 8 of article XVI of the California Constitution. RIVERSIDE has filed claims for reimbursement  
28 for new programs and higher levels of service imposed by the State in accordance with the Commission

1 on State Mandates' determination that reimbursement is required and establishing the parameters and  
2 guidelines for reimbursement. RIVERSIDE has been required to provide such programs and services  
3 notwithstanding the State's failure to provide reimbursement as required by article XIII B, section 6. As  
4 the result of the State's refusal to provide reimbursement as required by law, RIVERSIDE has been and  
5 continues to be injured.

6 11. SAN JOSE UNIFIED SCHOOL DISTRICT ("SAN JOSE") is a school district organized  
7 pursuant to law and possessing those powers set forth in article IX of the California Constitution and the  
8 laws of the State of California. It is a "local government" as that term is used in articles XIII A and XIII  
9 B of the California Constitution. SAN JOSE is a K-12 public school district that is the 11th largest  
10 district in the State. Located fifty miles south of San Francisco, in the heart of the Silicon Valley, the  
11 public school district is one of 19 districts within the boundaries of the City of San Jose. Embracing the  
12 major portion of the city, the District covers over 50-square miles, and has a student population of  
13 approximately 32,000 students. SAN JOSE receives funding that counts toward the minimum General  
14 Fund requirements of section 8 of article XVI of the California Constitution. SAN JOSE has filed  
15 claims for reimbursement for new programs and higher levels of service imposed by the State in  
16 accordance with the Commission on State Mandates' determination that reimbursement is required and  
17 establishing the parameters and guidelines for reimbursement. SAN JOSE has been required to provide  
18 such programs and services notwithstanding the State's failure to provide reimbursement as required by  
19 article XIII B, section 6. As the result of the State's refusal to provide reimbursement as required by  
20 law, SAN JOSE has been and continues to be injured.

21 12. Respondent/Defendant STATE OF CALIFORNIA ("STATE") is the legal and political  
22 entity required by the California Constitution to provide a subvention of funds to reimburse local  
23 governments, including school districts, for the costs of new programs or increased level of services  
24 mandated by the State, unless the mandate falls within certain exempted categories which are not at  
25 issue in this proceeding.

26 13. Respondent/Defendant MICHAEL C. GENEST ("DOF" or "GENEST") is the Director  
27 of the California Department of Finance. The DOF has general powers of supervision over all matters  
28 concerning the financial and business policies of the State of California. (Gov. Code § 13070.) The

1 DOF prepares the Governor's Budget each year, which is required by law to include the costs of all  
2 mandates determined to be payable by the State. GENEST is named herein in his official capacity as the  
3 director of the California Department of Finance.

4 14. Respondent/Defendant JOHN CHIANG ("Controller" or "CHIANG") is the Controller of  
5 the State of California. The Controller is the state official legally responsible for administering the  
6 State's finances, including disbursement of money to local governments, including school districts, as  
7 reimbursement for the costs of compliance with State-mandated programs or increased levels of service,  
8 as found by the Commission on State Mandates. The Controller issues claiming instructions to facilitate  
9 reimbursement where the Commission has found that the State is required to reimburse local  
10 governments, including school districts and county offices of education, for mandated programs or  
11 higher levels of service and has adopted parameters and guidelines to guide reimbursement. CHIANG is  
12 named herein in his official capacity as Controller of the State of California.

13 **FACTUAL ALLEGATIONS**

14 15. In June 1978, article XIII A was added to the California Constitution through the  
15 adoption of Proposition 13. Article XIII A imposes significant limitations on the power of state and  
16 local governments to adopt and levy taxes. In November 1979, article XIII B was added to the  
17 California Constitution through the adoption of Proposition 4. Article XIII B places limitations of the  
18 ability of state and local governments to appropriate funds for expenditures. Articles XIII A and XIII B  
19 work in tandem, restricting both the power to levy taxes and the power to spend tax revenues for public  
20 purposes.

21 16. Article XIII B establishes appropriation limits for state and local government which are  
22 adjusted annually to reflect population and cost of living changes, and makes it unlawful for  
23 governmental entities to make expenditures beyond their limits. Section 6 of article XIII B provides that  
24 "[w]henever the Legislature or any state agency mandates a new program or higher level of service on  
25 any local government, the State shall provide a subvention of funds to reimburse local governments for  
26 the costs of the program or increased level of service..."

27 17. Section 8 of article XIII B specifically includes school districts within the definition of  
28 "local government." (Cal. Const. art. XIII B, § 8(d).) County offices of education are "other political

1 subdivisions” within the meaning of that section, and therefore also come within the definition of “local  
2 government.”

3 18. Article XIII B, section 6 was specifically intended to preclude the State from shifting  
4 financial responsibility for carrying out governmental functions onto local governmental entities that  
5 were financially unable to carryout such functions. It was designed to protect the tax revenues of local  
6 governments from State mandates that would require the expenditure of such revenues by local  
7 governments that were unable to either raise additional tax revenues or spend existing revenues beyond  
8 their expenditure limits. With certain exceptions not relevant to this proceeding, section 6 requires the  
9 State to pay for any new governmental programs or for higher levels of service under existing programs  
10 that it imposes upon local governmental agencies, including school districts.

11 19. Until 1984, the reimbursement requirements of article XIII B, section 6 were  
12 administered by the Board of Control.

13 20. In 1984, the Legislature created new statutory procedures to govern the mandate  
14 reimbursement process. (Gov. Code §§ 17500 *et seq.*) These provisions included the creation of the  
15 Commission on State Mandates, which was delegated authority to determine whether a statute or  
16 regulation imposes “costs mandated by the state” within the meaning of article XIII B, section 6. (Gov.  
17 Code § 17551.) “Costs mandated by the state” was defined to mean “any increased costs which a local  
18 agency or school district is required to incur . . . as a result of any statute . . . or executive order . . .  
19 which mandates a new program or higher level of service of an existing program within the meaning of  
20 section 6 of article XIII B of the California Constitution.” (Gov. Code § 17514.)

21 21. The provisions set forth at Gov. Code § 17500 *et seq.* provide for test claims to be filed  
22 with the Commission if a local agency or school district believes that a state statute or executive order  
23 mandates a new program or higher level of service within the meaning of article XIII B, section 6. If  
24 the Commission determines that the statute or executive order imposes costs mandated by the state, it is  
25 required to determine the amount to be subvned or reimbursed by adopting parameters and guidelines  
26 for reimbursement. The Commission then submits the parameters and guidelines to the Controller, who  
27 issues claiming instructions to assist local agencies and school districts with the reimbursement process.

28 22. The statutory scheme also requires the Commission to report its determinations to the

1 Legislature, the Legislative Analyst, the Department of Finance and the Controller, and requires that it  
2 report the statewide estimated costs for each mandate at least twice a year. (Gov. Code § 17600.) Upon  
3 receipt of the report, “funding shall be provided in the Budget Act for costs incurred in prior years.”  
4 (Gov. Code § 17612.) These procedures “provide the sole and exclusive procedure by which a local  
5 agency or school district may claim reimbursement for costs mandated by the state as required by  
6 section 6 of article XIII B of the California Constitution.” (Gov. Code § 17552.)

7 23. Gov. Code § 17561 provides that “the state shall reimburse each local agency and school  
8 district for all ‘costs mandated by the state’ and that “appropriations for these costs shall be included in  
9 the Governor’s Budget and in the accompanying Budget Bill.” That provision further requires that “the  
10 amount appropriated to reimburse local agencies and school districts . . . shall be appropriated to the  
11 Controller for disbursement.” (Gov. Code § 17561.) If funding for a mandate is deleted from the  
12 Budget Act, “the local agency or school district may file in the Superior Court of the County of  
13 Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its  
14 enforcement for that fiscal year.” (Gov. Code § 17612(c).)

15 24. Under the original statutory scheme, local agencies or school districts were required to  
16 provide the mandated programs or services or, if the necessary appropriation was deleted from the local  
17 government claims bill, they could bring a judicial action to be relieved of the mandated obligation. The  
18 effect of this provision was to require each of the affected governmental units to file individual suits in  
19 Sacramento Superior Court in order to be relieved of the obligation to provide the mandated programs or  
20 services.

21 25. In 1990, Gov. Code § 17581 was enacted. This provision provides an alternative to the  
22 judicial proceeding that may be initiated under section 17612. It relieves a local agency of the  
23 obligation to implement or give effect to any statute or executive order if it has been determined to  
24 constitute a state mandate and if the Legislature specifically identifies the mandate and declines to fund  
25 it in the annual Budget Act.

26 26. Section 17581 is specifically made inapplicable to any state-mandated program “for  
27 which the funding counts toward the minimum General Fund requirements of section 8 of article XVI of  
28 the [California] Constitution.” (Gov. Code § 17581(d).) The reference to section 8 of article XVI is to

1 Proposition 98, which guarantees minimum funding for the K-14 educational system. Both school  
2 districts and county offices of education receive funding that “counts toward the minimum General Fund  
3 requirements of section 8 of article XVI of the Constitution.” Because the State has included  
4 appropriations for mandate reimbursement in the Proposition 98 funding calculation, this language  
5 makes section 17581 inapplicable to virtually all education-related state mandates.

6 27. In 2002, the Legislature added Gov. Code § 17581.5, which purports to create similar  
7 relief for unfunded education-related mandates, but actually has the effect of depriving school districts  
8 and county offices of education of their right to reimbursement under article XIII B, section 6. Rather  
9 than providing that school districts or county offices of education may discontinue any program or  
10 services that the State refuses to fund, section 17581.5 provides such relief only for those mandates  
11 specified in that section. Currently, only five (5) mandates are included in that provision. The effect of  
12 Gov. Code § 17581.5 is to require school districts and county offices of education to continue to provide  
13 state mandated programs or services notwithstanding the State’s decision not to fund such programs or  
14 services in direct contravention of article XIII B, section 6.

15 28. Although the State began to fall behind in appropriating funds to meet its reimbursement  
16 obligations to local governments in the late 1990’s, beginning in 2002, the State began a practice of  
17 “deferring” its mandate reimbursement obligations by appropriating \$1,000 in the Budget Act and  
18 carrying the remainder of the reimbursement obligation as a “debt” owed to local governments,  
19 including school districts.

20 29. The Legislative Analyst’s Office has characterized the mandate debt as “credit card  
21 debt,” with the State borrowing from the school districts without providing any fixed repayment  
22 schedule. Both the Legislative Analyst’s Office and the Office of the Controller have continually issued  
23 reports detailing the increasing balance of the mandate debt. The LAO, in particular, has strongly  
24 encouraged the State to either repay the amounts or discontinue the mandated programs.

25 30. In reliance on the State’s promise of reimbursement, school districts and county offices of  
26 education have continued to provide the mandated programs and services even though the State’s  
27 deferral of its reimbursement obligation has required school districts to divert revenues from other  
28 education programs without any certainty as to when or if reimbursement would occur. However, the

1 inability of school districts or county offices of education to project repayment, to terminate the state  
2 imposed mandated programs or services, or to restrain the State from imposing new programs or  
3 services, forces the districts and county offices to constantly shift their limited revenues from other  
4 education purposes to accommodate state mandated programs or services with little expectation of  
5 reimbursement from the State.

6 31. School districts are required to file their claims for each mandate on or before February  
7 15 following the year in which the mandated costs were incurred, and have routinely done so. The  
8 amount of such claims has been provided to the Department of Finance and the Legislature for the  
9 purpose of including an appropriation for reimbursement in the Budget Act.

10 32. However, the school districts and county offices of education have failed to receive  
11 reimbursement as required by law because the Budget Act has failed to include the necessary  
12 appropriations for mandates even though the Commission has determined that reimbursement is required  
13 and the districts have filed claims in accordance with the Commission's parameters and guidelines and  
14 the Controller's claiming instructions.

15 33. Since the 2001-02 fiscal year, both the DOF and the Legislature have failed or refused to  
16 include an appropriation in the Budget Act to fully fund the claims submitted pursuant to the procedures  
17 in Gov. Code § 17500 *et seq.* Instead, both the DOF and the Legislature have included in the Budget  
18 Act, and the Governor has approved, only \$1,000 per mandate even though the costs of these mandates,  
19 and the claims submitted, far exceed that amount. Some reported mandate obligations have not been  
20 included in the appropriation process at all.

21 34. By 2004, the state owed several billion dollars in mandate reimbursement debt to local  
22 governments and school districts. That year, the Legislature placed Proposition 1A on the November  
23 ballot, which was approved by the voters. Proposition 1A amended article XIII B, section 6 to provide  
24 that, once the costs of a local government claimant were determined to be payable for a particular state  
25 mandate, "the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that  
26 has not previously been paid, or suspend the operation of the mandate for the fiscal year for which the  
27 Budget Act is applicable in a manner prescribed by law."

28 35. The effect of Proposition 1A was to prohibit the Legislature from "underfunding"

1 mandate payments to local governments and deferring the balance. However, the language of  
2 Proposition 1A was limited to cities, counties and special districts, thus allowing the deferral process to  
3 continue for school districts and county offices of education.

4 36. The 2007-08 Budget Act repeated the pattern of the past several years. The Governor's  
5 Budget, prepared by the Department of Finance, proposed only that \$1,000 be appropriated for each of  
6 38 state mandates imposed on K-12 school districts even though the actual cost of these mandates was  
7 estimated to be several hundred million dollars. (See SB 77 [Item 6110-295-0001].) The Legislature  
8 enacted a Budget Bill that reflected the \$1,000 appropriations as proposed, and the Governor signed the  
9 bill on August 24, 2007.

10 37. The 2007-08 Budget Act "defers" approximately \$160 million in mandate costs. This  
11 amount is in addition to approximately \$ 415 million previously "deferred."

12 38. The "underfunded" state mandates in the 2007-08 Budget Act include the following  
13 required programs or services (including the estimated 2007-08 deficiency):

- 14 • AIDS Prevention Instruction (\$ 1,183,739)
- 15 • Annual Parent Notification-Staff Development (\$6,303,848)
- 16 • Caregiver Affidavits (\$ 618,254)
- 17 • Collective Bargaining (\$ 16,021,532)
- 18 • Charter Schools (\$ 770,995)
- 19 • Comprehensive School Safety Plans (\$ 3,177,614)
- 20 • County Office of Education Fiscal Accountability Reporting (\$ 238,855)
- 21 • Criminal Background Checks (\$ 755,799)
- 22 • Criminal Background Checks II (\$ 214,398)
- 23 • Differential Pay and Reemployment (\$ 5,786)
- 24 • Expulsion Transcripts (\$ 9,381)
- 25 • Financial and Compliance Audits (\$ 251,764)
- 26 • Graduation Requirements (\$ 66,128,046)
- 27 • Habitual Truants (\$ 3,869,586)
- 28 • Immunization Records (\$ 3,409,583)

- 1 • Immunization Records: Hepatitis B (\$ 3,968,036)
- 2 • Intradistrict Attendance (\$ 3,781,781)
- 3 • Juvenile Court Notices II (\$ 914,737)
- 4 • Law Enforcement Agency Notification (\$ 1,030,660)
- 5 • Mandate Reimbursement Process (\$ 15,699,293)
- 6 • Notification of Truancy (\$ 8,885,528)
- 7 • Notification to Teachers of Pupil Expulsion (\$ 4,382,290)
- 8 • Physical Education Reports (\$ 3,000)
- 9 • Physical Performance Tests (\$ 1,437,872)
- 10 • Pupil Health Screenings (\$ 3,949,640)
- 11 • Pupil Suspension, Expulsions and Appeals (\$ 2,360,668)
- 12 • Pupil Promotion and Retention (\$ 2,093,710)
- 13 • Pupil Residency Verification and Appeals (\$ 253,761)
- 14 • Removal of Chemicals (\$ 364,946)
- 15 • School District Fiscal Accountability Reporting (\$ 1,125,310)
- 16 • Scoliosis Training (\$ 2,304,813)
- 17 • Teacher Incentives (\$ 52,655)

18 39. Because the provisions of the 2007-08 Budget Act limit appropriations for the identified  
19 mandates to \$1,000 per mandate, the Controller has not disbursed funds sufficient to reimburse school  
20 districts for the costs of these programs or services in accordance with Gov. Code § 17651.

21 40. In addition to the State's debt from "underfunded" mandates, the State also has a  
22 substantial debt for "unfunded" mandates. These are programs or services that have been determined to  
23 constitute mandates by the Commission on State Mandates and for which the Controller has issued  
24 claiming instructions, but which have never been identified for appropriations in the Budget Act as  
25 required by law. The Controller has established that the outstanding amount of the "unfunded"  
26 mandates is approximately \$ 452 million.

27 41. Taken together, the "underfunded" and "unfunded" mandates represent approximately  
28 \$900 million dollars in new programs or services which have been determined to constitute reimbursable

1 mandates within the meaning of section 6 of article XIII B by the Commission on State Mandates, but  
2 for which the State has nonetheless refused to appropriate funds. This deferral of reimbursement, when  
3 combined with a mandatory statutory obligation imposed upon school districts to implement new  
4 programs or to provide higher levels of service, is inconsistent with the subvention requirements of  
5 article XIII B, section 6.

6 42. The State's practice of forcing school districts or county offices of education to provide  
7 new programs and higher levels of service without providing reimbursement for those programs or  
8 services forces the school districts to divert their limited discretionary revenues from the core  
9 educational program and use those revenues to accommodate an increasing number of state mandates.  
10 This is precisely what article XIII B, section 6 was designed to prevent.

11 43. The State's practice of forcing school districts to provide new programs and higher levels  
12 of service without reimbursing the costs of those programs and services violates article XIII B, section 6.  
13 That provision requires the State, without qualification, to provide reimbursement for any new programs  
14 or higher levels of service that it chooses to impose; section 6 does not allow for partial funding,  
15 deferred funding or underfunding. Insofar as the 2007-08 Budget Act fails to appropriate adequate  
16 funding for the costs mandated by the State, it is contrary to the requirements of Gov. Code §§ 17612  
17 and 17561 and article XIII B, section 6 of the California Constitution.

18 44. Section 17581.5 is invalid and in conflict with section 6, article XIII B in that it requires  
19 school districts to implement new programs and higher levels of service, without subvention or  
20 reimbursement for their costs in doing so, and deprives districts of an efficacious remedy to enforce their  
21 rights under the Constitution. To the extent that section 17581(d) purports to exclude school districts  
22 from relief when the Legislature has specifically declined to fund a mandate, this exclusion is also  
23 contrary to article XIII B, section 6.

24 45. Petitioners/plaintiffs have no plain, speedy or adequate remedy at law to compel  
25 Respondents/Defendants to comply with article XIII B, section 6.

26 46. Petitioners/Plaintiffs have necessarily engaged counsel to represent them in the  
27 preparation and prosecution of this litigation. The legal services rendered seek to ensure that the State of  
28 California and the California State Controller fulfill their obligations under the Constitution and statutes

1 of this State. Such benefits will be derived through Petitioners/Plaintiffs' efforts in this litigation.  
2 Petitioners/Plaintiffs request that the court award reasonable attorney's fees and costs upon entry of final  
3 judgment.

4 **FIRST CAUSE OF ACTION**

5 **Writ of Mandate - Code of Civil Procedure § 1085**  
6 **(Violation of Article XIII B, Section 6 of the California Constitution)**

7 47. Petitioners/Plaintiffs reallege and incorporate by reference as if fully set forth herein the  
8 allegations contained in paragraphs 1 through 46 above.

9 48. Respondents/Defendants, and those public officers and employees acting by and through  
10 their authority, have a clear, present and ministerial duty to comply with the requirements of article XIII  
11 B, section 6, of the California Constitution and have failed to perform their duty to comply with those  
12 requirements.

13 49. Petitioners/Plaintiffs are beneficially interested in a peremptory writ of mandate to  
14 compel Respondents/Defendants, and those public officers and employees acting by and through their  
15 authority, to direct Respondents/Defendants to perform their duties imposed by law without regard to  
16 the provisions of Gov. Code § 17851.5 and Gov. Code § 17851(d) insofar as those provisions exclude  
17 local educational agencies from the relief afforded by Gov. Code § 17851(a), and those provisions of the  
18 2007-08 Budget Act (Item 6110-295-0001) that fail to appropriate the costs of the mandated programs  
19 or services as required by Gov. Code §§ 17612 and 17651 and article XIII B, section 6.

20 50. Petitioners/Plaintiffs also seek a peremptory writ of mandate to compel  
21 Respondent/Defendant DOF to identify each and every mandate that has been determined by the  
22 Commission on State Mandates to be subject to reimbursement, and the cost of such mandate, in the  
23 annual Governor's Budget as required by law.

24 51. Petitioners/Plaintiffs further seek a peremptory writ of mandate to compel  
25 Respondents/Defendants to reimburse school districts for the costs of new programs and services  
26 previously provided by school districts and unreimbursed by Respondents/Defendants as of this date  
27 from generally related State accounts which have been appropriated and are otherwise available for  
28 payment of the State's obligation.

**SECOND CAUSE OF ACTION**

**Declaratory Relief - Code of Civil Procedure § 1060  
(Violation of Article XIII B (6) of the California Constitution)**

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4 52. Petitioners/Plaintiffs reallege and incorporate by reference as if fully set forth herein the  
5 allegations contained in paragraphs 1 through 51 above..

6 53. An actual controversy has arisen and now exists between the Petitioners/Plaintiffs and  
7 Respondents/Defendants as to the nature of the requirement imposed upon the State by article XIII B,  
8 section 6 of the California Constitution. Petitioners/Plaintiffs contend that article XIII B, section 6  
9 requires the State of California to reimburse Petitioners/Plaintiffs school districts for any new program  
10 or higher level imposed by the State and that the provisions of Gov. Code § 17581.5 and Gov. Code §  
11 17581(d) are void as contrary to article XIII B, section 6 insofar as those provisions purport to require  
12 school districts to continue to provide mandated programs or services notwithstanding the State's failure  
13 to provide subvention for the costs of those programs or services. Petitioners/Plaintiffs also contend that  
14 State's failure to include the costs of all mandates in the Budget Act and, in particular, the State's failure  
15 to appropriate such costs in the 2007-08 Budget Act (Item 6110-295-0001), constitutes a failure to  
16 provide a subvention of funds for the mandates identified in those provisions, and that such provisions  
17 are void as contrary to the requirements of article XIII B, section 6.

18 54. Respondents/Defendants contend that article XIII B, section 6 does not impose a duty to  
19 reimburse school districts and county offices of education for the costs of implementing statutes that  
20 mandates a new program or higher level of service and/or that the provisions of the 2007-08 Budget Act  
21 meet the requirements of that provision.

22 55. Petitioners/Plaintiffs desire a judicial determination of their rights and a declaration of  
23 whether article XIII B, section 6 requires Respondent/Defendant State of California to reimburse  
24 Petitioners/Plaintiffs and similarly situated school districts and county offices of education on an annual  
25 basis for the costs of implementing new programs or higher levels of service mandated by the State;  
26 whether the terms of Gov. Code § 17581.5 and Gov. Code § 17581(d) violate article XIII B, section 6;  
27 whether the actions of the State appropriating less than the amount determined to be reimbursable to  
28 school districts and county offices of education by the Commission on State Mandates and deferring the

1 balance violates article XIII B, section 6.

2 56. A judicial determination is necessary and proper at this time and under these  
3 circumstances in order to determine whether Gov. Code § 17581.5, Gov. Code § 17581(d) and the  
4 provisions of the 2007-08 Budget Act (Item 6110-295-0001) are lawful, whether the  
5 Respondents/Defendants may continue to require school districts and county offices of education to  
6 provide state-mandated programs and services while failing to reimburse for the costs of new programs  
7 or higher levels of services and deferring the balance of the actual costs, and whether the  
8 Respondents/Defendants may continue to refuse to identify all mandates and the costs of those mandates  
9 in the annual Budget Act.

10  
11 **THIRD CAUSE OF ACTION**

12 **Injunction - Code of Civil Procedure § 526**  
13 **(Violation of Article XIII B, Section 6 of the California Constitution)**

14 57. Petitioners/Plaintiffs reallege and incorporate by reference as if fully set forth herein the  
15 allegations contained in paragraphs 1 through 56 above.

16 58. The actions of Respondents/Defendants have caused, and continue to cause, great and  
17 irreparable harm to Petitioner/Plaintiffs and the relief sought by Petitioners/Plaintiffs requires a  
18 continuing restraint on the actions of Respondents/Defendants in order to prevent a multiplicity of  
19 judicial proceedings.

20 59. Petitioners/Plaintiffs seek a prohibitory injunction to restrain Respondents/Defendants,  
21 and those public officers and employees acting by and through their authority, from implementing Gov.  
22 Code § 17851.5, Gov. Code § 17851(d) and the provisions of the 2007-08 Budget Act (Item 6110-295-  
23 0001) by requiring school districts and county offices of education to provide new programs and  
24 services while failing to appropriate the cost of those programs and services as required by article XIII  
25 B, section 6.

26 60. Petitioners/Plaintiffs seek a mandatory injunction to compel Respondents/Defendants,  
27 and those public officers and employees acting by and through their authority, to include in the  
28 Governor's Budget and the Budget Act each year, and to appropriate each year, the full cost new

1 programs and services imposed on school districts and county offices of education as determined by the  
2 Commission on State Mandates and as required by article XIII B, section 6 or to suspend the mandated  
3 program or service. Petitioners/Plaintiffs seek a mandatory injunction to compel  
4 Respondents/Defendants, and those public officers and employees acting by and through their authority,  
5 to reimburse school districts in accordance with Gov. Code § 17651 for the costs of new programs and  
6 services all amounts previously provided by school districts and unreimbursed by  
7 Respondents/Defendants as of this date from generally related State accounts which have been  
8 appropriated and are otherwise available for payment of the State's obligation.

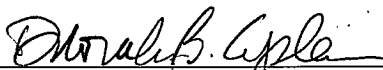
9 WHEREFORE, Petitioners/Plaintiffs pray for relief as follows:

- 10 1. That this Court order the issuance of peremptory writs of mandate as requested;
- 11 2. That this Court issue a declaratory judgment as requested;
- 12 3. That this Court enjoin Respondents/Defendants, and those public officers and employees  
13 acting on their behalf, from continued violation of article XIII B, section 6, as requested;
- 14 4. That this Court enter an order compelling Respondents/Defendants to reimburse school  
15 districts and county offices of education for outstanding unreimbursed costs from generally related State  
16 accounts which have been appropriated and are otherwise available for payment of the State's  
17 obligation;
- 18 5. That this Court order an award of attorneys fees to Petitioners/Plaintiffs; and
- 19 6. That this Court provide such other and further relief as the Court deems appropriate.

20  
21 Dated: November 21, 2007

22 Respectfully submitted,

23 OLSON HAGEL & FISHBURN LLP  
24 Deborah B. Caplan  
25 N. Eugene Hill  
26 William Tunick

27 By:   
28 DEBORAH B. CAPLAN  
Attorneys for Petitioners/Plaintiffs

OLSON HAGEL & FISHBURN LLP  
555 CAPITOL MALL, SUITE 1425, SACRAMENTO, CA 95814

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**VERIFICATION**

I, SCOTT P. PLOTKIN, am the Executive Director of the California School Boards Association and am authorized to make this declaration on its behalf. I hereby certify that I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** and the contents thereof are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Nov. 21, 2007

  
\_\_\_\_\_  
SCOTT P. PLOTKIN