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### **Community Colleges May Be Entitled To Reimbursement For Costs Associated With State-Mandated “Minimum Conditions”.**

The Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District each sought state reimbursement for costs associated with meeting various “minimum conditions” set out in the Education Code and Title 5 of the California Code of Regulations. These “minimum conditions” pertain to standards and procedures that a community college district must adopt and maintain in a multitude of areas in order to receive state funding.

The state must reimburse a local agency, including a community college district, for costs mandated by the state, including increased costs as a result of a statute or regulation mandating a new program or a higher level of service for an existing program. A local agency seeking reimbursement must file a test claim with the Commission on State Mandates, and the Commission decides whether to approve or deny a request for reimbursement.

The Commission denied Los Rios Community College District’s, Santa Monica Community College District’s, and West Kern Community College District’s claims for reimbursement on the grounds that the minimum conditions are not state mandates because they can choose to decline state funding. Coast Community College District, North Orange County Community College District, San Mateo County Community College District, Santa Monica Community College District, and State Center Community College District (the “Community College Districts”) filed an action in the trial court asking the court to reverse the Commission’s decision.

The trial court agreed with the Commission based on a previous case, *Department of Finance v. Commission on State Mandate (Kern High School Dist.)* (2003) 30 Cal.4th 727. That case involved state statutes requiring certain school district councils and advisory committees to provide notice of meetings and post meeting agendas in connection with particular underlying programs. There the court held that the notice and postings requirements were voluntary because the district could decline program funding. The trial court here ruled that the Community College Districts could decline state apportionment funding and so the regulations were not legally compelled to comply with the minimum conditions. The Community College Districts appealed.

On appeal, the court reversed the trial court’s decision in part. The court distinguished this case from *Kern High School District* because there, the requirements applied to discrete, voluntary programs and the associated costs were “modest.” Here, the court found that the minimum conditions applied to state-mandated programs. Therefore, the Community College Districts

were entitled to reimbursement if they could meet other requirements. The court then went on to analyze which of the specific claims for reimbursement required further consideration.

The court held that the Community College Districts were entitled to the following claims for reimbursement, although some were moot because the Commission had already agreed to reimbursement:

- Costs related to maintaining standards of scholarship under former 5 CCR § 51002;
- Costs related to complying with regulations related to degrees and certificates under former 5 CCR § 51004;
- Costs related to maintaining a policy of open courses under former 5 CCR § 51006;
- Costs related to collecting student fees under 5 CCR § 51012;
- Costs related to obtaining approval for new colleges and educational centers under former 5 CCR § 51014;
- Costs related to meeting accreditation standards under former 5 CCR § 51016;
- Costs related to counseling programs under 5 CCR § 51018;
- Costs related to establishing long-term goals and objectives under 5 CCR § 51020;
- Costs related to maintaining educational programs under 5 CCR § 51020;
- Costs related to maintaining instructional programs under former 5 CCR § 51022;
- Costs related to participatory governance under 5 CCR §§ 51023, 51023.5, 51023.7;
- Costs related to requirements for the ratio of full-time to part-time faculty under 5 CCR § 51025;
- Costs related to maintaining policies for changing grades made in error, fraud, bath faith, or incompetency under former 5 CCR, § 55760;
- Costs related to maintaining a policy identifying directory information under former 5 CCR, § 54626.

However, the appeals court affirmed the trial court's decision with respect to certain claims or portions of claims for reimbursement. The appeals court found that the following claims for reimbursement were not state mandates or otherwise exempt from reimbursement:

- Costs related to comprehensive plans under 5 CCR § 51008;
- Costs related to matriculation services under Education Code sections 78210 through 78218 (known as the Seymour-Campbell Matriculation Act), (community college districts are only entitled to reimbursement when funds are specifically appropriated under Seymour-Campbell Matriculation Act of 1986);
- Costs related to maintaining comprehensive transfer programs under Education Code section 66738;
- Costs related to vocational educational contracts with third-parties under former 5 CCR §§ 55602, 55602.5, 55603, 55605, 55607, 55620 and 55630;
- Costs related to policies permitting articulated high school courses to be applied towards college credit under former 5 CCR § 55753.5;
- Costs related to distance learning and independent study under former 5 CCR §§ 55205-55219, 55300, 55316, 55316.5, 55320-55322, 55340 and 55350;
- Costs related to offering courses on a credit/no-credit basis under former 5 CCR § 55752;

- Costs related to offering credit by examination under former 5 CCR § 55753;
- Costs related to maintaining policies for course repetitions and grade changes for reasons other than error, bad faith, or incompetency under former 5 CCR § 55761, 55764;
- Costs of establishing and maintain community service classes Education Code 78300;
- Costs related to reinstating courses eliminated a result of budget cuts pursuant to the Budget Act of 1982 under former 5 CCR § 55182;
- Costs related to converting noncredit courses to credit courses under former 5 CCR § 55807;
- Costs related to providing clear and understandable course descriptions under former 5 CCR § 58102;
- Costs related to releasing directory information under former 5 CCR § 54626;
- Costs of adopting policies governing when students can be required to provide instructional materials under Education Code § 76365.

The court also rejected the following claims for reimbursement because they were not adequately developed or properly brought to the court:

- Costs related to equal employment opportunity under 5 CCR § 51010;
- Costs related to the student equity plan under 5 CCR § 51026;
- Costs related to issuing certificates of achievement under former 5 CCR § 55809;
- Costs related to maintaining open programs and courses under 5 CCR §§ 58107 and former 5 CCR § 58108;
- Costs related to calculating grade point averages under former 5 CCR § 88758.5 (repealed).

Lastly, the court rejected the Community College Districts' argument that the Commission utilized improper parameters and guidelines to determine which costs to reimburse and acted improperly in reaching its decision.

*Coast Community College District v. Commission on State Mandates* (2020) --- Cal.App.5th --- [2020 WL 1649919]

This article was written by [Eileen O'Hare-Anderson](#), Partner, from the Fresno office of Liebert Cassidy Whitmore and [Kate S. Im](#) Associate, from the Los Angeles office of Liebert Cassidy Whitmore. Both are members of the firm's Business and Facilities practice group, which assists public agency clients in matters including construction, contracts, purchase agreements and real property. Eileen can be reached at (559) 256-7806 or at [eanderson@lcwlegal.com](mailto:eanderson@lcwlegal.com). Kate can be reached at 310.981.2056 or at [kim@lcwlegal.com](mailto:kim@lcwlegal.com). For more information regarding the update above or about our firm please visit our website at <http://www.lcwlegal.com>, or contact one of our offices below.

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6033 W. Century Blvd.  
5<sup>th</sup> Floor  
Los Angeles, CA 90045  
(310) 981-2000

135 Main Street  
7<sup>th</sup> Floor  
San Francisco, CA 94105  
(415) 512-3000

5250 North Palm Ave.  
Suite 310  
Fresno, CA 93704  
(559) 256-7800

401 West "A" Street,  
Suite 1675  
San Diego, CA 92101  
(619) 481-5900

400 Capitol Mall  
Suite 1260  
Sacramento, CA 95814  
(916) 584-7000