

No. S247266



**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

SUPREME COURT
FILED

OCT 09 2018

Jorge Navarrete Clerk

Deputy

CALIFORNIA SCHOOL BOARDS ASSOCIATION, et al.
Appellants and Petitioners

vs.

STATE OF CALIFORNIA, et al.
Appellees and Respondents.

On Review from the Court of Appeal
First Appellate District, Division 5 -- Case No. A 148606

After an Appeal from the Alameda County Superior Court
(The Honorable Evelio Grillo) -- Case No. RG 11554698

**APPLICATION TO FILE AMICUS CURIAE BRIEF
AND BRIEF OF AMICUS CURIAE
SCHOOL INNOVATIONS & ACHIEVEMENT
IN SUPPORT OF PETITIONERS**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES..... 3

APPLICATION TO FILE BRIEF OF AMICUS CURIAE
SCHOOL INNOVATIONS & ACHIEVEMENT
IN SUPPORT OF PETITIONERS..... 4

BRIEF OF AMICUS CURIAE
SCHOOL INNOVATIONS & ACHIEVEMENT
IN SUPPORT OF PETITIONERS..... 6

INTRODUCTION..... 6

FUTURE PROGRAM CONSIDERATIONS..... 6

INTENT OF ARTICLE XIII B, SECTION 6..... 8

THE MANDATE BLOCK GRANT..... 9

THE IMPORTANCE OF TRADITIONAL CLAIM FILING..... 10

CONSEQUENCES OF OFFSETTING COSTS..... 10

CONCLUSION..... 11

CERTIFICATE OF WORD COUNT..... 12

CERTIFICATE OF SERVICE..... 13

TABLE OF AUTHORITIES

STATUTES

Education Code
 § 2574-2575.2 7
 § 44238.02-44238.03 7

Government Code
 § 17500..... 7
 § 17581.6..... 7, 9

OTHER AUTHORITIES

Assembly Bill 1840 (Enrolled September 5, 2018) *passim*
Budget Act of 2018 (Ch. 29, 2018) 7

CONSTITUTIONAL PROVISIONS

Cal. Const., art. XIII B, § 6 *passim*

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**APPLICATION TO FILE BRIEF OF AMICUS CURIAE
SCHOOL INNOVATIONS & ACHIEVEMENT
IN SUPPORT OF PETITIONERS**

School Innovations & Achievement (SI&A) respectfully applies for leave to file the accompanying amicus curiae brief in support of petitioners pursuant to rule 8.520(f) of the California Rules of Court. SI&A is familiar with the content of the parties' briefs.

SI&A is a California company that has provided mandated cost reimbursement services for over 14 years to more than 600 public school districts statewide. As such, we have a great deal of experience with the mandated cost program. SI&A seeks to file this brief due to the lower court's ruling that allows

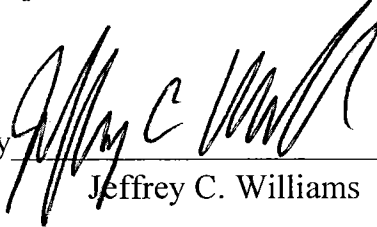
the Legislature to avoid its Constitutional obligations to reimburse school districts under Article XIII B, section 6 and causes the state's public schools to be unfairly burdened with the responsibility for picking up the state's costs. Left unchecked and without the protection afforded by section 6, the Legislature will be free to pass new and costly laws and will no longer be required to reimburse these new costs. What will remain is a reimbursement program that no longer functions as intended.

SI&A believes its views will be beneficial to the Court in rendering its decision by addressing how the effects of the lower court's ruling negatively influence the future of the reimbursement program.

No party, counsel for a party, person or entity has made a monetary contribution intended to fund the preparation or submission of the proposed brief.

Dated: September 18, 2018

Respectfully submitted,

By  _____
Jeffrey C. Williams

Chief Executive Officer
School Innovations & Achievement

**BRIEF OF AMICUS CURIAE
SCHOOL INNOVATIONS & ACHIEVEMENT
IN SUPPORT OF PETITIONERS**

INTRODUCTION

The purpose of the mandate program is to ensure that the State pays for any costs incurred by school districts because of programs that it imposes on them. Article XIII B, section 6 of the California Constitution ensures that the Legislature does not abuse its power over school districts by forcing programs of statewide importance on local entities that are ill equipped financially to pay for these mandatory costs.

FUTURE PROGRAM CONSIDERATIONS

This case deals with two very costly state mandated programs (*Behavioral Intervention Plans and Increased Graduation Requirements*) where the State proposes to avoid its reimbursement obligation by deeming existing school funding as payment of these costs. If this practice is allowed to stand, we ask this Court to take into consideration the very likely possibility that the State will also deem existing school funding as payment for future mandated programs and all remaining mandated programs. This is a scenario that can happen, especially given the fact that the current statewide cost of the mandate program is in the hundreds of millions of dollars (the statewide 2018/19 mandate block grant

allocation is \$232.3 million)¹ whereas the State Budget for K-12 public education is in the billions of dollars.²

The State has responded on page 38 of its Answer Brief on the Merits (ABM) that it “is not accurate” regarding the California School Boards Association (CSBA) contention that the State’s position “creates a template for the eventual elimination of the State’s mandate obligation for schools.” However, we have recently seen the beginning of this scenario take place with Assembly Bill 1840 (AB 1840) which was enrolled on September 5, 2018. AB 1840 is a trailer bill related to education finance. Section 43 was added to the bill and includes offsetting language similar to that found in the *Behavioral Intervention Plans* and *Graduation Requirements* mandates, stating, “If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, except that funding provided for school districts, county offices of education, and charter schools pursuant to Sections 2574, 2575, 2575.2, 42238.02, and 42238.03, as applicable, shall be used to directly offset any mandated costs.”³

¹ Government Code Section 17581.6; Item 6100-296-001 of the Budget Act of 2018 (Ch. 29, 2018).

² Items 6100-001-0001 to 6100-296-001 of the Budget Act of 2018 (Ch. 29, 2018).

³ Assembly Bill 1840, Sec. 43. (Enrolled September 5, 2018).

This is a clear example of the State again attempting to eliminate its mandate obligation simply by deeming existing state funding as an offset if the Commission on State Mandates finds any reimbursable costs associated with AB 1840.

With the current lower court ruling in place, nothing prevents this offsetting language or similar language from being added to current or future Legislation to force school districts to use existing education funds to offset any mandated costs.

The State gives false assurances in its ABM on page 39 that “It is hard to see how the offsetting statutes from 2010, effectively inapplicable today, could conceivably lead to the extreme result of ending all mandate reimbursement for schools.” However, as demonstrated in the offsetting language contained in AB 1840, the State is indeed attempting to end its future mandate reimbursement obligations and nothing prevents it from doing the same with existing mandates.

INTENT OF ARTICLE XIII B, SECTION 6

The State could very well side step its entire Constitutional obligation to provide a subvention of funding by simply deeming existing state education funding to first be used to offset any and all state mandated costs. This action is absolutely not what the voters in this state had in mind when they added Article XIII B, section 6 to the State Constitution. The law was put in place to ensure that the Legislature does not abuse its powers whenever it mandates our public school

districts to carry out activities without also providing state funds to cover these state imposed costs. The State is currently attempting to avoid this obligation with these two costly mandated programs (*Behavioral Intervention Plans and Increased Graduation Requirements*) and is trying to do the same with the language added to AB 1840.

THE MANDATE BLOCK GRANT

Beginning in the 2012/13 fiscal year, school districts were given the “choice” of how to receive reimbursement for carrying out state mandated activities: continue the traditional method of filing mandated cost reimbursement claims with the State Controller’s Office (for actual costs), or elect to participate in an alternative method to receive reimbursement (on a per student basis) called the Mandate Block Grant. Block grant funding is discretionary and the amount of funding is determined annually by the Legislature as part of the State Budget process.

The vast majority of school districts throughout the state have elected to participate in the block grant. However, it is important to point out that the State provides block grant participants with reimbursement soon after the election period closes⁴ while districts that file traditional claims must wait an unspecified

⁴ The deadline for school districts to make their 2018-19 mandate block grant decision is August 30, 2018. Block grant funding will be apportioned in the month of November 2018. (Government Code Section 17581.6(c) (1) and (c) (2)).

amount of time to receive their reimbursement. Being able to receive reimbursement quickly is a determining factor in a district's decision to "choose" to participate in the block grant.

THE IMPORTANCE OF TRADITIONAL CLAIM FILING

Having the traditional claim filing option is critical to the integrity of the program. It forces the Legislature to fund the block grant at a close approximation of actual costs incurred statewide. If the amount appropriated for the block grant is not representative of actual costs or not funded in a given fiscal year, school districts have the traditional option of filing reimbursement claims to recoup their costs.

CONSEQUENCES OF OFFSETTING COSTS

If the State is allowed to offset all costs for *Behavioral Intervention Plans* and *Increased Graduation Requirements*, they could expand this offset plan to other mandate programs. This would essentially eliminate funding for the traditional mandate claim filing.

On page 38 of the ABM, the State denies that it is seeking to eliminate traditional claim filing, calling CSBA's claims "unfounded". However, as demonstrated with AB 1840, under the lower court ruling the State is free to expand their offset plan to all mandate programs. Doing so would essentially eliminate funding for all traditional mandate claim filings.

The sole source of mandate funding would then rely on the discretionary funding of the block grant program. If the Legislature reduced or eliminated block grant funding in the budgetary process, the program's funding would be eliminated and constitutional protection would be circumvented.

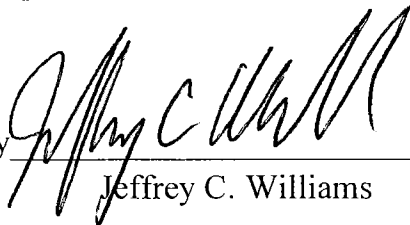
CONCLUSION

Unless this Court reverses the decision of the Court of Appeal, the Legislature will be able to mandate new and costly programs on our state's public school districts in an unchecked manner, without having to consider potential costs. The reimbursement program will no longer function as intended, which, in turn will leave our public school districts fully responsible for picking up the state's costs, which is contrary to the intent of Article XIII B, section 6.

For these reasons, we urge this Court to reverse the decision of the Court of Appeal.

Dated: September 18, 2018

Respectfully submitted,

By 
Jeffrey C. Williams

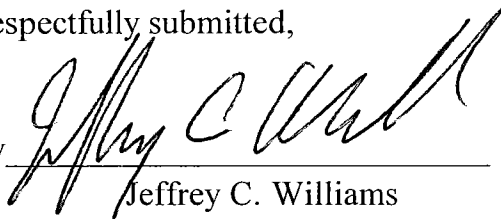
Chief Executive Officer
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CERTIFICATE OF WORD COUNT

The text of this brief consists of 2,165 words as counted by the Microsoft Word 2016 word processing program used to generate this brief.

Dated: September 18, 2018

Respectfully submitted,

By 

Jeffrey C. Williams

Chief Executive Officer
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PROOF OF SERVICE BY MAIL

I am employed in the County of El Dorado, State of California. I am over the age of eighteen (18) years and not a party to the within action; my business address is: 5200 Golden Foothill Parkway, El Dorado Hills, California 95762. On September 18, 2018 I served the **APPLICATION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE SCHOOL INNOVATIONS & ACHIEVEMENT IN SUPPORT OF PETITIONERS** on the interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

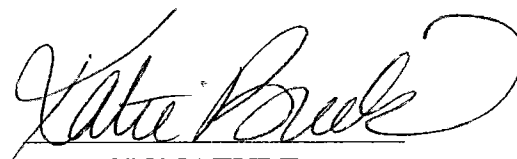
Service List attached

(BY MAIL) I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 18, 2018, at El Dorado Hills, California.

Katie Buak

PRINT NAME



SIGNATURE

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