



September 26, 2024

## **Expanded justification for CSBA litigation against the State of California for violating Proposition 98 and the State Constitution**

On Sept. 23, 2024, the California School Boards Association’s Education Legal Alliance sued the Director of the Department of Finance and the State of California for their failure to comply with the State Constitution as represented in Proposition 98, the voter-approved school funding law. The Department of Finance and the state, throughout budget negotiations and culminating in the adopted budget deal, violated both the letter and the spirit of Proposition 98. Proposition 98 exists to provide a stable and predictable source of revenue for California’s TK-14 public schools, yet the state has adopted provisions that undermine the principle of Proposition 98’s Minimum Funding Guarantee and opened the door to manipulation on an indefinite basis.

The illegitimate nature of Education Code section 41206.04 of the 2024 Education Omnibus Budget Trailer Bill is rooted in that provision’s manipulation of the formulas used to calculate the Proposition 98 Minimum Funding Guarantee. The Minimum Funding Guarantee is a calculation that determines the vast majority of funding that local school districts and county offices of education receive from the state. The Minimum Funding Guarantee is determined based on one of three formulas, or “tests.” One formula calculates the Minimum Funding Guarantee as a percentage of the State General Fund, while the two other calculations require the Minimum Funding Guarantee to mirror prior-year funding while providing increases to account for cost-of-living inflation and other factors. In approving the 2024 Education Omnibus Budget Trailer Bill, the state is attempting to modify the latter two of the formulas by reducing the base-year amounts.

The voters intended for Proposition 98 to provide an objectively determined minimum level of education spending each year that would insulate school funding from arbitrary political wrangling and economic vicissitudes. Because Proposition 98 relies on formulas to set the Minimum Funding Guarantee, warping the calculation of those formulas so the state can avoid its school funding obligations contradicts the language and intent of Proposition 98 and violates the Constitution of which it is a part.

Enacted in June 2024 as part of the Education Omnibus Budget Trailer Bill, subdivision (d) of Education Code section 41206.04 requires, in certain years, that the Director of Finance exclude portions of funding allocated to school districts, county offices of education, and community

college districts from the Proposition 98 calculation — direction that is in complete opposition to the tenets of Proposition 98.

CSBA believes that this subdivision alters the application of two of the three formulas included in the California Constitution by Propositions 98 and 111 (a later amendment to 98) to determine the minimum amount of funding the state must allocate for education purposes. Both formulas (Test 2 and Test 3) begin with prior-year education funding and adjust those amounts to determine the future guaranteed funding level. By changing the amount of funding that is included in the prior-year allocations to schools, the provision excludes funds above the minimum guarantee from those calculations for the subsequent year. This effectively limits future guaranteed funding levels by ensuring that the amount calculated by these two tests will be artificially low, establishing a lower baseline and lowering funding for schools indefinitely.

The manipulation of the input into these formulas works to side-step the formulas themselves. Such an approach, if used on a regular basis, could allow the state to effectively write the formulas out of the Constitution. This is contrary to the language of Propositions 98 and 111, the intent of the voters in adopting them (based on the plain language and the ballot materials provided to voters), and contemporaneous legislative action to implement Proposition 98.

Specifically, when tax collections are delayed and the state distributes Proposition 98 funding based on its own estimates instead of confirmed tax receipts, this provision directs the state to exclude any allotment over the Minimum Funding Guarantee from future years' Proposition 98 calculations if it later discovers that the distribution provided to schools during the delayed tax collection year exceeded the Minimum Funding Guarantee for that fiscal year.

This is directly contrary to the constitutional language of Proposition 98 which requires that “total allocations” be included in all Proposition 98 calculations. Since subdivision (d) of Education Code section 41206.04 contradicts both the plain language and intent of the constitutional requirement, it should be declared invalid and the Director of the Department of Finance ordered to calculate the Minimum Funding Guarantee pursuant to the Constitution and the will of California’s voters.