

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 2

ON EDUCATION FINANCE

ASSEMBLYMEMBER KEVIN McCARTY, CHAIR

WEDNESDAY, MARCH 29, 2023

3:00 P.M. – STATE CAPITOL, ROOM 444

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We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub2@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

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PROPOSITION 28 IMPLEMENTATION & ARTS EDUCATION PROPOSALS

ITEMS TO BE HEARD		
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ITEMS TO BE HEARD

6100 CALIFORNIA DEPARTMENT OF EDUCATION

ISSUE 1: PROPOSITION 28 IMPLEMENTATION

This panel will address implementation of Proposition 28, the Arts and Music in Public Schools initiative passed by voters in 2022.

PANEL

- Austin Beutner
- Chris Ferguson, Department of Finance (DOF)
- Michael Alferes, Legislative Analyst's Office (LAO)
- Aaron Heredia, California Department of Education (CDE)
- Tom DeCaigny, Create CA

BACKGROUND

State Arts Standards. Statute requires the Superintendent, in consultation with the Instructional Quality Commission, to recommend to the state board revisions to the visual and performing arts content standards in the subjects of dance, music, theatre, and visual arts adopted by the state board, and to recommend new standards for the subject of media arts. On January 9, 2019, the State Board of Education (SBE) adopted the California Arts Standards for Public Schools, Prekindergarten Through Grade Twelve (Arts Standards).

The 2019 California Arts Standards updated the four arts disciplines—dance, music, theatre, and visual arts—and included new standards for media arts as a discrete discipline. The California Arts Standards are based on the National Core Arts Standards created by the National Coalition for Core Arts Standards in 2015.

The SBE adopted the *California Arts Education Framework for Public Schools, Transitional Kindergarten Through Grade Twelve* (Arts Framework) in 2020, and then the Arts Education Instructional Materials Adoption in 2021. There is no timeline in statute for further revisions.

Arts Education in Elementary and Middle Schools. State law requires schools to provide instruction in visual and performing arts to all students in grades 1 through 6. State law also requires schools to offer such courses in grades 7 and 8 as electives. The specific courses and amount of instruction are determined by each local governing board. Schools may also offer arts education through before/after school and summer programs.

The state funds two after school programs currently totaling almost \$5 billion each year. These programs require an academic component (such as tutoring) and an enrichment component (such as arts programs or physical fitness).

Arts Education in High Schools. State law requires students to complete specific courses before they can graduate from high school. The state requires students to complete certain core academic subjects, such as English, history/social science, mathematics, and science. The state also requires students complete one year of either (1) visual or performing arts, (2) a foreign language, or (3) career technical education (CTE). Local governing boards can add other requirements for high school graduation.

A-G Impact. A 2017 survey found that about half of the state's school districts set their minimum graduation requirements to match the course requirements for admission to the state's public universities. Under these requirements, students must take one year of visual and performing arts, which cannot be fulfilled with foreign language or CTE coursework. In the most recent school year for which data are available, high schools in California offered about 150,000 arts education courses. High schools may also provide after school arts programs.

Proposition 28 (2022) – LAO Analysis

Proposition 28 was passed by the voters in 2022. Below are excerpts from the LAO analysis of the ballot measure:

Provides Additional Funding for Arts Education in Public Schools. Beginning next year, Proposition 28 requires the state to provide additional funding to increase arts instruction and/or arts programs in public schools. The amount required each year would equal 1 percent of the constitutionally required state and local funding that public schools received the year before. This funding would be considered a payment above the constitutionally required amount of funding for public schools and community colleges. The proposition allows the Legislature to reduce funding provided by this proposition for arts education in a year when the Legislature provides less than the constitutional spending requirement. In this case, the reduction in funding for arts education could not be more than the percentage reduction in total funding to public schools and community colleges.

Distributes Funding Based on a Formula. Proposition 28 distributes the additional funding to public schools based on enrollment in preschool (CSPP) and K—12. Of the total amount, 70 percent would go to schools based on their share of statewide enrollment. The remaining 30 percent would go to schools based on their share of low-income students enrolled statewide. Local governing boards may use up to 1 percent of this new funding for administrative expenses. The remainder of the funding must be distributed to all school sites based on their student enrollment.

Requires Funding Be Used Primarily to Hire New Arts Staff. Proposition 28 requires funding be used for arts education programs and requires schools to certify that these funds were spent in addition to existing funding for arts education programs. This may include a variety of subjects, including dance, media arts, music, theater, and various types of visual arts (including photography, craft arts, computer coding, and graphic design). The proposition also requires at least 80 percent of the additional funding be used to hire staff. (School districts and charter schools with fewer than 500 students would not have to meet this requirement.) The remaining funding could be used for training, supplies and materials, and for arts educational partnership programs. The California Department of Education (CDE) may approve requests from schools to spend less on staff. Schools will have three years to spend the funds they receive each year. CDE would reallocate any unspent funds to all schools in the following year.

Allows School Principals to Determine How Funds Are Spent. Proposition 28 requires the principal of a school site (or the program director of a preschool) to develop a plan for spending the funding they receive. The principal or program director would determine how to expand a site's arts instruction and/or programs.

Requires Annual Data Reporting. Proposition 28 requires local governing boards to certify each year that the funding their schools received was spent on arts education. Additionally, local governing boards must post on their website a report on how funds were spent. The report must include the type of arts education programs funded, the number of staff employed, the number of students served, and the number of school sites providing arts education with the funding received. This report must also be submitted to CDE and made public on the department's website.

Fiscal Effects. Beginning next year, **Proposition 28 would increase state costs by about \$1 billion annually.** This amount is less than one-half of 1 percent of the state's total General Fund budget. The additional funding would be considered a payment above the constitutionally required amount of funding for public schools and community colleges.

The Governor's 2023-24 January Budget

The January Budget includes \$941 Million ongoing funding in 2023-24 for arts education programs, consistent with the requirements of Proposition 28. As required by the measure, this funding is on top of the Proposition 98 funding requirement otherwise calculated for 2023-24. The Administration has not proposed trailer bill language for implementation.

CDE Implementation Recommendations

Upon analysis, CDE has identified five distinct areas of the new statute that could delay or impede funding as intended by Proposition 28. Each issue and CDE's draft recommendations are below:

CSPP Allocations. The *Education Code* Section 8820 requirement for CDE to allocate funding at the school site level for preschools and to determine the number of economically disadvantaged preschool pupils, defined as Free or Reduced Price Meal (FRPM) eligible, is not implementable as written. Statute must be changed to provide an alternative funding calculation methodology for preschool programs.

CDE Recommendation:

1. Allocate funding for preschools at the program/contract level.
2. Determine the number of FRPM eligible preschool pupils as follows:
 - a. Use the percentage of FRPM eligible pupils from the elementary school with the highest percentage of FRPM eligible pupils within the preschool's LEA.
 - b. If the LEA operating a preschool program does not operate an elementary school (e.g., COEs), use the percentage of FRPM eligible pupils from the elementary school with the highest percentage of FRPM eligible pupils within the preschool's county.

Three Year "Use" Definition. Subdivision (f) of Section 8820 states that LEAs have three years to use AMF program funds after which time the funds revert to the department.

CDE Recommendation:

Add the qualifying term "unexpended" to remove any ambiguity.

Authority to Collect Expenditures. Subdivision (f) of Section 8820 provides LEAs with three fiscal years to use AMF allocations, and it requires CDE to recover and reallocate unexpended funds. CDE cannot obtain the data from our existing LEA fiscal data collection system, the Standardized Account Code Structure (SACS) Web System, for this program. In order to comply with this requirement, CDE will need LEAs to report the amount of unexpended funds at the end of the three-year period. There is no language giving CDE the authority to collect unexpended funds data from LEAs.

CDE Recommendation:

1. Add language to make submittal of an expenditure report a condition of receipt of funds.
2. Provide authority to recover funds from closed charter schools in advance of the three-year expenditure time limit.

Annual certification and good cause waiver. There are two references in the annual certification to arts education, whereas the term arts education program is what is defined in statute. This should be corrected to align. Two portions of the annual certification currently specify that LEAs must certify that funds *received* in the prior year were used according to certain requirements. However, statute allows LEAs to hold funds for a total of three years. As such, there is the possibility that less than 100% of funds received in a year would be expended in the same year. Similarly, LEAs complete the certification, but the waiver of part of the certification requirements is at the school site level.

CDE Recommendation:

1. Revise these provisions to specify that the certification applies to funds expended in a prior year would align this certification with the ability to hold funds for a period of time.
2. Revise the waiver request should instead be made at the LEA level.

“Existing funding.” It may be beneficial to further define/clarify existing funds, as CDE has received a number of inquiries/concerns about what this does/does not include, particularly with regard to recent one-time investments.

STAFF COMMENTS & QUESTIONS

Amending Proposition 28. Statute allows for amendments to the proposition’s language that further the purposes of the Act, with a 2/3 vote. As part of the 2022-23 Budget Arts package, the Assembly will need to address the successful implementation of this historic arts initiative.

In addition to CDE’s implementation amendment requests, arts stakeholders have raised crucial questions on how CDE would interpret language:

CDE Staffing & Capacity: Can CDE access an ongoing portion of Prop 28’s 1% administrative overhead to cover their staffing and implementation costs?

Supplantation: What aspects of a school site budget constitute baseline funding (parcel taxes, parent funding, FTEs, one-time funds, etc.)? How will LEAs publicly report baseline funding? Who is monitoring the “do not supplant” clause? How will it be enforced?

Waivers: How will CDE manage the waivers provision? How will “good cause” be defined?

Workforce: Who qualifies as Prop 28 compliant personnel (e.g, afterschool staff, teaching artists)?

Other Arts Expenditures: Is there any guidance on priorities for the 20% allocation?

Data & Reporting: What are the reporting and expenditure templates for school sites and LEAs? Will CalPADS be the data system for course offerings and enrollment

(elementary & secondary), etc.? How can we ensure reporting includes and distinguishes existing (non-Prop 28 funded) arts programming?

School site and District level expenditure planning: Can multiple school sites pool the funds to hire itinerant FTEs? Can school districts use the funds for a district-level itinerant arts program and/or contract with an arts provider that serves the entire district?

Staff Recommendation: Hold Open. Anticipate placeholder trailer bill.

ISSUE 2: ARTS, MUSIC, AND INSTRUCTIONAL MATERIALS DISCRETIONARY BLOCK GRANT

This panel will hear the January Budget proposals relevant to the Arts, Music, and Instructional Materials Discretionary Block Grant.

PANEL

- Chris Ferguson, DOF
- Michael Alferes, LAO
- Mike Torres, CDE

BACKGROUND

Discretionary Block Grant. The 2022-23 Budget Act included \$3.6 Billion one-time Proposition 98 funding for an Arts, Music, and Instructional Materials Discretionary Block Grant. Funding is provided to LEAs on a per-student basis and is available through 2025-26. LEAs may use these funds for professional development and instructional materials in various academic subject areas, including visual and performing arts. In addition, LEAs may use these funds for professional development related to school climate (such as training on de-escalation strategies). Funds may also be used for operational staffing costs (including retirement and health benefit cost increases), materials and equipment to keep schools safely open during the COVID-19 pandemic, and purchasing diverse and culturally relevant books and text that support independent student reading. Each local governing board must adopt a public plan that describes how funding will be spent, and are encouraged to spend funds proportionally across allowable plan areas.

The Governor's 2023-24 January Budget

The Administration is proposing a reduction to the Arts, Music, and Instructional Materials Discretionary Block Grant by \$1.2 Billion. According to the LAO, this would result in a 33 percent reduction to all LEAs' allocations.

LAO Comments

Reducing Discretionary Block Grant Would Be Disruptive to Local Planning. CDE notified LEAs of their allocations for the discretionary block grant this fall and distributed the first half of funding in December 2022. Our understanding is that many LEAs already adopted plans for how to use these funds, often after discussions in the community and with school employee groups. Reducing the discretionary block grant by one-third would require districts to revisit these plans and could require changing larger aspects of their budget plans. Given the variety of allowable uses for the block grant, LEAs would not be able to use Proposition 28 funding to cover many of their planned expenditures. The funds for Proposition 28 (1) are limited to arts education, (2) must be spent on ongoing salaries

and benefits in larger schools, and (3) are to be spent at the discretion of school principals.

Take Actions to Minimize Reductions to Arts, Music, and Instructional Materials Discretionary Block Grant. To minimize disruption to LEA budget plans, we recommend the Legislature take actions that would free up funding to decrease or eliminate the proposed reduction to the Arts, Music, and Instructional Materials Discretionary Block Grant.

STAFF COMMENTS & QUESTIONS

The January Budget includes approximately \$900 million in requested new education spending that is unrelated to prior Budget commitments and not required by law (i.e. Prop 2 & 28). It appears that the proposed reduction to the Discretionary Block grant is intended to afford these new proposals, while maintaining other prior-year commitments and affording COLA, inside the Prop 98 guarantee estimates.

While Proposition 28, as covered in the prior panel, provides \$941 million in new support for Arts & Music in public schools, the Discretionary Block grant allows a much wider range of expenditure at the local level. Even if all LEAs followed the proportionality in legislative intent, that's only \$720 million for the Arts over a four year period.

The Assembly will need to consider one-time reductions as part of the Final Budget package, in order to protect ongoing classroom funding priorities like COLA and UTK implementation. However, this Discretionary Block grant reduction proposal will be recommended for rejection or adjustment, in the context of the January Budget new spending package.

Staff Recommendation: Hold Open.

ISSUE 3: ARTS & CULTURAL ENRICHMENT FOR HIGH SCHOOL SENIORS

This panel will discuss the January Budget proposal for Arts and Cultural Enrichment offerings for high schools.

PANEL

- Paula Fonacier Tang, DOF
- Michael Alferes, LAO
- Mike Torres, CDE

BACKGROUND**The Governor's 2023-24 January Budget**

The January Budget proposes \$100 Million one time for Arts and Cultural Enrichment for High School Seniors. This proposal is intended to give all high school seniors in the 2023-24 school year access to arts and cultural institutions, museums, and art enrichment experiences. Funding would be allocated to LEAs in 2023-24 based on their 11th grade enrollment in 2022-23. LEAs could use the funding to cover transportation and admission to (1) arts and cultural institutions; (2) live art and cultural performances; and (3) off-campus extracurricular arts and cultural activities, workshops, and learning experiences. Funding must be prioritized for admission, program, and activity costs. Any remaining funding may be used for transportation costs. The administration estimates the proposal would provide LEAs with about \$200 per high school senior.

LAO Comments

Arts and Cultural Enrichment Proposal Has Limited Scope. Unlike the funding from the discretionary block grant and the arts funding provided by Proposition 28, the \$100 million proposed for arts and cultural enrichment is much more limited in use. These funds would only be available for one set of activities and would only benefit one cohort of high school seniors. To the extent that LEAs deem this a local priority, they can use other funds (such as LCFF) to cover these costs. Using another funding source such as LCFF would allow them to extend opportunities to students across all grades.

Reject New Arts and Cultural Enrichment Proposal. LEAs that are interested in providing additional opportunities for arts and cultural enrichment could use other funding sources, such as LCFF.

STAFF COMMENTS & QUESTIONS

The January Budget includes approximately \$900 million in requested new education spending that is unrelated to prior Budget commitments and not required by law (i.e. Prop 2 & 28).

Proposition 28, as covered in the prior panel, provides \$941 million in new support for Arts & Music in public schools, and 20% of these annual funds may be used for local priorities, such as this culture proposal, at roughly \$188 million annually, and ongoing.

New one-time expenditures are recommended for rejection, in the context of the forecasted revenues, and available Prop 28 funds for these purposes.

Staff Recommendation: Redirect one-time funds to offset reductions to the Arts & Music Discretionary Block Grant.
