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**Date:** March 21, 2012

**To:** Diane Brady  
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**From:** Jonathan Lee  
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**Subject:** Basic Aid Status  
**Legal Opinion 12-03**

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**Question**

Whether the determination of Basic Aid status should be made on the basis of a district's Total Computation Revenue (TCR) or after the Adjusted Entitlement (AE).

**Conclusion**

The determination of Basic Aid status is made at TCR and not after AE is applied.

**Background**

While the term "basic aid district" is commonly used, its statutory origins are not immediately clear. The actual term itself cannot be found in the Education Code or title 5 regulations. The only actual usage of the term "basic aid" can be traced to the K-12 system and Revenue and Taxation Code section 196.4(c). That section states:

(c) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

Education Code section 42238, which is referenced above, is a section which describes how the K-12 system makes determinations for revenue limits for each of its school districts. Education Code section 42238(h) requires the Superintendent of Public Instruction to reduce apportionment to K-12 districts by various sums, including each district's property tax revenues.

The corollary community college provision to Education Code section 42238 is Education Code section 84751. That section deals with the calculation of community college district revenue level. More specifically, section 84751 states that community college districts would receive no general fund apportionment if local property tax, student enrollment fees, and timber yield tax revenues exceed a district's apportionment entitlement per section 84750. The actual term "basic aid district" is not used within any parts of this section, however.

Within the Revenue and Taxation Code, Education section 84751 is directly referenced in a definitional portion in section 95. The specific reference is found in Revenue and Taxation Code 95(n), which states, "Excess tax school entity' means an educational agency for which the amount of the state funding entitlement determined under Section 2558, 42238, 84750, or 84751 of the Education Code, as appropriate, is zero." This definition for "excess tax school entity" coincides directly with the commonly held meaning for basic aid districts in the community college system. Thus, it appears that both the term "basic aid district" and "excess tax school entity" can be used interchangeably.

Currently, there are three community college districts that have been found to receive sufficient funding from enrollment fees and property tax revenue to cover their general apportionment funding without additional general fund dollars. These three "basic aid" districts are Marin, Mira Costa, and South Orange County.

Total computational revenue (TCR) is another term that does not appear in the Education Code or title 5 regulations. TCR is a term used by the Community College Chancellor's Office Fiscal Services Unit to describe the calculation of a district's total entitlement based on Full-Time Equivalent Student (FTES), infrastructure factors, and the number of colleges and centers a district operates. The TCR provides the basis for general apportionment funding to be distributed throughout the community college system. It is from this number that the Chancellor's Office distributes apportionment as per the allocation process described in title 5 section 58770.

When the state is unable to provide sufficient funds calculated by the TCR for the system, the fund differential is at a deficit. Title 5 section 58779 explains the deficit mechanism the Chancellor's Office uses to apply this funding shortfall. Section 58779 states:

In the event that State General Fund appropriations, local property tax revenues, student enrollment fees, and other local tax revenues allocated to community college districts for general operating support, are less than the amounts computed for all districts for the fiscal year pursuant to subdivision (a) of section 58770, the Chancellor shall apportion state aid by multiplying the amount computed for each district pursuant to subdivision (a) of section 58770, by the ratio of the statewide total revenue available for purposes of subdivision (a) of section 58770, to the statewide total calculated amount for purposes of subdivision (a) of section 58770.

The calculation adjustments made pursuant to section 58779 determine what each individual district is entitled to receive following the apportionment reductions. This figure is known as a district's adjusted entitlement (AE). Basic aid districts have been excluded from AE calculations, because those districts receive enough revenue from enrollment fees and property taxes to fully cover their apportionment.

San Mateo County Community College District (San Mateo) is a District that has historically high enough local property tax and enrollment fee revenues to place the district on the cusp of qualifying for basic aid status. Calculations for the 2011-12 fiscal year place San Mateo just slightly short of qualifying for basic aid status. After factoring in the AE, San Mateo's revenues actually exceed the amount of general fund apportionment it would be entitled to receive. This raises the question of whether San Mateo is a basic aid district.

### **Analysis**

The definition for "excess tax school entity" is synonymous with the term "basic aid" as used by the community college system. The Revenue and Taxation Code's definition for "excess tax school entity" refers specifically to the calculations made to the TCR. When applying that calculation to community college districts, in order for a community college district to qualify for "basic aid" status, the state funding entitlement for that district must equal zero. This calculation takes place before the AE is considered. Thus by definition, basic aid status is determined at the point when TCR is initially calculated.

In this case, it is true that if the AE is considered, San Mateo would be fully funded to its AE level. However, the calculations made when factoring in the AE do not affect whether a district has basic aid status. San Mateo's funding entitlement per Education Code section 84751 is not zero. As a result, San Mateo does not qualify for basic aid status for the 2011-12 fiscal year.

JL/fr/ll