



December 21, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative (A.G. File No. 21-0036, Amendment No. 1) related to funding for arts and music education in schools.

Background

State Has 6 Million Public School Students. Public schools are operated primarily by local education agencies (LEAs)—school districts, charter schools, and county offices of education. In 2020-21, California’s public schools enrolled just over 6 million students from Transitional Kindergarten through grade 12. Roughly 60 percent of public school students are low income, as defined by their eligibility to receive a free- or reduced-price school meal under a federal nutrition program. The state also provides public preschool to some three- and four-year olds from low-income families, though funding is not sufficient to serve all eligible children.

Constitutional Allotment. Proposition 98 (1988) sets aside a minimum amount of state General Fund and local property tax revenue for public schools and community colleges. The size of this allotment depends on several factors, including the number of students attending public schools, growth in the state economy, and General Fund revenues. In most years, the state must allocate about 40 percent of General Fund revenue to meet this requirement. (The General Fund—the state’s main operating account for education, prisons, health care, and other public services—is estimated to receive about \$175 billion in revenues this year.) The 2021-22 budget package includes \$93.7 billion in total Proposition 98 funding, with \$80.5 billion provided for K-12 schools. The state allocates nearly all of the Proposition 98 allotment to public schools through a per-pupil formula. With a two-thirds vote of each house of the Legislature, the state can suspend the guarantee and provide less funding than the formulas require that year.

Arts Education in Elementary and Middle Schools. The state does not require schools to provide instruction or programming in the arts (such as music) in elementary and middle schools. These programs are funded based on the discretion of local governing boards. In some cases, LEAs hire teachers or other staff to provide arts instruction during the school day. Schools may also provide arts education through before/after school and summer programs. The state funds two such

programs: the After School Education and Safety program (\$646 million annually) and the Expanded Learning Opportunities Program, a newly created program in 2021-22 (\$1.8 billion). These programs require an academic and an enrichment component. The enrichment component of both programs may include arts or music.

Arts Education in High School. The state sets minimum course completion requirements for high school graduation. In addition to requirements in core academic subjects (English, history/social science, mathematics, and science) the state requires that students complete one year of either (1) visual or performing arts, (2) a foreign language, or (3) career technical education (CTE). At the discretion of the local governing board, LEAs may also add other requirements for high school graduation. A 2017 Public Policy Institute of California survey found that 51 percent of school districts set their minimum graduation requirements as equal to the minimum coursework required to be eligible for admission to the California State University and University of California. Under these requirements, students must take one year of visual and performing arts, which cannot be fulfilled with foreign language or CTE coursework. High schools may also provide after school programming in arts and music, based on local discretion.

Proposal

Provides Additional Funding for Arts Education in Schools. Beginning in 2023-24, the measure requires the state to provide additional funding to increase arts instruction and programming in schools. The amount provided each year would be equivalent to 1 percent of the total Proposition 98 funding provided to K-12 schools in the prior year. In 2023-24, this funding would be considered a supplementary payment above the Proposition 98 minimum guarantee provided to schools and community colleges. Moving forward, the minimum guarantee would be adjusted upwards to reflect the additional funding required by the measure. The measure would allow the Legislature to reduce the allocation for arts education in a year when the Legislature suspends the minimum guarantee. In this case, the percentage reduction in funding for arts education shall not exceed the percentage reduction in total funding to schools and community colleges.

Distributes Funding Based on Formula. The measure allocates the additional funding to LEAs through a formula based on prior-year enrollment in public preschool and Transitional Kindergarten through grade 12. Of the total amount, 70 percent would be distributed to LEAs based on their share of statewide enrollment. The remaining 30 percent would be distributed based on each LEA's share of low-income students statewide. LEAs may set aside up to 1 percent of their funding for administrative expenses, while the remainder of the funding must be distributed to all school sites within the LEA based on the amount of funding generated by its student enrollment.

Requires Funding Be Used Primarily to Hire New Arts Staff. The measure requires LEAs to use funding for arts education programs and to certify that these funds were spent to supplement existing funding for arts education programs. This may include a variety of disciplines within the arts, including dance, media arts, music, theatre, and various types of visual arts. The measure also requires LEAs with enrollment of more than 500 students to spend at least 80 percent of the additional funding to hire staff. The remaining funding could be used for training, supplies and materials, and arts educational partnership programs. Under the measure, the California Department of Education (CDE) would have the discretion to waive the spending requirements for a school site, upon written request from the school principal that shows good cause for a waiver. Schools will have

three years to expend the funding they receive. CDE would reallocate any unused funds to all LEAs in the following year.

Gives Discretion to School Principals to Determine How Funds Are Spent. The measure requires the principal of a school site (or the program director of a preschool) to develop an expenditure plan for the funding they receive. The principal or program director would have discretion to determine how to expand a site's arts and music programs, including pooling funds with other schools to develop joint programs and share staff.

Requires LEAs to Report Data Annually. Each year, LEAs must certify that the funding they received in the prior year was spent on arts education, as required by the measure. Additionally, LEAs must make public on their website a report which details 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, which will make all LEAs' reports publicly available on the department's website.

Fiscal Effects

Beginning in 2023-24, the measure would require additional spending likely in the range of \$800 million to \$1 billion annually for arts education in schools. Because the measure requires this funding to be in addition to the Proposition 98 minimum guarantee, it would result in a corresponding reduction in General Fund resources available for non-Proposition 98 programs. Over time, funding would fluctuate based on changes in the minimum guarantee for schools and community colleges.

Summary of Fiscal Effects. This measure would have the following major fiscal effect:

- Increased spending likely in the range of \$800 million to \$1 billion annually, beginning in 2023-24, for arts education in schools.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance