

# FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

## Proposition 28: A Case for Slowing Down

 BY [PATTI F. HERRERA, EDD](#)

 BY [MEGAN BAIER, ACSA](#)

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*Editor's Note: From time to time, when circumstances warrant, School Services of California Inc. collaborates with key partners to bring an important message and information about issues that are significantly impacting local educational agencies (LEAs). As LEAs grapple with Proposition 28 (2022): The Arts and Music in Schools—Funding Guarantee and Accountability Act, we felt that such an article was necessary in light of the uncertainty surrounding implementation of the new voter-approved initiative.*

### **Amidst Uncertainty, Proceed With Caution**

The passage of Proposition 28 has many educators, students, and communities celebrating the promising restoration of arts and music instruction in California's public education system. The shift to the Every Student Succeeds Act and to the Local Control Funding Formula accompanied by an accountability system that measures the efficacy of public education in preparing students for their futures by more than their test scores restored hope that we would undo the narrowing of an education curriculum that privileged English language arts and mathematics above all. Proposition 28 and the funding it dedicates to arts and music education reminds us that students benefit from exposure to a broad, enriching curriculum and should be able to explore a future in the arts.

While a reinvigorated effort in arts and music education is both an exciting and important endeavor, we encourage local educational leaders to temper the pace of planning and implementation in light of current uncertainty over the rules and regulations that will govern Proposition 28 spending.

- **Proposition 28 Funding Unknown**

You will recall that annual funding for Proposition 28 is dependent on the amount of funding allocated to public education, equal to 1% of the prior year Proposition 98 minimum guarantee. When Governor Gavin Newsom released his 2023-24 proposed State Budget in January, he estimated that Proposition 28 would provide \$941 million for arts and music education. Since then, economic reports estimate that state revenues are far below the Governor's January projections (by \$4.7 billion). This results in a drop in the Proposition 98 minimum guarantee of approximately \$1.9 billion and a commensurate \$19 million drop in Proposition 28 funding. With three more months of revenues still unaccounted for and strong economic headwinds, it is difficult to predict what final revenues will be when the Legislature and Governor adopt a Budget later this summer. This uncertainty is one of the principal reasons we

recommend that local leaders slow their planning and implementation of Proposition 28.

- **Proposition 28's Blurry Provisions Require Clarity**

Another key reason to slow the pace of Proposition 28 planning is confusion around some of the key requirements of the law that require additional clarification from the state either in terms of cleanup legislation, which the initiative authorizes, or via guidance from the California Department of Education. Among the key provisions that require clarification are the following:

- **Supplement Requirement**—While it is clear that Proposition 28 requires funds from the initiative to supplement existing arts and music investments, important detail about the requirement remain fuzzy, in particular how the requirement will be measured, whether by funding or expenditures, what funding sources (i.e., one-time versus ongoing, local versus state versus federal) count for the requirement, and clarification that the measure does not establish a maintenance of effort requirement but rather a supplement, not supplant, requirement. Answers to these questions are core to proper planning and implementation of Proposition 28. Thus, the absence of clarity at this stage is difficult, and poses noncompliance and audit risks to LEAs that move quickly.
- **Flexibility**—For a variety of reasons, LEAs are asking if the law provides any flexibility to pool and leverage funding to maximize resources and to provide rich arts and music programs with the most qualified talent. Some of these questions are coming from small school districts and charter schools that would like to pool resources because their anticipated allocations may be insufficient to pay for the cost of a new art or music teacher. Likewise, schoolsite allocations may also be insufficient to pay for staff dedicated to one site, so pooling site allocations may be a better or necessary approach to staffing a program. Further, although there is nothing in law that prohibits the use of funds to support enriching arts and music activities during noninstructional school-based programs, such as after school or expanded learning programs, some LEAs question if Proposition 28 dollars may only be used during the regular instructional day.
- **Plan Development**—While school district leaders still retain the authority to oversee Proposition 28 spending, the law clearly assigns the responsibility for developing a Proposition 28 expenditure plan to the schoolsite principal or preschool director. However, it is not clear how the requirement applies to a schoolsite that also houses a preschool program administered by a preschool director. Are both administrators required to co-develop a single expenditure plan or does law require them to develop separate plans? Additionally, some LEAs are seeking clarity on what must be included in a schoolsite expenditure plan and who determines annual expenditures. Guidance on plan development may or may not be forthcoming from our state agency partners, but these questions are important for their many implications. For example, we would encourage district-level leaders to participate in and/or guide schoolsite plan development to ensure cohesion across all schoolsite education plans, such as Local Control and Accountability Plans and the Single Plan for Student Achievement. Equally important would be ensuring that any Proposition 28 expenditure at a schoolsite does not violate other site expenditure rules such as Title I or Title III supplement, not

supplant, requirements. Thus, gaining clarity—even if such clarity is only the calibration of local policy and practice in the development of the Proposition 28 expenditure plan—is important for smart planning and implementation moving forward.

These are just a few of the initiative’s blurry requirements. We highlight them because of the core role they play in planning and implementation.

### **Why You Can Slow Down**

Finally, we recognize your eagerness and your anxieties, as well as the local pressure many LEAs are under to implement Proposition 28 in earnest. So, we take great caution in our counsel that you slow your planning pace while we await additional clarification from our state partners.

We want to remind you of two key provisions in Proposition 28 that allow you to take a deep breath and avoid the allure of concluding your planning in the sprint to June budget adoption. First, Proposition 28 expenditure plans will be your guiding tools for implementation not just at your schoolsites but across your LEA. Getting your plans right is critical. Importantly, Proposition 28 does not establish a date by which an expenditure plan must be developed, so there is no need to rush your planning. It is better to know your factors, including how much funding you can anticipate receiving in 2023-24, before developing your plans.

We know that the requirement for most LEAs to use 80% of funds to employ certificated or classified staff is driving the eagerness to begin the hiring process now, particularly amidst an historic labor shortage. However, the second key provision of Proposition 28 is one that gives LEAs three fiscal years to spend their annual allocations before unused funds must be reverted to the state. Thus, there is no requirement to spend your 2023-24 allocation next year. This flexibility will allow you to slow your pace until additional clarification is provided so that you can budget and spend your resources strategically for optimum programs for your students.