

ITEM 14
ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
GENERAL CLEANUP PROVISIONS
PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5
ARTICLES 1, 2, 3, 4, 5, 6, 7, 8, AND 10
SECTIONS 1181.1 THROUGH 1188.2 AND 1190 THROUGH 1190.5

TABLE OF CONTENTS

Exhibit A

Order to Initiate Rulemaking 1

Exhibit B

Proposed Text 2

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of
Regulations, Title 2, Division 2, Chapter 2.5,
Articles 1, 2, 3, 4, 5, 6, 7, 8, and 10

No. 15-01

ORDER TO INITIATE RULEMAKING
PROCEEDINGS

General Cleanup Provisions (clarifying
regulations, eliminating duplicative
language, and updating authority and
reference citations)

Pursuant to California Code of Regulations, title 2, section 1189.2, the Commission on State Mandates ("Commission") hereby adopts this order to institute rulemaking proceedings in accordance with Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

PROPOSED REGULATORY ACTION. The Commission proposes revised language and citations in Articles 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date of July 1, 2015.

AUTHORITY AND REFERENCE. Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to clarify Commission regulations, eliminate duplicative language, and update authority and reference citations.

WRITTEN COMMENT PERIOD. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The Commission will only consider written comments received at the Commission's office by 5:00 p.m. on March 23, 2015. Submit comments to:

Heidi Palchik, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Phone: (916) 323-3562

Written comments may be submitted electronically via the Commission website "Drop Box" at:
<http://www.csm.ca.gov/dropbox.shtml>

PUBLIC HEARING. The Commission will hold a hearing on March 27, 2015, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than March 9, 2015.

Date: _____ By: _____
Heather Halsey, Executive Director

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 2.5. COMMISSION ON STATE MANDATES**

Article 1. General..... 1

 § 1181.1. Delegation of Certain Functions; Executive Director Appeals..... 1

 § 1181.2. Definitions..... 2

 § 1181.3. Filing and Service of Written Materials and New Filings. 4

 § 1181.4. Mailing Lists and Numbering of Matters..... 5

 § 1181.5. Appointment of Designees and Election and Duties of Officers..... 6

 § 1181.6. Development and Approval of Commission Forms. 7

 § 1181.7. Waiver of Requirement to Use Forms. 7

 § 1181.8. Commission Meeting Quorum and Voting Requirements..... 7

 § 1181.9. Commission Meeting Notice, Agenda, and Consent Calendar..... 8

 § 1181.10. Commission Meeting Procedures. 8

 § 1181.11. Permanent Record of Commission Meetings. 9

 § 1181.12. Default Rules of Commission Meetings. 9

 § 1181.13. Commission Meeting by Teleconference. 9

Article 2. Applications for a Finding of Significant Financial Distress 10

 § 1182.1. Reduction in Aid Levels; Definitions. 10

 § 1182.2. Filing of an Application for a Finding of Significant Financial Distress. 10

 § 1182.3. Extension of Period for Preliminary and Final Decision and Current Period of
 Financial Distress..... 12

 § 1182.4. Notice..... 12

 § 1182.5. Pre-Hearing Conference..... 12

 § 1182.6. Assignment to Hearing Panels/Hearing Officers..... 12

 § 1182.7. Request for Supplemental Information. 13

 § 1182.8. Review of Completed Application for a Finding of Significant Financial
 Distress and Preparation of Staff Analysis. 13

 § 1182.9. Written Comments..... 13

 § 1182.10. Conduct of Hearing..... 14

§ 1182.11. Representation at Hearing.....	14
§ 1182.12. Continuance of Hearings and Further Hearings.....	14
§ 1182.13. Preliminary and Final Decisions; Action on Decisions.....	15
§ 1182.14. Form of Decision.....	16
§ 1182.15. Reapplications.....	16
§ 1182.16. Withdrawal of Applications.....	16
Article 3. Test Claims	17
§ 1183.1. Test Claim Filing.....	17
§ 1183.2. Review of Test Claim.....	18
§ 1183.3. Claimant's Rebuttal.....	19
§ 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.....	19
§ 1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.....	20
§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.....	20
§ 1183.7. Content of Parameters and Guidelines.....	20
§ 1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments.....	22
§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.....	22
§ 1183.10. Reasonable Reimbursement Methodology.....	23
§ 1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs.....	24
§ 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and Guidelines.....	24
§ 1183.13. Adoption of Parameters and Guidelines.....	25
§ 1183.14. Statewide Cost Estimate.....	26
§ 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology.....	26
§ 1183.16. Expiration of Reasonable Reimbursement Methodology.....	27
§ 1183.17. Amendments to Parameters and Guidelines.....	28
§ 1183.18. Timelines.....	29
Article 4. Review of Office of State Controller's Claiming Instructions	32
§ 1184.1. Review of Office of State Controller's Claiming Instructions.....	32
Article 5. Incorrect Reduction Claims	34

§ 1185.1. Incorrect Reduction Claim Filing.	34
§ 1185.2. Review of Incorrect Reduction Claims.....	35
§ 1185.3. Consolidation of Claims Initiated by an Individual Claimant.	36
§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.	37
§ 1185.5. Opting Out of a Consolidated Incorrect Reduction Claim.....	37
§ 1185.6. Executive Director's Authority to Consolidate or Sever Incorrect Reduction Claims.	38
§ 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed Decision.	38
§ 1185.8. Withdrawal of Incorrect Reduction Claims.	39
§ 1185.9. Reinstatement of Costs.	39
Article 6. State Mandates Apportionment System.....	39
§ 1186.1. Definitions: State Mandates Apportionment System.....	39
§ 1186.2. Request for Inclusion.	40
§ 1186.3. Adoption of Finding for Request for Inclusion.	40
§ 1186.4. Request for Removal.....	41
§ 1186.5. Adoption of Finding for Request for Removal.	41
§ 1186.6. Reviewing an Apportionment or Base Year Entitlement.	42
§ 1186.7. Adjustment to Apportionment.	42
Article 7. Quasi-Judicial Hearing Procedures and Decisions	43
§ 1187.1. Scheduling and Noticing the Hearing.	43
§ 1187.2. Assignment to Hearing Panels/Hearing Officers.....	43
§ 1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.	43
§ 1187.4. Informal Conference.	44
§ 1187.5. Evidence Submitted to the Commission.	44
§ 1187.6. Conduct of Hearing.....	45
§ 1187.7. Witnesses and Subpoenas.	45
§ 1187.8. Representation at Hearing.....	46
§ 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and Continuances of Hearings.	47
§ 1187.10. Decision; Action on Proposed Decision.	49
§ 1187.11. Form of Decision.	49

§ 1187.12. Withdrawal of a Matter	50
§ 1187.13. Abandonment of a Matter	50
§ 1187.14. Substitution of Parties and Dismissal of a Matter.....	51
§ 1187.15. Reconsideration of an Adopted Decision.	51
Article 8. Rulemaking and Informational Hearings.....	53
§ 1188.1. Scheduling and Noticing of an Informational Hearing.....	53
§ 1188.2. Rulemaking.....	54
Article 10. Mandate Redetermination Process.....	55
§ 1190.1. Filing a Request to Adopt a New Test Claim Decision.....	55
§ 1190.2. Review and Response.	56
§ 1190.3. Rebuttal.....	57
§ 1190.4. Executive Director's Authority to Consolidate Requests for Mandate Redetermination.....	57
§ 1190.5. Hearing Process and Form of Decision.	58

1

2 CALIFORNIA CODE OF REGULATIONS

3 TITLE 2. ADMINISTRATION

4 DIVISION 2. FINANCIAL OPERATIONS

5 CHAPTER 2.5. COMMISSION ON STATE MANDATES

6 Text proposed to be added is displayed in underlined type.

7 Text proposed to be deleted is displayed in ~~strikeout~~ type.

8 **Article 1. General**

9 **§ 1181.1. Delegation of Certain Functions; Executive Director Appeals.**

10 (a) Whenever it is stated in these rules that the "Commission" may or shall exercise or discharge
11 any power, duty, purpose, function, or jurisdiction, the Commission on State Mandates
12 specifically has reserved the same for its own exclusive action.

13 (b) Whenever it is stated that the "executive director" may or shall exercise or discharge any
14 power, duty, purpose, function, or jurisdiction, or it is not expressly stated that the Commission
15 itself shall so act, the executive director of the Commission has the authority to act thereon.

16 (c) A real party in interest to a matter may appeal to the Commission for review of the actions
17 and decisions of the executive director on that matter.

18 (1) The appellant shall submit the appeal in writing within 10 days of first being served written
19 notice of the executive director's action or decision.

20 (2) The appellant shall file and serve the appeal in accordance with section 1181.3 of these
21 regulations.

22 (3) The appeal shall explain the basis for the appeal, state the action being requested of the
23 Commission, and include all facts and materials the applicant believes are relevant to the appeal.

24 (4) The executive director shall schedule the appeal for hearing and vote by the Commission as
25 soon as practicable following receipt of the appeal.

26 (5) Other parties may submit comments on an appeal in accordance with section 1181.3 of these
27 regulations.

28 (6) The Commission shall determine whether to uphold the executive director's decision by a
29 majority vote of the members present. The decision shall be final and not subject to
30 reconsideration.

31 (7) The executive director shall notify the appellant in writing within 10 days of the
32 Commission's decision.

33 (d) Nothing herein prohibits the executive director from delegating to subordinates as provided
34 in Government Code section 18572.

35 | Note: Authority cited: Sections 17527(g), 17530 and 17531, Government Code. Reference:
36 Section 17530, Government Code, *Redevelopment Agency v. Commission on State Mandates*
37 (1996) 43 Cal.App.4th 1188.

1 **§ 1181.2. Definitions.**

2 Unless otherwise indicated, the following definitions and those found in Government Code
3 sections 17510 through 17524 apply to this chapter:

4 (a) "Affected state agency" means a state department or agency that is responsible, in whole or in
5 part, for implementation, enforcement, or administration of any statutes or executive orders that
6 are the subject of a matter.

7 (b) "Amendment" of a test claim means the addition of new allegations based on new statutes or
8 executive orders to an existing test claim. The addition or substitution of parties and supporting
9 declarations based on the original statutes or executive orders alleged in an existing test claim is
10 not an "amendment."

11 (c) "Claimant" means the local agency or school district filing a test claim or incorrect reduction
12 claim.

13 (d) "Commission staff" means the executive director, legal counsel, or other Commission
14 employee authorized by the Commission or the executive director to represent the Commission
15 on a specific claim or request, or to receive filings at the Commission office.

16 (e) "Completed" means that all requirements for a new filing for a test claim, proposed
17 parameters and guidelines, request to amend parameters and guidelines, request for
18 reconsideration, request to review claiming instructions, incorrect reduction claim or request for
19 mandate redetermination have been satisfied by the claimant or requester.

20 (f) "Filing date" means the date received at the Commission's office during normal business
21 hours by any of the methods described in section 1181.3 of these regulations.

22 (g) "Incorrect reduction claim" means a claim alleging that the Office of State Controller
23 incorrectly reduced the reimbursement claim of a local agency or school district.

24 (h) "Informational hearing" means any hearing designed to gather and assess information to
25 assist the Commission in formulating policies, informing the public of Commission actions, or
26 obtaining public comment and opinion.

27 (i) "Interested party" means a local agency, school district, or state agency, with a beneficial
28 interest in the matter.

29 (j) "Interested person" means any individual, local agency, school district, state agency,
30 corporation, partnership, association, or other type of entity, having an interest in the activities of
31 the Commission.

32 (k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and
33 guidelines, joint request for reasonable reimbursement methodology, request for review of
34 claiming instructions, request for removal or inclusion in State Mandates Apportionment System,
35 or request for mandate redetermination.

36 (l) "Party" includes a party's representative of record who is expressly authorized to act on the
37 party's behalf. Party means the following for each matter as specified below:

38 (1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other
39 affected state agencies.

40 (2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State

- 1 Controller.
- 2 (3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the
3 Department of Finance, the Office of State Controller, affected state and local agencies, and
4 affected school districts.
- 5 (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" means the test
6 claimant and the Department of Finance.
- 7 (5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office
8 of State Controller.
- 9 (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System"
10 means the requester, the Department of Finance, and the Office of State Controller.
- 11 (7) "Party to a Request for Mandate Redetermination" means the requester, the Department of
12 Finance, the Office of State Controller, affected state and local agencies, and affected school
13 districts.
- 14 (m) "Real Party in Interest" means any person or entity whose interest will be directly affected
15 by the resolution of the matter.
- 16 (n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule,
17 regulation, or standard of general application that implements, interprets, or makes specific any
18 provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any
19 other statute enforced or administered by the Commission.
- 20 (o) "Statewide cost estimate" means the approximate sum of money that local agencies or school
21 districts may have incurred to implement a state-mandated program or any increased level of
22 service of an existing mandated program. A statewide cost estimate submitted by a test claimant
23 shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes
24 and executive orders alleged in a test claim, except as provided in Government Code section
25 17557.1(a). A statewide cost estimate adopted by the Commission shall be an estimate based on
26 the Commission's determination of a test claim for the initial period of reimbursement to be
27 reported to the Legislature.
- 28 (p) "Statewide estimate of costs" is based on a reasonable reimbursement methodology proposed
29 by a test claimant and the Department of Finance, adopted by the Commission, and reported to
30 the Legislature pursuant to Government Code section 17557.2.
- 31 (q) "Subsequent change in law" means a change in law that requires a finding that an incurred
32 cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a
33 cost mandated by the state pursuant to Government Code section 17556, or a change in mandates
34 law. Amendments to article XIII B, section 6 of the California Constitution that were approved
35 by the voters on November 2, 2004 and changes in the statutes or executive orders that impose
36 new state-mandated activities and require a finding pursuant to Government Code section
37 17551(a) are not a "subsequent change in law."
- 38 (r) "Teleconference" means a conference of individuals in different locations, connected by
39 electronic means, through audio, video, or both.
- 40 (s) "Test claim" means the first claim filed with the Commission alleging that a particular statute
41 or executive order imposes costs mandated by the state pursuant to Government Code section

1 17521 and also includes a claim filed on a legislatively determined mandate pursuant to
2 Government Code section 17574(c). The test claim procedure functions similarly to a class
3 action and has been established to expeditiously resolve disputes affecting multiple agencies.

4 (t) "Written material" means any paper or electronic document relevant to a matter that is filed
5 with the Commission except that "written material" does not include a "new filing" as defined in
6 subdivision (k) of this section.

7 Note: Authority cited: Sections 17527(g), 17553(a), 17570 (d), Government Code. Reference:
8 Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, ~~17532~~, 17551, 17553, 17555,
9 17557, 17557.1, 17557.2, 17558, 17558.5, 17558.7, 17558.8, 17559, 17561, 17561.5, 17570,
10 ~~17571~~, ~~17572~~, ~~17573~~, 17600, and 17612, ~~17615.1~~, ~~17615.4~~, ~~17615.7~~, ~~17615.8~~, ~~and 17615.9~~,
11 Government Code; *Redevelopment Agency v. Commission on State Mandates* (1996) 43
12 Cal.App.4th 1188, *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, ~~1807~~.

13 § 1181.3. Filing and Service of Written Materials and New Filings.

14 (a) Filing. Unless otherwise provided in this chapter, new filings and written materials may be
15 filed electronically or by hard copy as described in this subdivision. If filed by hard copy, the
16 filer shall simultaneously serve all written material in accordance with subdivision (b) of this
17 regulation. Filing is complete upon receipt by the Commission. Filings shall not contain
18 personal identifying information that violates state or federal privacy laws, including, but not
19 limited to the provisions of California Civil Code section 1798 et seq.. ~~Filing of a~~New filings
20 and written materials may be ~~effected~~filed by any of the following methods:

21 (1) E-Filing. Submit the original to the Commission by saving the signed original in a PDF file
22 and submitting it via the Commission's e-filing system, available on the Commission's website.
23 Documents e-filed with the Commission must be in a legible and searchable format. The filer is
24 responsible for maintaining the ~~signed~~ original for the duration of the process for the matter,
25 including any period of appeal. Notwithstanding any other provision in these regulations, if ~~a~~
26 new filing or written material is e-filed, no additional copies shall be submitted to Commission
27 staff. The following shall apply to e-filing:

28 (A) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail
29 service for that matter.

30 (B) An automated notice that the document was successfully sent is immediately available to the
31 person who e-files using the Commission's e-filing system and should be saved or printed for the
32 filer's records. Commission staff shall also reply by e-mail confirming actual receipt of the
33 legible, searchable document by the Commission within two business day of receipt. In the
34 absence of a confirmation e-mail from Commission staff, it is the responsibility of the person
35 who e-files to obtain confirmation that the Commission actually received the filing.

36 (C) By using e-filing, the filing person agrees, in the event of failure of e-filing, to re-file the
37 document, no later than the business day after the business day on which notice of the failure of
38 e-filing is received by the filing party, by any means authorized by these rules, in order to
39 maintain the original filing date. "Failure of e-filing" occurs when the filing person receives
40 notification, in any manner, of non-receipt of an e-filed document or of any other inability of
41 Commission staff to access the document. The filer and Commission staff may agree to any
42 form for re-filing allowed by these regulations.

1 (D) Documents e-filed with the Commission do not need to be served and proof of service does
2 not need to be provided for persons that have provided an e-mail address for the mailing list.
3 Nothing in this regulation excuses a filer from serving hard copies of written material on persons
4 who appear on the mailing list and have not provided an e-mail address for the mailing list or
5 from providing a proof of service with the e-filing to the Commission for the service.

6 (E) Upon confirmation of actual receipt, Commission staff shall notify all persons on the mailing
7 list for the matter that written material may be viewed on the Commission's website. For "new
8 filings" as defined by section 1181.2(k) of these regulations, Commission staff shall notify all
9 persons on the mailing list prepared pursuant to section 1181.4 of these regulations, of the
10 availability of those filings on the Commission's website when Commission staff sends its notice
11 of complete filing to the filing party.

12 (F) The Commission may serve any document by e-mail service, or by making it available at a
13 particular URL, unless doing so would be contrary to state or federal law.

14 (G) The executive director may issue any order consistent with these rules to govern e-mail
15 service for a particular matter.

16 (2) By first class mail. Submit the unbound original and seven copies to the Commission.

17 (3) By overnight delivery. Submit the unbound original and seven copies to the Commission.

18 (4) By personal service. Hand the unbound original and seven copies to Commission staff.

19 (b) Service. If written materials are filed in hard copy, the filing must simultaneously be served
20 on everyone on the mailing list using the same method as was used for the filing. Unless
21 otherwise provided in this section, a proof of service shall be included with any written material
22 filed with Commission staff. Proof of personal service requires a declaration of the messenger of
23 the time and place that the written material was served. Service is not required for new filings
24 because mailing lists for matters are only prepared, pursuant to section 1181.4 of these
25 regulations, after a new filing is deemed complete. Completed new filings will be served on the
26 mailing list by Commission staff with the Notice of Complete Filing.

27 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d), and 11104.5, Government Code.
28 Reference: Section 1798 et seq., Civil Code. Sections 17530, 17551, 17557(d), 17558.7, 17570,
29 17573(b), 17574(c), and 17573(g), Government Code.
30

31 **§ 1181.4. Mailing Lists and Numbering of Matters**

32 (a) For all matters deemed complete, Commission staff shall prepare a mailing list of the names,
33 addresses, phone numbers and e-mail addresses of the parties, interested parties, and interested
34 persons who have requested inclusion on the mailing list. The mailing list will be uploaded to
35 the Commission's website and an e-mail notification of its availability will be sent to everyone
36 on the list who has provided an e-mail address. A hard copy will be provided by Commission
37 staff to persons on the mailing list who have not provided an e-mail address and to any person
38 who requests a hard copy.

39 (b) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail
40 service of documents for that matter.

1 (c) For the following new filings received by the Commission, the executive director shall issue
2 sequential matter numbers, by fiscal year, as follows:

- 3 (1) Test Claim (TC)
- 4 (2) Incorrect Reduction Claim (I)
- 5 (3) Request to Amend Parameters and Guidelines (PGA)
- 6 (4) Joint Request for Reasonable Reimbursement Methodology (RRM)
- 7 (5) Request for Review of Claiming Instructions (RCI)
- 8 (6) Request for Removal or Inclusion in State Mandates Apportionment System (SMAS)
- 9 (7) Joint Request for Legislatively Determined Mandate (LDM)
- 10 (8) Request for Mandate Redetermination (MR)

11 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.
12 Reference: Sections 17530, 17551, ~~17554~~, 17557, 17557.1, 17571, 17557.2, 17570, 17573(b),
13 17573(g), 17574(c) and 17615.1, Government Code.

14 **§ 1181.5. Appointment of Designees and Election and Duties of Officers.**

15 (a) If a Commission member, as defined by Government Code section 17525, with statutory
16 authority to designate a deputy to represent him or her makes a designation, that designee may
17 continue to serve on the Commission until the designation is revoked by the current Commission
18 member.

19 (b) Commission members as defined by Government Code section 17525 shall be officers.
20 Duties of Officers:

21 (1) Duties of Chairperson. The chairperson shall preside over all meetings of the Commission
22 when present. The chairperson has all the rights and responsibilities of the other members,
23 including the right to introduce motions or proposals and to speak and vote on them while
24 presiding. The chairperson has the power to appoint one or more members of the Commission as
25 a subcommittee to investigate and report to the Commission on any matter within the scope of
26 the purposes of the Commission or to form advisory groups to assist the Commission or its
27 subcommittees in fulfilling their purposes.

28 (2) Duties of Vice Chairperson. The vice chairperson shall preside over all meetings of the
29 Commission at which the chairperson is not present. The vice chairperson has all the rights and
30 responsibilities of the other members, including the right to introduce motions or proposals and
31 to speak and vote on them while presiding.

32 (c) Time of Election. The Commission shall elect a chairperson and vice chairperson at the
33 January meeting of each year, or at the next regularly scheduled meeting, if no meeting is held in
34 January. In the calendar year following the statewide election of constitutional officers, the
35 Commission may postpone its election. The Commission may authorize the executive director to
36 conduct the election portion of its meeting.

37 (d) Vacancy. If an office (chairperson or vice-chairperson) held by a public member or local
38 elected official becomes vacant, an election shall be conducted as soon as practicable to fill the
39 vacant office.

1 (e) When Election Takes Effect. An election shall take effect immediately.

2 Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections 7.5,
3 7.6, 7.9, 17525, 17528 and 17530, Government Code.

4 **§ 1181.6. Development and Approval of Commission Forms.**

5 (a) In consultation with interested parties and in accordance with applicable law and these
6 regulations, the executive director shall develop the test claim form, incorrect reduction claim
7 form, mandate redetermination form, and other forms, to simplify and improve the efficiency of
8 the Commission's processes.

9 (b) The executive director shall conduct at least one workshop with interested parties,
10 Department of Finance, Office of the State Controller, other affected state agencies, and
11 interested persons before approval of a form.

12 (c) Upon development of a new form, the executive director shall notify claimants, interested
13 parties, affected state agencies, and interested persons, and shall disseminate copies at least 10
14 days before the operative date of a form.

15 ~~(d) Any party may appeal to the Commission for review of the actions and decisions of the~~
16 ~~executive director under this section pursuant to section 1181.1 of these regulations.~~

17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
18 17530, 17553 ~~and 17557(a), 17558.7(c), 17558.7(e), and 17570(d)(1),~~ Government Code.

19 **§ 1181.7. Waiver of Requirement to Use Forms.**

20 The executive director may waive a requirement to use any form specified by these regulations.

21 Note: Authority cited: Sections 17527(g) ~~and 17553(a),~~ Government Code. Reference: Section
22 17530, 17553, ~~17558.7(c), 17558.7(e), and 17557(a), 17570(d)(1),~~ Government Code.

23 **§ 1181.8. Commission Meeting Quorum and Voting Requirements.**

24 (a) A majority of the existing membership of the Commission shall constitute a quorum.

25 (b) All actions of the Commission, with the exception of requests to reconsider a prior final
26 decision as provided in section 1187.15, shall require the affirmative vote of at least a majority of
27 the existing membership of the Commission.

28 (c) In the case of a tie vote, the Commission may:

29 (1) Re-hear the claim when the membership of the Commission changes or when an abstaining
30 member completes review of the administrative record;

31 (2) Assign the claim to a hearing panel or to a hearing officer, pursuant to section 1187.2 et seq.,
32 for hearing and preparation of a proposed decision for consideration by the Commission. If the
33 Commission assigns the claim to a hearing panel, the selection of the hearing panel shall be by
34 lot, or other means of random and impartial selection; or

35 (3) Direct staff to prepare another proposed decision based on an interpretation of the law and
36 evidence in the record for consideration by the Commission.

1 (d) A majority of the votes cast by those members assigned to a hearing panel is required for the
2 approval of a preliminary decision on claims and applications for a finding of significant
3 financial distress.

4 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
5 17525, 17527(c) and 17532, Government Code; and Section 17000.6, Welfare and Institutions
6 Code.

7 **§ 1181.9. Commission Meeting Notice, Agenda, and Consent Calendar.**

8 (a) Time and distribution. Notices and agendas of meetings shall be given to all members, to all
9 parties and interested parties to proceedings on the agenda, and to all persons who request them
10 in writing. The notice and agenda shall be provided no less than 10 days prior to the scheduled
11 meeting.

12 (b) Agenda. The meeting agenda shall be prepared by the executive director and shall include
13 any item proposed by any member, or the executive director.

14 (c) The agenda may include an item designated "the consent calendar."

15 (1) The consent calendar shall include those matters for which there is no known opposition by
16 any of the parties or interested parties.

17 (2) At the request of any member, party or interested party, any matter shall be removed from the
18 consent calendar and may be considered at the same meeting as a separate item of business.

19 (3) The chairperson may also remove any matter from a duly noticed meeting agenda and place it
20 on the consent calendar, provided there is no objection from the parties, interested parties, any
21 Commission member, or person present and wishing to comment on the matter.

22 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
23 11125, 11125.1, 17527(b) and (c) and 17530, Government Code.

24 **§ 1181.10. Commission Meeting Procedures.**

25 (a) Presiding Member. The chairperson shall preside over all meetings of the Commission when
26 present. In the chairperson's absence, the vice chairperson shall preside. If neither the
27 chairperson nor the vice chairperson is in attendance, the member present who has the greatest
28 seniority on the Commission shall preside. The presiding member may yield the chair.

29 (b) Public Comments.

30 (1) Comments in Writing. Any person may submit comments in writing on any agenda item. To
31 be included as a part of the administrative record for the matter, comments must be provided to
32 the Commission members and be made available for public review either before or at the
33 Commission hearing on the matter.

34 (A) Comments received at least 15 days in advance of the meeting shall be included in the
35 Commission's meeting binders, a copy of which is available for public viewing at the
36 Commission meeting.

1 (B) Comments received more than five days in advance of the meeting shall be included in the
2 Commission's meeting binders, if feasible, or shall be provided to the Commission when the item
3 is called, unless otherwise agreed to by the Commission or the executive director.

4 (C) For written comments received less than five days in advance of the meeting, the commenter
5 shall provide 12 copies to Commission staff at the meeting. Commission staff shall provide
6 | copies of the comments- to the Commission and shall place a copy on a table for public review
7 when the item is called.

8 (2) Oral Comments. Any person present and so desiring shall be given an opportunity to make
9 oral comments on any agenda item, provided, however, that the presiding member may limit or
10 preclude comments as necessary for the orderly conduct of business.

11 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
12 | 11125.7, 17525, and 17526-17528, Government Code.

13 **§ 1181.11. Permanent Record of Commission Meetings.**

14 (a) The Commission shall keep minutes of its meetings. Minutes shall be approved by the
15 Commission and, upon approval, shall be signed by the chairperson or other person designated
16 by the chairperson. Signed minutes shall be the original evidence of actions taken at any
17 meeting, including the text of any resolutions adopted.

18 (b) Commission public meetings shall be recorded by stenographic reporter or electronic
19 recording or both. The transcript or recordings shall be kept for the period of time required by
20 applicable law governing the retention of records of state agency public proceedings, or until
21 conclusion of administrative or judicial proceedings, whichever is later.

22 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
23 | 17530, Government Code.

24 **§ 1181.12. Default Rules of Commission Meetings.**

25 In all cases not provided for by Government Code Section 17500 et seq., the Bagley-Keene Open
26 Meeting Act (Government Code Section 11120 et seq.) and the Commission's rules and
27 regulations, the authority shall be Robert's Rules of Order (revised), unless otherwise designated
28 by the Commission at the annual election meeting.

29 | Note: Authority cited: Sections 17500 ~~and~~ 17527(g) and 17553(a), Government Code.
30 | Reference: Sections 11120 et seq. and 17526, Government Code.

31 **§ 1181.13. Commission Meeting by Teleconference.**

32 The Commission may hold an open or closed meeting by teleconference if it is difficult or
33 impossible for the Commission to achieve a quorum. A meeting held by teleconference shall ~~be~~
34 ~~held subject to all of the following:~~

35 ~~(a) A meeting held by teleconference shall~~ comply with the Bagley-Keene Open Meeting Act.

36 ~~(b) Each teleconference location shall be identified in the notice of the meeting and shall be~~
37 ~~accessible to the public.~~

38 ~~(c) The portion of the teleconference meeting that is required to be open to the public shall be~~
39 ~~audible to the public at the location specified in the notice of the meeting.~~

1 ~~(d) All votes taken during a teleconference meeting shall be by roll call.~~

2 ~~(e) The portion of the teleconferenced meeting that is closed to the public may not include the~~
3 ~~consideration of any agenda item pursuant to section 11125.5 of the Government Code.~~

4 ~~(f) At least one member of the Commission shall be physically present at the location specified~~
5 ~~in the notice of the meeting.~~

6 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
7 11123, 17526, 17527(b) and (c), Government Code.

8 **Article 2. Applications for a Finding of Significant Financial Distress**

9 **§ 1182.1. Reduction in Aid Levels; Definitions.**

10 When the county has made a compelling case that basic county services cannot be maintained
11 without a reduction in the level of aid established by Welfare and Institutions Code section
12 17000.5, the Commission shall make a finding of significant financial distress.

13 In making such a finding, the following definitions shall apply:

14 (a) "Application" means a county application filed pursuant to this article requesting the
15 Commission determine that the county has made a compelling case that basic county services
16 cannot be maintained without a reduction in the level of General Assistance aid established by
17 Welfare and Institutions Code section 17000.5, and finding that as a result, the county is in
18 significant financial distress, as defined in Welfare and Institutions Code section 17000.6.

19 (b) "Applicant" means the county that filed the request for a finding of significant financial
20 distress.

21 (c) A "compelling case" sufficient to cause a finding of significant financial distress must be
22 established by clear and convincing evidence.

23 (d) "Basic county services" means those services which are fundamental or essential. The
24 services shall include, but are not limited to, those services required by state or federal law, and
25 may vary from county to county.

26 (e) "Maintained" means the level of service which the county must provide in order to adequately
27 or effectively furnish basic county services.

28 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6**(b)**, Welfare
29 and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

30 **§ 1182.2. Filing of an Application for a Finding of Significant Financial Distress.**

31 (a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of
32 supervisors of any county to obtain a finding of significant financial distress, the board of
33 supervisors must submit a written application to the Commission on State Mandates.

34 (b) The applicant shall file an original application, including supporting documents, with the
35 Commission in accordance with section 1181.3 of these regulations.

36 (c) All applications shall contain at least the following:

37 (1) A table of contents, indicating page numbers.

- 1 (2) A copy of a resolution from the county board of supervisors stating that compliance with the
2 standards set forth in Welfare and Institutions Code section 17000.5 will result in significant
3 financial distress to the county for a specified period of time, up to 36 months.
- 4 (3) A written narrative, including a summary, detailing the relevant financial or other budgetary
5 information and documents necessary for a county to make a compelling case that basic county
6 services, including public safety, cannot be maintained without a reduction in the standard of aid
7 as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:
- 8 (A) The monthly caseload of General Assistance recipients for each of the 12 months preceding
9 the date the application is filed.
- 10 (B) The current monthly rate of the General Assistance Standard of Aid.
- 11 (C) The proposed reduced rate of the General Assistance Standard of Aid.
- 12 (D) An overview of county finances, including, but not limited to county revenue sources;
13 budget reserve data; budget expenditures; mandated expenditures and maintenance of effort
14 costs.
- 15 (E) A detailed summary of program needs and expenditure flexibility, including, but not limited
16 to department-by-department data on unmet program needs for basic county services.
- 17 (F) The county's total population at the time the application is filed, and the total county
18 population for the two fiscal years prior to the year in which the application was filed.
- 19 (d) The written narrative shall be submitted under penalty of perjury. In addition, the financial
20 and other budgetary documents shall be certified under penalty of perjury.
- 21 (e) Each page of the application, including all supporting documentation, shall be consecutively
22 numbered.
- 23 (f) The original application, including all supporting documentation, shall be unbound and
24 single-sided.
- 25 (g) The executive director shall notify an applicant within 10 days of receipt of an application
26 whether its application is incomplete. If the application is incomplete, the executive director may
27 return the application to the county. An application shall be considered incomplete if the
28 elements in subdivisions (b) through (f) of this section have not been satisfied, are illegible or are
29 not included. The requirements for Commission public hearings and decisions, as set forth in
30 Welfare and Institutions Code section 17000.6(c), apply only to complete applications.
- 31 (h) Within 10 days of receipt of a completed application, the executive director shall notify the
32 applicant that the application is complete, and notify the applicant of the schedule. The executive
33 director shall also send the application to interested persons located in the applicant county.
- 34 (i) Prior to filing an application, a county may request a tentative date for conducting the hearing
35 in the county. If a complete application is not received by a specified date, a new tentative
36 hearing date may be set.

37 | Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare
38 and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

1 **§ 1182.3. Extension of Period for Preliminary and Final Decision and Current Period of**
2 **Financial Distress.**

3 (a) If an application is filed while another county's application is pending, the executive director
4 may extend both the preliminary decision period up to 120 days and the final decision period up
5 to 150 days from the filing date of the application, unless otherwise provided in the current
6 Budget Act. If the preliminary and final decision periods are extended, any current period of
7 significant financial distress of the applicant that has been set, pursuant to Welfare and
8 Institutions Code Section 17000.6(b), shall also be extended for the same period.

9 (b) Within 10 days of receipt of a county's application, the executive director shall provide
10 written notice to the applicant of extensions of the preliminary decision and final decision
11 periods and of any current period of significant financial distress of the applicant.

12 | Note: Authority cited: Stats. 1998, c. 324, [Item 8885-001-0001](#), Prov. (2), p. 622 (and subsequent
13 Budget Acts); Section 17527(g), Government Code; and Section 17000.6(b), Welfare and
14 Institutions Code. Reference: Section 17000.6(c), Welfare and Institutions Code.

15 **§ 1182.4. Notice.**

16 (a) Upon receipt of a complete application for a finding of significant financial distress, the
17 Commission shall provide to the applicant a written 30- day notice of the hearing, to be held in
18 the county.

19 (b) The notice shall be publicly posted by the applicant at the county court house and one county
20 welfare office where General Assistance recipients are generally present. The Commission shall
21 publish two notices in a newspaper of general circulation in the county. The first notice shall be
22 published at least 30 days prior to the hearing date. The second notice shall be published at least
23 10 days prior to the hearing date. The cost of publishing the notices shall be paid for by the
24 Commission. Notice shall also be posted on the Commission's website.

25 | Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare
26 and Institutions Code. Reference: [Section 11125, Government Code; and](#) Section 17000.6(c),
27 Welfare and Institutions Code.

28 **§ 1182.5. Pre-Hearing Conference.**

29 A pre-hearing conference may be scheduled by the executive director for the purpose of
30 identifying issues and determining methods of resolving the issues. The county, and other parties
31 known to have an interest in the county's application shall be invited to participate. This
32 conference shall not limit the issues that can be presented to or considered by the Commission at
33 public hearing.

34 | Note: Authority cited: Sections 17527(g), Government Code; and Section 17000.6, Welfare and
35 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code [and Section 17530,](#)
36 [Government Code.](#)

37 **§ 1182.6. Assignment to Hearing Panels/Hearing Officers.**

38 The chairperson may assign an application to a hearing panel consisting of one or more members
39 of the Commission, which shall act on behalf of the Commission, or to a hearing officer for
40 hearing and preparation of a preliminary decision. Assignments by the chairperson of members

1 on the hearing panels shall be rotated among the members with the composition of the members
2 so assigned being varied and changed to assure that there shall never be a fixed and continued
3 composition of members.

4 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
5 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code, [Sections 17528](#)
6 [and 17532, Government Code.](#)

7 **§ 1182.7. Request for Supplemental Information.**

8 (a) The executive director may request supplemental information from the applicant to assist the
9 Commission in its review and analysis of the application. The applicant shall provide the
10 supplemental information under the timeline established by the executive director.

11 (b) The supplemental information shall be submitted under penalty of perjury. Any attached
12 financial or other budgetary documents shall be certified under penalty of perjury.

13 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
14 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code [and Section 17530,](#)
15 [Government Code.](#)

16 **§ 1182.8. Review of Completed Application for a Finding of Significant Financial Distress**
17 **and Preparation of Staff Analysis.**

18 (a) Before the hearing is conducted in the applicant county, the executive director shall prepare
19 and distribute a staff analysis of the application, which shall include, but not be limited to, a
20 review of written comments filed by interested persons, and rebuttals filed by the applicant. The
21 staff analysis may also include a review of the applicant's revenue sources, including the
22 applicant's flexibility in directing its resources; review of the applicant's budget expenditures,
23 statutory relief, contingencies, and fund balances; an analysis of the applicant's department-by-
24 department evaluation of unmet need in basic county services; and a preliminary
25 recommendation whether the Commission should approve or deny the application. The staff
26 analysis shall describe the application and assist the Commission in determining whether or not
27 to make a finding of significant financial distress.

28 (b) The executive director shall send the staff analysis out for comment at least 10 days prior to
29 the hearing conducted in the applicant county.

30 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
31 Institutions Code. Reference: [Section 17530, Government Code and](#) Section 17000.6, Welfare
32 and Institutions Code.

33 **§ 1182.9. Written Comments.**

34 The applicant and any interested persons may file written comments concerning the staff analysis
35 with the Commission. Written comments shall be filed with the Commission in accordance with
36 section 1181.3 of these regulations. The written comments shall be reviewed by Commission
37 staff and may be incorporated into any revised or supplemental staff analysis of the application.

38 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
39 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

1 **§ 1182.10. Conduct of Hearing.**

2 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose
3 questions to the chairperson, hearing panel, or hearing officer for opposing witnesses in support
4 or rebuttal of any matter relevant to the issues even though that matter was not covered in the
5 direct examination.

6 (b) The hearings will not be conducted according to technical rules relating to evidence and
7 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on
8 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant
9 and unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the
10 purpose of supplementing or explaining other evidence but shall not be sufficient in itself to
11 support a finding unless it would be admissible over objection in civil actions.

12 (c) The Commission, hearing panel, or hearing officer may question any party or witness, may
13 admit any relevant and material evidence, and may limit the length of testimony to a specific
14 amount of time for any party or witness.

15 (d) The taking of evidence and testimony in a hearing shall be controlled by the Commission,
16 hearing panel, or hearing officer in the manner best suited to ascertain the facts.

17 (e) Oral or written representations of fact offered by any person shall be under oath
18 or affirmation. Written representations of fact must be signed under penalty of perjury by
19 persons who are authorized and competent to do so and must be based upon the declarant's
20 personal knowledge or information or belief.

21 (f) Public hearings, pursuant to this article, shall be recorded by stenographic reporter or
22 electronic recording or both. The transcript or recordings shall be kept for the period of time
23 required by applicable law governing the retention of records of state agency public proceedings,
24 or until conclusion of administrative or judicial proceedings, whichever is later.

25

26 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
27 Institutions Code. Reference: [Section 11125.7, Government Code](#) and Section 17000.6, Welfare
28 and Institutions Code.

29 **§ 1182.11. Representation at Hearing.**

30 (a) The board of supervisors of a county shall designate a county representative.

31 (b) The county representative shall be the lead spokesperson and shall present all matters
32 respecting the interest of the county in the proceeding.

33 (c) Withdrawal of appearance of any representative may be effected by filing a written notice of
34 withdrawal and by serving a copy on the Commission.

35 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
36 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

37 **§ 1182.12. Continuance of Hearings and Further Hearings.**

38 (a) The Commission, hearing panel, or hearing officer may continue a hearing to another time or
39 place.

1 (b) Due to the strict time frames contained in Welfare and Institutions Code section 17000.6(c),
2 continuances will be granted only under compelling and urgent circumstances.

3 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
4 Institutions Code. Reference: [Section 11129, Government Code and](#) Section 17000.6,
5 Welfare and Institutions Code.

6 **§ 1182.13. Preliminary and Final Decisions; Action on Decisions.**

7 (a) Within 60 days after receipt of an application, the executive director shall notify the county of
8 the Commission, hearing panel, or hearing officer's preliminary decision that the county did or
9 did not make a compelling case that it will incur significant financial distress pursuant to Welfare
10 and Institutions Code section 17000.6. If the time period is extended pursuant to section 1182.3
11 of these regulations, notice of the preliminary decision shall be provided within 120 days after
12 receipt of an application, or as otherwise provided by the current Budget Act.

13 (b) If an application is heard by a hearing panel, the panel shall direct staff to prepare the
14 preliminary decision in a form that may be adopted as the final decision by the Commission.
15 When an application is heard by a hearing officer, a preliminary decision shall be presented in a
16 form that may be adopted by the Commission as its final decision on the application. When an
17 application is heard before the Commission itself the Commission shall direct staff to prepare a
18 final decision in accord with the Commission's vote, which will be presented to the Commission
19 for adoption as its final decision.

20 (c) Within 90 days after receipt of an application, the executive director shall give notice to the
21 county of the Commission's final decision that the county did or did not make a compelling case
22 that it will incur significant financial distress pursuant to Welfare and Institutions Code section
23 17000.6. If the time period is extended pursuant to section 1182.3 of these regulations, notice of
24 the final decision shall be provided within 150 days after receipt of an application, or as
25 otherwise provided by the current Budget Act.

26 (d) If the preliminary decision prepared by the hearing panel or hearing officer is not adopted by
27 the Commission as its final decision, the Commission may direct appropriate modification of the
28 preliminary decision and thereafter adopt it as the Commission final decision or decide the
29 application upon the record, with or without taking additional evidence, or may refer the
30 application to a hearing panel or hearing officer to take additional evidence. If the application is
31 so assigned to a hearing panel or hearing officer, the hearing panel or hearing officer shall
32 prepare a preliminary decision, as provided in subdivision (b), which shall be based upon the
33 additional evidence and the transcript and other papers which are a part of the record of the prior
34 hearing.

35 (e) The affirmative vote of at least a majority of the existing membership of the Commission is
36 required for the adoption of a final decision by the Commission. A copy of the final decision
37 shall be filed by the Commission as a public record.

38 (f) A Commission final decision which makes a finding of significant financial distress will be
39 effective for a period not to exceed 36 months. The final decision shall specify whether the
40 effective date of the period of significant financial distress shall commence on the date of the
41 final decision or on a date no more than 60 days from the date of the final decision.

1 | Note: Authority cited: Stats. 1998, c. 324, Prov. (2), [Item 8885-001-0001](#), p. 622 (and
2 | subsequent Budget Acts); Section 17527(g), Government Code; and Section 17000.6, Welfare
3 | and Institutions Code. Reference: Sections 17527(c), [17530](#) and 17532, Government Code; and
4 | Section 17000.6, Welfare and Institutions Code.

5 | **§ 1182.14. Form of Decision.**

6 | The final decision shall be based on the record, shall be in writing, and shall include a statement
7 | of reasons for the decision, findings, and conclusions. A copy of the final decision shall be
8 | mailed to or served on the applicant county.

9 | Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
10 | Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

11 | **§ 1182.15. Reapplications.**

12 | (a) A county may file a reapplication for a finding of significant financial distress with the
13 | Commission.

14 | (b) The application and hearing procedures prescribed in article 2 of these regulations shall also
15 | apply to reapplications. The applicant shall also provide the following information in its
16 | reapplication:

17 | (1) How the applicant utilized the savings in reduction of the General Assistance Standard of Aid
18 | realized from the preceding finding of significant financial distress.

19 | (2) The difference in the county's total population between the date the preceding application was
20 | filed and the date the reapplication is filed.

21 | (3) Any staff changes or changes to working conditions, including but not limited to reduced
22 | work hours or salary increases or decreases that occurred since the date the preceding application
23 | was filed.

24 | (4) Any statutes enacted since the date the preceding application was filed that change county
25 | revenue sources or expenditures, or impose new mandates upon the county.

26 | (5) Tables that include the difference between proposed and approved unmet need in the
27 | preceding application, and the proposed unmet need in the reapplication. Tables may also be
28 | submitted by a predetermined computer medium.

29 | (c) A county filing a reapplication of a previously approved finding of significant financial
30 | distress must present a compelling case of significant financial distress continuing since the last
31 | approved finding by the Commission.

32 | (d) For a previously denied application, a county may file a reapplication when the fiscal
33 | situation in the county has changed.

34 | Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
35 | Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

36 | **§ 1182.16. Withdrawal of Applications.**

37 | An application may be withdrawn by written notice any time before a final decision is issued or
38 | upon request at the time of hearing. When the Commission receives a notice or request to
39 | withdraw, the Commission may issue a decision dismissing the application.

1 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
2 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

3 **Article 3. Test Claims**

4 **§ 1183.1. Test Claim Filing.**

5 (a) In order to obtain a mandate determination, a local agency or school district shall file a test
6 claim with the Commission. A local agency or school district may file a test claim as follows:

7 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
8 controller, may file of behalf of a county.

9 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
10 resolution from the city council, may file on behalf of a city.

11 (3) A district superintendent may file on behalf of a school district.

12 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
13 the governing body by ordinance or resolution, may file on behalf of a community college
14 district.

15 (5) A general manager or other officer with authority delegated by the governing body by
16 ordinance or resolution may file on behalf of a special district.

17 (b) Claimants may agree to submit a test claim as a joint effort, as provided in section 1183.1(g)
18 of these regulations. Otherwise, the first claim filed on a statute or executive order by a similarly
19 situated claimant is the test claim and no duplicate test claims will be accepted by the
20 Commission. Other similarly situated affected agencies may participate in the process by
21 submitting comments in writing on any agenda item as provided in section 1181.10 of these
22 regulations, and may attend any Commission hearing on the test claim and provide written or
23 oral comments to the Commission. Affected agencies that are not similarly situated, meaning
24 that test claim statutes affect them differently, may file a test claim on the same statutes as the
25 first claim, but must demonstrate how and why they are affected differently.

26 (bc) Except as provided in Government Code sections 17573 and 17574, any test claim or
27 amendment filed with the Commission must be filed not later than 12 months following the
28 effective date of a statute or executive order, or within 12 months of first incurring increased
29 costs as a result of a statute or executive order, whichever is later. For purposes of claiming
30 based on the date of first incurring costs, "within 12 months" means by June 30 of the fiscal year
31 following the fiscal year in which increased costs were first incurred by the test claimant.

32 (ed) All test claims, or amendments thereto, shall be filed on a form developed by the executive
33 director and shall contain all of the elements and supplemental documents required by statute,
34 regulation and the form. When an omnibus bill is pled, claimant shall file only the relevant
35 pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes
36 at issue.

37 (de) The claimant shall file the test claim, or amendment thereto, and accompanying documents
38 with the Commission in accordance with section 1181.3 of these regulations.

39 (ef) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff shall
40 notify the claimant if the test claim is complete or incomplete. Test claims will be considered

1 incomplete if any of the elements required in subdivisions (c) and (d) of this section are illegible
2 or are not included. If a complete test claim is not received within 30 calendar days from the date
3 the incomplete test claim was returned, the executive director may disallow the original test
4 claim filing date. A new test claim may be accepted on the same statute or executive order
5 alleged to impose a reimbursable state-mandated program.

6 | ~~(fg)~~ Test claims may be prepared as a joint effort between two or more claimants and filed with
7 the Commission if the claimants attest to all of the following in the test claim filing:

8 (1) The claimants allege state-mandated costs result from the same statute or executive order;

9 (2) The claimants agree on all issues of the test claim; and

10 (3) The claimants have designated one contact person to act as the resource for information
11 regarding the test claim.

12 | ~~(gh)~~ Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for
13 any reason may be dismissed by the executive director with a written notice stating the reason for
14 dismissal.

15 | ~~(hi)~~ Any party may appeal to the Commission for review of the actions and decisions of the
16 executive director under this section pursuant to section 1181.1 of these regulations.

17 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
18 24000, 243000.5, 26881, 26900, 26970, 26972, 34852, 35034, 35035, 37209, 40805.5, 56723,
19 17521, 17530, 17551, 17553, 17557(e), ~~17564~~, 17573 and 17574, Government Code.

20 **§ 1183.2. Review of Test Claim.**

21 (a) Within 10 days of receipt of a completed test claim, or amendment thereto, Commission staff
22 shall make a copy of the test claim or amendment available to those named on the mailing list
23 prepared in accordance with section 1181.4 of these regulations and shall post it on the
24 Commission's web site.

25 (b) Written comments concerning the test claim shall be filed and served within 30 days from the
26 date the test claim or amendment is issued for comment and in accordance with the provisions of
27 section 1181.3 of these regulations.

28 (c) Content and Form. Written comments on the test claim shall contain the following
29 documentary evidence, if applicable:

30 (1) If representations of fact are made, they must be supported by documentary evidence
31 submitted with the comments in accordance with section 1187.5 of these regulations.

32 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
33 orders, and a copy of administrative decisions and court decisions that may impact the alleged
34 mandate, unless the authorities are also cited in the test claim. The specific statutes and chapters,
35 articles, sections, regulatory registers, and page numbers must be identified. Published court
36 decisions arising from state mandate determinations by the Board of Control and the
37 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and
38 Government Code sections 17500 et seq. are exempt from the requirements of this subdivision.

39 (d) The written comments and supporting documentation shall be signed at the end of the
40 document by an authorized representative, with the declaration that it is true and complete to the

1 best of the representative's personal knowledge or information or belief. The date of signing, the
2 representative's title, address, and telephone number shall be included. If the authorized
3 representative can be reached via e-mail, the e-mail address shall also be included.

4 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
5 17530, ~~and 17553(a) and 17557(e)~~, Government Code.

6 **§ 1183.3. Claimant's Rebuttal.**

7 (a) Written rebuttals to written comments concerning a test claim may be filed and served in
8 accordance with section 1181.3 of these regulations within 30 days of service of the written
9 comments.

10 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if
11 applicable:

12 (1) If new representations of fact are made, they must be supported by documentary evidence
13 submitted with the rebuttal. All documentary evidence shall be in accordance with section
14 1187.5 of these regulations.

15 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
16 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,
17 unless the authorities are also cited in the test claim or any opposition thereto. The specific
18 statutes and chapters, articles, sections, regulatory registers, and page numbers shall be
19 identified. Published court decisions arising from state mandate determinations by the Board of
20 Control and the Commission on State Mandates, article XIII B, section 6 of the California
21 Constitution, and Government Code sections 17500 et seq. are exempt from the requirements of
22 this subsection.

23 (c) The rebuttal shall be signed at the end of the document by the claimant or its authorized
24 representative, with the declaration that the rebuttal is true and complete to the best of the
25 declarant's personal knowledge or information or belief. The date of signing, and the declarant's
26 title, address, and telephone number shall be included. If the declarant can be reached by e-mail,
27 the declarant's e-mail address shall also be included.

28 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
29 17530 and 17553(a), Government Code.

30 **§ 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.**

31 Within 30 days of the filing date of a test claim deemed complete, a claimant may file a motion
32 with the executive director to consolidate part or all of any test claim with another test claim, or
33 to sever any part of any test claim, if necessary to ensure the complete, fair, or timely
34 consideration of any test claim.

35 (a) Any motion to consolidate or to sever shall be filed and served in accordance with section
36 1181.3 of these regulations.

37 (b) Within 30 days after receipt of a motion to consolidate or sever, the executive director may
38 consolidate or sever any test claim.

39 Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Sections
40 17530, ~~and 17553~~ ~~and 17554~~, Government Code.

1 **§ 1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.**

2 (a) The executive director may consolidate part or all of any test claim with another test claim or
3 sever a test claim, if necessary to ensure the complete, fair, or timely consideration of any test
4 claim.

5 (b) At least 10 days before the action is taken, the executive director shall simultaneously serve
6 on the parties and interested parties on the mailing list described in section 1181.2 of these
7 regulations, and post on the Commission's website, a notice of any proposed action to
8 consolidate or sever.

9 | Note: Authority cited: Section 17527(g), ~~and 17553~~ and 17554, Government Code. Reference:
10 Sections 17530, 17553 and 17554, Government Code.

11 **§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.**

12 (a) Before the hearing on the test claim, Commission staff shall prepare a proposed decision for
13 the test claim, which shall include but not be limited to a review of the written comments filed.
14 The proposed decision shall describe and analyze the test claim to assist the Commission in
15 determining whether the alleged statutes or executive orders contain a reimbursable state-
16 mandated program under article XIII B, section 6 of the California Constitution.

17 (b) At least eight weeks before the hearing, or at a time required by the executive director or
18 stipulated to by the parties, Commission staff shall prepare a draft proposed decision and
19 distribute it to the parties, interested parties, and those on the mailing list described in section
20 1181.3 of these regulations, and shall post it on the Commission's website.

21 (c) Anyone may file written comments concerning the draft proposed decision. If representations
22 of fact are made, they must be supported by documentary evidence submitted with the comments
23 in accordance with section 1187.5 of these regulations. Written comments shall be filed and
24 served as described in section 1181.3 of these regulations, by the date determined and publicized
25 by the executive director. A three-week period for comments shall be given, subject to the
26 executive director's authority to expedite all matters pursuant to Government Code section
27 17530. All written comments timely filed shall be reviewed by Commission staff and may be
28 incorporated into the proposed decision for the test claim.

29 (d) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
30 other evidence filed after the three-week comment period described in subdivision (c) of this
31 section. The Commission need not rely on, and staff need not respond to, late comments,
32 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
33 period expires.

34 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
35 17514, 17530, 17551 and 17553, Government Code.

36 **§ 1183.7. Content of Parameters and Guidelines.**

37 The parameters and guidelines shall describe the claimable reimbursable costs and contain the
38 following information:

39 (a) Summary of the Mandate. A summary of the mandate identifying the statutes or executive
40 orders that contain the mandate and the increased level of service and activities found to be
41 required under those statutes or executive orders.

- 1 (b) Eligible Claimants. A description of the local governmental entities eligible to file for
2 reimbursement.
- 3 (c) Period of Reimbursement. A description of the period of reimbursement specifying the
4 beginning and ending (if applicable) of the reimbursement period.
- 5 (d) Reimbursable Activities. A description of the specific costs and types of costs that are
6 reimbursable, including one-time costs and on-going costs, and reasonably necessary activities
7 required to comply with the mandate. "Reasonably necessary activities" are those activities
8 necessary to comply with the statutes, regulations and other executive orders found to impose a
9 state-mandated program. Activities required by statutes, regulations and other executive orders
10 that were not pled in the test claim may only be used to define reasonably necessary activities to
11 the extent that compliance with the approved state-mandated activities would not otherwise be
12 possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All
13 representations of fact to support any proposed reasonably necessary activities shall be supported
14 by documentary evidence submitted in accordance with section 1187.5 of these regulations.
- 15 (e) Claim Preparation. Instruction on claim preparation, including instructions for direct and
16 indirect cost reporting for actual costs incurred, or application of a reasonable reimbursement
17 methodology.
- 18 (f) Record Retention. Notice of the Office of the State Controller's authority to audit claims and
19 the amount of time supporting documents must be retained during the period subject to audit.
- 20 (g) Any Offsetting Revenues and Reimbursements that reduce the cost of any reimbursable
21 activity, including the identification of:
- 22 (1) Dedicated state and federal funds appropriated for this program.
- 23 (2) Non-local agency funds dedicated for this program.
- 24 (3) Local agency's general purpose funds for this program.
- 25 (4) Fee authority to offset part of the costs of this program.
- 26 (h) Any Offsetting Savings. Identification of any offsetting savings provided by the test claim
27 statute or executive order, or other statute or executive order, which decreases the cost of any
28 reimbursable activity and permits or requires the discontinuance or reduction in the level of
29 service of the program.
- 30 (i) Claiming Instructions. Notice of the Office of the State Controller's duty to issue claiming
31 instructions, which constitutes notice of the right of local agencies and school districts to file
32 reimbursement claims, based upon the decision and parameters and guidelines adopted by the
33 Commission.
- 34 (j) Remedies Before the Commission. Instructions for filing requests to review claiming
35 instructions and requests to amend parameters and guidelines with the Commission.
- 36 (k) Legal and Factual Basis. Notice that the legal and factual basis for the parameters and
37 guidelines are found in the administrative record for the test claim, which is on file with the
38 Commission.
- 39 Note: Authority cited: Sections 17517.5, 17527(g) and 17553(a), Government Code. Reference:
40 Sections 17518.5, 17530, 17553, 17556(e), ~~and 17557~~ and 17558, Government Code.

1 **§ 1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of**
2 **Comments.**

3 (a) Within 30 days of adoption of the decision on a test claim, or the early termination or
4 expiration of a reasonable reimbursement methodology, the successful test claimant shall submit,
5 to the Commission, proposed parameters and guidelines, pursuant to Government Code section
6 17557 (a).

7 (b) If any of the elements described in section 1183.7 are missing or are not adequately
8 addressed, Commission staff shall, within 10 days of receipt, deem the proposed parameters and
9 guidelines incomplete and shall return the proposal to the claimants with a description of the
10 subjects that are to be redrafted or supplemented.

11 (c) Within 10 days of receipt of completed proposed parameters and guidelines, Commission
12 staff shall send a copy to those who are on the mailing list described in section 1181.4 of these
13 regulations, and shall post it on the Commission's website.

14 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and
15 provide written comments concerning the proposed parameters and guidelines within 15 days of
16 service.

17 (e) Written comments shall be filed and served in accordance with section 1181.3 of these
18 regulations.

19 (f) Within 15 days of service of the comments, ~~parties, the claimant and other~~ interested parties,
20 ~~and interested persons~~ may submit written rebuttals to the Commission, and shall file and serve
21 their rebuttals in accordance with section 1181.3 of these regulations.

22 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
23 17530, 17553(a), 17557 and 17557.2, Government Code.

24 **§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.**

25 (a) After adoption of a decision on a test claim, but before claimant submits proposed parameters
26 and guidelines, Commission staff may expedite the parameters and guidelines process by
27 ~~drafting proposed~~preparing and issuing draft expedited parameters and guidelines to assist the
28 claimant. The ~~expedited-draft~~ expedited proposed-parameters and guidelines shall be served to
29 everyone on the mailing list described in section 1181.4 of these regulations, and shall be posted
30 on the Commission's website.

31 ~~(b)~~ In lieu of filing an original proposal pursuant to Government Code section 17557 (a), the
32 successful test claimant may file comments on the draft expedited ~~draft proposed~~-parameters and
33 guidelines with the Commission which may include proposed modifications. ~~The claimant shall~~
34 ~~review all sections and if necessary may:~~

35 ~~(1) Clarify the reimbursable activities identified by Commission staff, and provide an~~
36 ~~explanation of why the clarification is necessary.~~

37 ~~(2) Include additional descriptions of reasonably necessary activities in accordance with section~~
38 ~~1183.7(d) of these regulations.~~

39 ~~(3) Indicate whether the Commission should consider a reasonable reimbursement methodology~~
40 ~~for this program, and the basis for the recommendation.~~

1 ~~(4) Identify any offsetting revenues and reimbursements that reduce the cost of any reimbursable~~
2 ~~activity, including revenues from:~~

3 ~~(A) Dedicated state and federal funds appropriated for this program.~~

4 ~~(B) Non-local agency funds dedicated for this program.~~

5 ~~(C) Local agency's general purpose funds for this program.~~

6 ~~(D) Fee authority to offset part of the costs of this program.~~

7 ~~(5) Identify any offsetting savings provided by the test claim statute or executive order, or other~~
8 ~~statute or executive order, which decreases the cost of any reimbursable activity and permits or~~
9 ~~requires the discontinuance or reduction in the level of service of the program.~~

10 ~~(e) Parties, interested parties, and interested persons~~ The successful test claimant shall may file
11 ~~its proposed modifications or~~ comments on the draft expedited parameters and guidelines within
12 20 days of receipt service of Commission staff's draft proposal.

13 ~~(d) Within 15 days of service of the comments submitted pursuant to subdivision (b) of this~~
14 ~~section, parties, interested parties, and interested persons may file and serve rebuttals in~~
15 ~~accordance with section 1181.3 of these regulations.~~ The opportunity for state agencies and
16 interested parties to comment on staff's draft proposal and the claimant's modifications or
17 comments, and the claimant and interested parties' opportunity for rebuttal will be conducted
18 according to the timelines under section 1183.22 of these regulations.

19 Note: Authority cited: Sections 17517.5, 17527(g), 17530 and 17553(a), Government Code.

20 Reference: Sections 17553(a), 17556(e), and 17557, ~~and 17564~~, Government Code.

21 **§ 1183.10. Reasonable Reimbursement Methodology.**

22 (a) Government Code section 17518.5 defines a "reasonable reimbursement methodology" as a
23 formula for reimbursing local agencies and school districts for costs mandated by the state, as
24 defined in Section 17514.

25 (b) For purposes of developing a reasonable reimbursement methodology pursuant to
26 Government Code sections 17557 or 17557.1, the following definitions apply:

27 (1) "Costs to implement the mandate in a cost-efficient manner" include only those costs for the
28 activities that were determined to be reimbursable by the Commission in the decision on the test
29 claim, and the costs for the most reasonable methods of complying with the mandate pursuant to
30 section 1183.12 (d), of these regulations.

31 (2) When surveying or otherwise gathering cost data to develop a formula, "representative sample
32 of claimants" does not include eligible claimants that do not respond to surveys or otherwise
33 participate in submitting cost data.

34 (c) An interested party may submit cost information or other cost projections that can be the
35 basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable
36 reimbursement methodology submitted pursuant to Government Code section 17557.1.

37 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
38 17518.5, 17557 and 17557.1, Government Code.

1 **§ 1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs.**

2 (a) Notwithstanding Government Code section 17557, within 30 days of the adoption of a
3 decision on a test claim, the successful test claimant and the Department of Finance may notify
4 the executive director in writing of their intent to follow the process described in Government
5 Code sections 17557.1-17557.2 to develop a reasonable reimbursement methodology and
6 statewide estimate of costs.

7 (b) The written notification shall provide all information and filing dates, as specified in
8 Government Code section 17557.1(a).

9 (c) At the request of the test claimant and the Department of Finance, the executive director may
10 provide for up to four extensions of the 180-day period for submittal of the draft reasonable
11 reimbursement methodology and proposed statewide estimate of costs for the initial claiming
12 period and budget year. Any request must be based on good cause as described in section 1187.9
13 and also include an update of all information and filing dates provided in the original written
14 notification submitted pursuant to Government Code section 17557.1(a). If no submittal of a
15 draft and no request for an extension has been made by the filing date specified in the notice of
16 intent to develop a reasonable reimbursement methodology, or if all extensions have been
17 exhausted, the executive director shall issue a letter notifying the test claimant of the duty to
18 submit proposed parameters and guidelines within 30 days under Government Code section
19 17557 (a).

20 (d) The test claimant and Department of Finance shall file and serve any filings made pursuant to
21 Government Code section 17557.1 in accordance with section 1181.3 of these regulations.

22 (e) Commission staff shall notify all recipients that they shall have the opportunity to review and
23 provide written comments concerning the draft reasonable reimbursement methodology and
24 proposed statewide estimate of costs within 15 days of service.

25 (f) Written comments may be filed in accordance with section 1181.3 of these regulations.

26 (g) Within seven days of service of the written comments, the test claimant and Department of
27 Finance may submit written rebuttals which shall be filed and served in accordance with section
28 1181.3 of these regulations.

29 (h) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
30 a staff recommendation on whether the Commission should approve the draft reasonable
31 reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to
32 Government Code section 17557.2.

33 Note: Authority cited: Sections ~~17527(e)~~, 17527(g), ~~and 17532~~ and 17553(a), Government Code.
34 Reference: Sections 17557, 17557.1 and 17557.2, Government Code.

35 **§ 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and**
36 **Guidelines.**

37 (a) If the claimant indicates in the proposed parameters and guidelines or comments that a
38 reasonable reimbursement methodology, as defined in Government Code section 17518.5,
39 should be considered for inclusion in the parameters and guidelines, or if the Department of
40 Finance, Office of the State Controller, any affected state agency, or eligible claimant proposes
41 consideration of a reasonable reimbursement methodology, Commission staff may schedule an

- 1 informal conference in accordance with section 1187.4 of these regulations to discuss the
2 methodology and plan for submittal of a reasonable reimbursement methodology.
- 3 (b) A proposed reasonable reimbursement methodology, as described in Government Code
4 section 17518.5, shall include any documentation or assumption relied upon to develop the
5 proposed methodology.
- 6 (c) Commission staff shall notify all recipients that they shall have the opportunity to review and
7 provide written comments concerning the proposed reasonable reimbursement methodology
8 within 15 days of service.
- 9 (d) Proposed reasonable reimbursement methodologies and comments regarding those proposals
10 shall be filed and served in accordance with section 1181.3 of these regulations.
- 11 (e) Within 15 days of service of the written comments prepared by other parties and interested
12 parties, the party that proposed the reasonable reimbursement methodology may submit a written
13 rebuttal to the Commission, and shall file and serve the rebuttal in accordance with section
14 1181.3 of these regulations.

15 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
16 17518.5, 17557 ~~and~~ 17557.1, and 17557.2, Government Code.

17 **§ 1183.13. Adoption of Parameters and Guidelines.**

- 18 (a) After review of the test claim decision, claimant's proposed parameters and guidelines or
19 draft expedited parameters and guidelines, written comments, and rebuttals, Commission staff
20 shall prepare a draft proposed decision and parameters and guidelines ~~and recommend the~~
21 ~~adoption of the claimant's proposed parameters and guidelines or adoption of an amended,~~
22 ~~modified, or supplemented version of the claimant's proposed parameters and guidelines.~~
23 Commission staff's recommendation may include a reasonable reimbursement methodology
24 developed pursuant to Government Code section 17518.5.
- 25 (b) Written comments on the draft proposed decision and ~~proposed~~ parameters and guidelines
26 shall be filed and served in accordance with section 1181.3 of these regulations, by the date
27 noticed by the executive director. A three-week period for comments shall be given, subject to
28 the executive director's authority to expedite all matters pursuant to Government Code section
29 17530. All written comments timely filed shall be reviewed by Commission staff and may be
30 incorporated into the proposed decision and ~~recommendation on the proposed~~ parameters and
31 guidelines.
- 32 (c) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
33 other evidence filed after the three-week comment period described in subdivision (b) of this
34 section. The Commission need not rely on, and staff need not respond to, late comments,
35 exhibits, or other evidence submitted in response to a draft proposed decision and ~~proposed~~
36 parameters and guidelines after the comment period expires.
- 37 (d) The Commission shall conduct a hearing in accordance with article 7 of these regulations
38 before adoption of the proposed decision and parameters and guidelines.
- 39 (e) Within 10 days of the adoption of decision and parameters and guidelines, the executive
40 director shall send copies to the Office of the State Controller and to everyone on the mailing list
41 described in section 1181.4 of these regulations, and shall post a copy on the Commission's
42 website.

1 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference cited:
2 Sections 17518.5, 17530, 17553(a) and 17557, Government Code.

3 **§ 1183.14. Statewide Cost Estimate.**

4 (a) If the Commission determines that there are state-mandated costs pursuant to Government
5 Code sections 17514, it shall adopt a statewide cost estimate of the amount within 12 months
6 after receipt of a completed test claim unless extended to 18 months by the Commission or
7 executive director.

8 (b) Commission staff may develop the statewide cost estimate based on initial reimbursement
9 claims filed with the Office of the State Controller, application of a reasonable reimbursement
10 methodology, or use a different methodology based on recommendations from the test claimant,
11 the Department of Finance, or other interested parties.

12 (c) Before presenting a statewide cost estimate to the Commission for adoption, Commission
13 staff shall disclose to the parties and interested parties the methodology, basis for any
14 assumptions made, and sources of any data used to develop the estimate.

15 (d) Before adopting the statewide cost estimate, the Commission shall hold at least one
16 informational hearing under article 8 of these regulations.

17 (e) Upon adoption of the statewide cost estimate by the Commission, a summary of the
18 parameters and guidelines and the statewide cost estimate shall be included in the Commission's
19 report to the Legislature required by Government Code section 17600.

20 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
21 17518.5, 17553 ~~and~~ 17557(a), 17557.2, and 17600, Government Code.

22 **§ 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement**
23 **Methodology.**

24 (a) The test claimant and the Department of Finance may file a joint request for early termination
25 of a reasonable reimbursement methodology with the Commission by submitting a request made
26 pursuant to Government Code section 17557.2(e) which shall be filed and served in accordance
27 with section 1181.3 of these regulations.

28 (b) Commission staff shall notify all recipients that they shall have the opportunity to review and
29 provide written comments on the joint request for early termination of a reasonable
30 reimbursement methodology within 15 days of service.

31 (c) Written comments may be filed and served in accordance with section 1181.3 of these
32 regulations.

33 (d) Within seven days of service of the written comments, the test claimant and Department of
34 Finance may submit written rebuttals which shall be filed and served in accordance with section
35 1181.3 of these regulations.

36 (e) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
37 recommendation on whether the Commission should approve the joint request for early
38 termination of a reasonable reimbursement methodology pursuant to Government Code section
39 17557.2 (e).

1 (f) If the Commission approves a joint request for early termination, the Commission shall notify
2 the test claimant of the duty to submit proposed parameters and guidelines to the Commission
3 pursuant to Government Code section 17557(a), and section 1183.13 of these regulations.

4 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
5 ~~17553(a), 17557 and~~ 17557.2, Government Code.

6 **§ 1183.16. Expiration of Reasonable Reimbursement Methodology.**

7 (a) At least one year before the expiration of a reasonable reimbursement methodology,
8 Commission staff shall notify the test claimant and the Department of Finance, that they may do
9 one of the following within 60 days:

10 (1) Jointly propose amendments to the reasonable reimbursement methodology by submitting:
11 (A) the draft reasonable reimbursement methodology, (B) a description of the steps the test
12 claimant and the Department of Finance undertook to determine the level of support by local
13 agencies or school districts for the draft reasonable reimbursement methodology, (C) an
14 agreement that the reasonable reimbursement methodology developed and approved
15 under Government Code section 17557.2 shall be in effect for a period of five years unless a
16 different term is approved by the Commission, and (D) an estimate of the mandate's annual cost
17 for the subsequent budget year.

18 (2) Jointly propose that the reasonable reimbursement methodology remain in effect.

19 (3) Allow the reasonable reimbursement methodology to expire and notify the Commission that
20 the test claimant will submit proposed parameters and guidelines to the Commission pursuant to
21 Government Code section 17557(a) and section 1183. 8 of these regulations or request that
22 Commission staff prepare expedited parameters and guidelines pursuant to section 1183.9 of
23 these regulations to replace the reasonable reimbursement methodology.

24 (b) Copies of the notice provided under subdivision (a) shall be filed and served in accordance
25 with section 1181.3 of these regulations.

26 (c) The test claimant and the Department of Finance may jointly propose amendments to the
27 reasonable reimbursement methodology or the continuation of a reasonable reimbursement
28 methodology by submitting a request made pursuant to Government Code section 17557.2(f),
29 which shall be filed and served in accordance with section 1181.3 of these regulations.

30 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and
31 provide written comments on the jointly proposed amendments or request for continuation of the
32 reasonable reimbursement methodology within 30 days of service.

33 (e) Written comments shall be filed and served in accordance with section 1181.3 of these
34 regulations.

35 (f) Within 15 days of service of the written comments prepared by other parties and interested
36 parties, the test claimant and Department of Finance may submit written rebuttals which shall be
37 filed and served in accordance with section 1181.3 of these regulations.

38 (g) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
39 a staff recommendation on whether the Commission should approve the jointly proposed
40 amendments or the continuation of a reasonable reimbursement methodology pursuant to
41 Government Code section 17557.2(g).

1 (h) Within 10 days of the adoption of the jointly proposed amendments or the continuation of a
2 reasonable reimbursement methodology, the executive director shall send copies to the Office of
3 the State Controller, and to parties and interested parties who are on the mailing list described in
4 section 1181.4 of these regulations.

5 (i) If the test claimant or the Department of Finance fail to respond within 60 days to the notice
6 described in subdivision (a) of this section, Commission staff shall prepare ~~and issue proposed~~
7 ~~draft expedited~~ parameters and guidelines, pursuant to section 1183.9 of these regulations, within
8 30 days of the parties' failure to respond ~~and the process for expedited parameters and guidelines~~
9 ~~in section 1183.13 of these regulations shall become operative.~~

10 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
11 ~~17553(a),~~ 17557, 17557.1 and 17557.2, Government Code.

12 **§ 1183.17. Amendments to Parameters and Guidelines.**

13 (a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines
14 shall include the proposed language for the specific sections of the existing parameters and
15 guidelines that are to be changed, and include a narrative explaining why the amendment is
16 required.

17 A request to amend parameters and guidelines may be filed to make any of the following
18 changes to the parameters and guidelines:

19 (1) Delete any reimbursable activity that is repealed by statute or executive order after the
20 adoption of the original or last amended parameters and guidelines.

21 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do
22 not require a new legal finding that there are "no costs mandated by the state" under Government
23 Code section 17556(e).

24 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable
25 activities.

26 (4) Clarify reimbursable activities consistent with the original decisions on the test claim and
27 parameters and guidelines.

28 (5) Add new reimbursable activities that are reasonably necessary for the performance of the
29 original state-mandated program pursuant to section 1183.1(d) of these regulations.

30 (6) Define what is not reimbursable consistent with the original decisions on the test claim and
31 parameters and guidelines.

32 (7) Consolidate the parameters and guidelines for two or more programs.

33 (8) Amend the "boilerplate" language.

34 (b) For purposes of this section, "boilerplate" language is defined as the language in the
35 parameters and guidelines that is not unique to the state-mandated program that is the subject of
36 the parameters and guidelines.

37 (c) The addition or substitution of requesters and supporting declarations based on the original
38 facts alleged in an existing parameters and guidelines amendment request is not an
39 "amendment." However, new proposals for amendments must be submitted as a new parameters
40 and guidelines amendment request.

- 1 (d) A claimant or state agency requesting an amendment to existing parameters and guidelines
2 shall file in accordance with section 1181.3 of these regulations.
- 3 (e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff
4 shall send a copy to those who are on the mailing list described in section 1181.4 of these
5 regulations, and shall post the request on the Commission's website.
- 6 (f) Commission staff shall notify all recipients that they shall have the opportunity to review and
7 provide written comments concerning the proposed amendment of the parameters and guidelines
8 within 30 days of service.
- 9 (g) Written comments on the request to amend the parameters and guidelines shall be filed and
10 served in accordance with section 1181.3 of these regulations.
- 11 (h) Written rebuttals to the comments may be filed within 30 days of service of the comments.
12 Written rebuttals shall be filed and served in accordance with section 1181.3 of these regulations.
- 13 (i) After review of the proposed amendment to the parameters and guidelines, written comments,
14 and rebuttals submitted, Commission staff shall prepare a draft proposed decision and
15 recommend whether the requester's proposed amendment to the parameters and guidelines
16 should be adopted.
- 17 (j) Written comments on the draft proposed decision and recommendation on the proposed
18 amendment to the parameters and guidelines shall be filed and served with the Commission in
19 accordance with section 1181.3 of these regulations, by the date noticed by the executive
20 director. A three-week period for comments shall be given, subject to the executive director's
21 authority to expedite all matters pursuant to Government Code section 17530. All written
22 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
23 proposed decision and recommendation on the proposed amendment to the parameters and
24 guidelines.
- 25 (k) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
26 other evidence filed after the three-week comment period described in subdivision (j) of this
27 section. The Commission need not rely on, and staff need not respond to, late comments,
28 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
29 period expires.
- 30 (l) An amendment shall be made only after the Commission has conducted a hearing in
31 accordance with article 7 of these regulations.

32 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
33 17530, 17553, and 17557, ~~and 17560~~, Government Code.

34 **§ 1183.18. Timelines.**

35 (a) In computing any period of time prescribed by these regulations and applicable statutes,
36 including the filing date as defined in section 1181.2 of these regulations, the following rules
37 shall apply:

38 (1) The day of the act, event, or default from which the designated period of time begins to run
39 shall not be included. The last day of the period so computed shall be included, unless it is a
40 Saturday, Sunday, or state holiday.

1 (2) Days representing extensions of time and postponements of hearings granted to the parties
2 shall be tolled and may not be counted toward the date on which a statewide cost estimate must
3 be adopted by the Commission.

4 (3) Days following a test claimant's submission of incomplete information to the Commission,
5 from the date on which Commission staff returns the incomplete information to the claimant up
6 to the date on which the Commission receives complete information from the test claimant, shall
7 be tolled and may not be counted toward the date on which a statewide cost estimate must be
8 adopted by the Commission.

9 (4) If a party or interested party to a test claim notifies Commission staff that a reasonable
10 reimbursement methodology may be developed for inclusion in pending parameters and
11 guidelines, the days following the date of the notification up to the date on which a reasonable
12 reimbursement methodology is developed, shall be tolled and may not be counted toward the
13 date on which a statewide cost estimate must be adopted by the Commission. The days tolled
14 shall not exceed 60 days from the date of the notification.

15 (5) If the test claimant and the Department of Finance notify the Commission staff in writing of
16 their intent to develop a reasonable reimbursement methodology and statewide estimate of costs
17 for the initial claiming period and budget year for reimbursement pursuant to Government Code
18 section 17557.1, the days following the date of the notification up to the date on which a draft
19 reasonable reimbursement methodology and proposed statewide estimate of costs are developed
20 and submitted to the Commission, shall be tolled and may not be counted toward the date on
21 which a statewide cost estimate must be adopted by the Commission. The days tolled shall not
22 exceed 180 days from the date of the notification.

23 (6) Three days shall be added to any prescribed period in which a party or interested party is
24 required or permitted to do an act after service of a document upon that party or interested party
25 by mail. The three days added for mail service shall be tolled and may not be counted toward the
26 date on which a statewide cost estimate must be adopted.

27 (7) Solely for the purpose of determining when a statewide cost estimate shall be adopted, test
28 claims that are amended, severed, or consolidated shall be deemed received on the effective date
29 of the last amendment, severance, or consolidation, unless otherwise stipulated by the parties and
30 approved by the executive director.

31 (8) Days between the effective date of the parameters and guidelines and the date the initial
32 reimbursement claims are due to the Office of the State Controller shall be tolled and may not be
33 counted toward the date on which a statewide cost estimate must be adopted by the Commission.

34 (b) The following timelines shall be used by Commission staff as a reference for the timely
35 processing of test claims, adoption of statewide cost estimates or statewide estimates of costs:

36 (1) Timeline for a Test Claim, Parameters and Guidelines, and Statewide Cost Estimate (12
37 Months)

<i>PARTY/ACTIVITIES</i>	<i>DAY NUMBER</i>
TEST CLAIM	
CLAIMANT files test claim with the Commission.	0
COMMISSION staff begins counting days on the first day after receipt	1
COMMISSION staff reviews test claim to determine if complete	by 10

1	COMMISSION staff sends test claim to state agencies for review.	by 10
2	COMMISSION staff convenes informal conference with parties, if necessary.	by 30
3	STATE AGENCIES file comments on test claim.	by 40
4	CLAIMANT submits rebuttal.	by 70
5	COMMISSION staff completes-prepares the draft analysis <u>proposed decision</u> of-on the	
6	test claim and serves on parties.	by 100
7	PARTIES submit comments on staff's draft analysis <u>proposed decision</u> on the test claim.	
8	by 130	
9	COMMISSION staff completes analysis and issues Proposed Decision.	by 160
10	COMMISSION hears test claim and adopts Proposed-a Decision.	by 180
11	COMMISSION staff issues Decision and serves on parties.	by 190
12	COMMISSION staff notifies Legislature of Decision	by 210
13	PARAMETERS AND GUIDELINES	
14	CLAIMANT submits proposed Parameters and Guidelines.	by 220
15	STATE AGENCIES AND PARTIES may file comments.	by 235
16	CLAIMANT rebuts comments.	by 250
17	COMMISSION staff completes draft Parameters and Guidelines	
18	and serves on parties.	by 265
19	PARTIES submit comments on staff's draft Parameters and	
20	Guidelines.	by 275
21	COMMISSION staff completes Parameters and Guidelines	
22	and serves on parties.	by 279
23	COMMISSION conducts hearing and adopts Parameters and	
24	Guidelines.	by 293
25	COMMISSION staff issues adopted Parameters and Guidelines.	by 303
26	STATEWIDE COST ESTIMATE	
27	COMMISSION staff develops Statewide Cost Estimate.	by 335
28	ALL PARTIES comment on Statewide Cost Estimate.	by 345
29	COMMISSION staff revises Statewide Cost Estimate.	by 350
30	COMMISSION conducts hearing and adopts Statewide	
31	Cost Estimate.	by 365
32	COMMISSION staff reports Statewide Cost Estimate to the Legislature.	by 395

33 (2) Timeline for a Test Claim, Reasonable Reimbursement Methodology, and Statewide
34 Estimate of Costs

35	<i>PARTY/ACTIVITIES</i>	<i>DAY NUMBER</i>
36	TEST CLAIM	
37	<i>PARTY/ACTIVITIES</i>	<i>DAY NUMBER</i>
38	CLAIMANT files test claim with the Commission	0
39	COMMISSION staff begins counting days on the first day after receipt.	1
40	COMMISSION staff reviews test claim to determine if complete.	by 10
41	COMMISSION staff sends test claim to state agencies for review.	by 10
42	COMMISSION staff convenes informal conference with parties, if necessary.	by 30
43	STATE AGENCIES file comments on test claim.	by 40
44	CLAIMANT submits rebuttal.	by 70
45	COMMISSION staff completes-prepares the draft analysis <u>proposed decision</u> of-on the	

1 | test claim and serves on parties. by 100
2 | PARTIES submit comments on ~~staff's the~~ draft ~~analysis~~proposed decision ~~of on the~~ test claim.
3 | by 130
4 | COMMISSION staff completes analysis and issues proposed decision. by 160
5 | COMMISSION hears test claim and adopts ~~proposed a~~ decision.
6 | by 180
7 | COMMISSION staff issues decision and serves parties. by 190
8 | COMMISSION staff notifies Legislature of Decision. by 220
9 | REASONABLE REIMBURSEMENT METHODOLOGY (RRM)
10 | AND STATEWIDE ESTIMATE OF COSTS (SEC)
11 | CLAIMANT AND DEPARTMENT OF FINANCE (DOF) notify Commission
12 | in writing of their intent to follow the process in 17557.1 to develop a RRM and SEC (within
13 | 30 days after adoption of decision). by 220
14 | CLAIMANT AND DOF submit plan no later than six months after the date
15 | of letter of intent and 60 days before hearing. by 400
16 | COMMISSION staff notifies parties of comment period. by 410
17 | PARTIES submit comments on the draft RRM and SEC. by 425
18 | CLAIMANT AND DOF submit written rebuttal. by 432
19 | COMMISSION staff issues review comments and recommendation. by 450
20 | COMMISSION conducts hearing, approves the draft RRM, and adopts
21 | the proposed SEC for the initial claiming period and budget year. by 460
22 | COMMISSION staff submits RRM to the CONTROLLER. by 470
23 | COMMISSION staff reports SEC to the Legislature. by 490

24 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
25 | 17527, 17532, ~~17551~~, 17553(a), 17555, 17557(e), 17557.1, and 17557.2~~17571, 17615.1,
26 | ~~17615.4, 17615.7, 17615.8 and 17615.9~~, Government Code; ~~California Rules of Court, Rule~~
27 | ~~3.1332~~.~~

28 | **Article 4. Review of Office of State Controller's Claiming Instructions**
29 | **§ 1184.1. Review of Office of State Controller's Claiming Instructions.**

- 30 | (a) Upon request of a local agency or school district, the Commission shall review claiming
31 | instructions issued by the Office of State Controller.
32 | (b) A request to review claiming instructions shall include the following:
33 | (1) A copy of the disputed claiming instructions.
34 | (2) If available, correspondence or other documentation that verifies the local agency or school
35 | district sought to resolve the dispute through the Office of State Controller.
36 | (3) A narrative that details the suggested changes and the reasons why the local agency or school
37 | district finds the claiming instructions need to be modified.
38 | (4) The name, address, telephone number, and e-mail address of the agency contact person.
39 | (c) An original request to review claiming instructions shall be submitted to the Commission by
40 | the local agency or school district in accordance with section 1181.3 of these regulations.

- 1 (d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall
2 notify the local agency or school district that submitted the request if the submittal is complete or
3 incomplete. A request to review the claiming instructions shall be considered incomplete if any
4 of the elements required in subdivision (b) or (c) of this section are illegible or not included.
5 Incomplete requests shall be returned to the local agency or school district. If a complete request
6 is not received by the Commission within 30 days from the date the incomplete request was
7 returned, the Commission shall deem the request to be withdrawn.
- 8 (e) Within 10 days of receipt of a complete request to review claiming instructions, Commission
9 staff shall send a copy to all persons who are on the mailing list described in section 1181.4 of
10 these regulations. Commission staff shall provide notice that written comments concerning the
11 request to review claiming instructions may be submitted within 30 days of service of the notice
12 of complete filing. A copy of the notice shall also be posted on the Commission's website.
- 13 (f) Written comments shall be filed and served in accordance with section 1181.3 of these
14 regulations.
- 15 (g) Within 30 days of service of the written comments, the requester may submit a written
16 rebuttal to the Commission which shall be filed and served in accordance with section 1181.3 of
17 these regulations.
- 18 (h) Before hearing a request to review claiming instructions, Commission staff shall prepare a
19 draft proposed decision that shall include a review of the request and any comments filed, and-.
20 ~~The analysis shall also include~~ a staff recommendation on whether the request ~~to review and~~
21 ~~modify the claiming instructions~~ should be approved or denied.
- 22 (i) The requester and any state agency or interested party may file written comments on the ~~staff~~
23 ~~analysis with Commission staff~~ draft proposed decision. Written comments shall be filed and
24 served as described in section 1181.3 of these regulations, by the date determined and publicized
25 by the executive director. If representations of fact are made, they must be supported by
26 documentary evidence submitted with the comments in accordance with section 1187.5 of these
27 regulations. A three-week period for comments shall be given, subject to the executive director's
28 authority to expedite all matters pursuant to Government Code section 17530. All written
29 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
30 proposed decision on the request to review and modify the claiming instructions.
- 31 (j) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
32 other evidence filed after the three-week comment period described in subdivision (i) of this
33 section. The Commission need not rely on, and staff need not respond to, late comments,
34 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
35 period expires.
- 36 (k) The Commission shall conduct a hearing in accordance with article 7 of these regulations on
37 the request to review claiming instructions.
- 38 (l) If the Commission determines that the claiming instructions need to be modified, the
39 Commission shall direct the Office of State Controller to modify the claiming instructions to
40 conform to the parameters and guidelines.
- 41 (m) An approved change to the claiming instructions shall be subject to the following schedule:

1 (1) A request for review filed before the deadline for initial claims as specified in the claiming
2 instructions shall apply to all years eligible for reimbursement as defined in the original
3 parameters and guidelines.

4 (2) A request for review filed after the initial claiming deadline must be submitted on or before
5 the annual reimbursement claim filing deadline set out in Government Code section 17560
6 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

7 (n) A request to review claiming instructions may be withdrawn by written application to the
8 executive director any time before a decision is adopted or by oral application at the time of
9 hearing. The requesters shall file and serve the written application in accordance with section
10 1181.3 of these regulations. Commission staff shall post a copy of the notice on the
11 Commission's website for 60 days prior to dismissal of the request to review claiming
12 instructions. If no other local agency or school district takes over the request to review claiming
13 instructions by substitution of parties within 60 days of service and posting of the application to
14 withdraw, the executive director shall issue a letter to everyone on the mailing list described in
15 section 1181.4 of these regulations dismissing the request to review claiming instructions and
16 shall post the letter on the Commission's website.

17 Note: Authority cited: Sections 17527(g) and (h), Government Code. Reference: Sections 17530,
18 17560 and 17571, Government Code.

19 **Article 5. Incorrect Reduction Claims**

20 **§ 1185.1. Incorrect Reduction Claim Filing.**

21 (a) To obtain a determination that the Office of State Controller incorrectly reduced a
22 reimbursement claim, a claimant shall file an "incorrect reduction claim" with the Commission
23 as follows:

24 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
25 controller, may file on behalf of a county.

26 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
27 resolution from the city council, may file on behalf of a city.

28 (3) A district superintendent may file on behalf of a school district.

29 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
30 the governing body by ordinance or resolution, may file on behalf of a community college
31 district.

32 (5) A general manager or other officer with authority delegated by the governing body by
33 ordinance or resolution may file on behalf of a special district.

34 (b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,
35 it must notify the Commission of its intent to do so at the time it files its incorrect reduction
36 claim and meet the requirements of section 1185.3 of these regulations.

37 (c) All incorrect reduction claims shall be filed with the Commission no later than three years
38 following the date of the Office of State Controller's final state audit report, letter, remittance
39 advice, or other written notice of adjustment to a reimbursement claim.

1 (d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement
2 claim filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

3 (e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by
4 the Commission.

5 (f) All incorrect reduction claims, or amendments thereto, shall contain at least the following
6 elements and documents:

7 (1) A copy of the Office of State Controller's claiming instructions that were in effect during the
8 fiscal years of the reimbursement claims.

9 (2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall
10 include a comprehensive description of the reduced or disallowed areas of costs.

11 (3) All representations of fact shall be supported by testimonial or documentary evidence and
12 shall be submitted with the claim in accordance with section 1187.5 of these regulations.

13 (4) A copy of any final state audit report, letter, remittance advice, or other written notice of
14 adjustment from the Office of State Controller that explains the reasons for the reduction or
15 disallowance.

16 (5) A copy of the subject reimbursement claims the claimant submitted to the Office of State
17 Controller.

18 (g) An incorrect reduction claim, or amendment thereto, shall be signed at the end of the
19 document, under penalty of perjury by the claimant or its authorized representative, with the
20 declaration that the incorrect reduction claim is true and complete to the best of the declarant's
21 personal knowledge or information or belief. The date signed, the declarant's title, address,
22 telephone number, and, e-mail address shall be included.

23 (h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and
24 accompanying documents with the Commission in accordance with section 1181.3 of these
25 regulations.

26 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
27 17530, 17551(d) and 17553(d), Government Code.

28 **§ 1185.2. Review of Incorrect Reduction Claims.**

29 | (a) ~~(i)~~ Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify
30 the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction
31 claims will be considered incomplete if any of the elements required in section 1185.1(c) through
32 (h) are illegible or not included. Incomplete incorrect reduction claims shall be returned to the
33 claimant. If a complete incorrect reduction claim is not received by the Commission within 30
34 days from the date the incomplete claim was returned to the claimant, the executive director shall
35 deem the filing to be withdrawn.

36 (b) Within 10 days of receipt of a complete incorrect reduction claim, Commission staff shall
37 provide a copy of the claim to the Office of State Controller.

38 (c) Commission staff shall notify the Office of State Controller that written comments and
39 supporting documentation in connection with an incorrect reduction claim shall be filed no more
40 than 90 days from the date the copy of the claim is provided to the Office of State Controller.

1 Written comments and supporting documentation may be filed in accordance with section
2 1181.3. If the written comments make representations of fact, the representations shall be
3 supported by documentary evidence and shall be submitted with the comments in accordance
4 with section 1187.5 of these regulations.

5 (ed) The claimant and interested parties may submit written rebuttals to the Office of State
6 Controller's comments within 30 days of service of the Office of State Controller's comments.
7 Written rebuttals and supporting documentation shall be filed and served pursuant to section
8 1181.3. If the written rebuttal involves representations of fact, the representations shall be
9 supported by documentary evidence and shall be submitted with the rebuttal in accordance with
10 section 1187.5 of these regulations.

11 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
12 17551(d) and 17553(d), Government Code.

13 **§ 1185.3. Consolidation of Claims Initiated by an Individual Claimant.**

14 (a) On behalf of a class of claimants, an individual claimant may initiate the consolidation of
15 claims alleging an incorrect reduction as described in Government Code section 17558.7, if all of
16 the following apply:

17 (1) The method, act, or practice that the claimant alleges led to the reduction has led to similar
18 reductions of other parties' claims, and all of the claims involve common questions of law or
19 fact.

20 (2) The common questions of law or fact among the claims predominate over any matter
21 affecting only an individual claim.

22 (3) The consolidation of similar claims by individual claimants would result in consistent
23 decision making by the Commission.

24 (4) The claimant filing the consolidated claim would fairly and adequately protect the interests of
25 the other claimants.

26 (b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the
27 Commission of its intent at the time of filing on a form provided by the Commission.

28 (c) Within 10 days of receipt of a consolidated incorrect reduction claim, Commission staff shall
29 notify the claimant if the consolidated incorrect reduction claim is complete or incomplete
30 pursuant to section 1185.1, and request the Office of the State Controller to provide the
31 Commission, within 30 days, a list of claimants for whom the Controller has reduced similar
32 claims under the same mandate, and the date each claimant was notified of an adjustment.

33 (d) Upon receipt of the list from the Office of the State Controller, the Commission shall notify
34 the list of other claimants experiencing similar reductions by the Controller under the same
35 mandate and other interested parties of the original claimant's intent to consolidate an incorrect
36 reduction claim.

37 Note: Authority cited: Sections 17527(g), 17553(a), and 17558.7(g), Government Code.
38 Reference: Section 17558.7, Government Code.

1 **§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

2 (a) Within 30 days of receipt of the Commission's notice regarding the original claimant's notice
3 of intent to consolidate an incorrect reduction claim, any other eligible claimant may, on a form
4 provided by the Commission, file a notice of intent to join the consolidated incorrect reduction
5 claim.

6 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with
7 section 1185.1(c) and contain at least the following elements and documents:

8 (1) A copy of the final state audit report, letter, remittance advice, or other written notice of
9 adjustment from the Office of State Controller that explains the reasons for the reduction or
10 disallowance.

11 (2) A copy of the subject reimbursement claims submitted to the Office of State Controller.

12 (3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification
13 by the joining claimant authorizing the original claimant to act as its representative in the
14 consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing
15 is true and complete to the best of the declarant's personal knowledge or information or belief.
16 The date signed, the declarant's title, address, telephone number, and, e-mail address shall be
17 included. All representations of fact shall be supported by testimonial or documentary evidence
18 and shall be submitted in accordance with section 1187.5 of these regulations.

19 (4) The joining claimant shall file one original notice of intent to join and accompanying
20 documents with the Commission in accordance with section 1181.3 of these regulations.

21 (c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect reduction claim,
22 Commission staff shall notify the joining claimant if the notice of intent to join is complete or
23 incomplete. Notices of intent to join a consolidated incorrect reduction claim will be considered
24 incomplete if any of the elements required in subdivision (b) of this section are illegible or not
25 included. Incomplete notices of intent shall be returned to the joining claimant. If a complete
26 notice of intent to join a consolidated incorrect reduction claim is not received by the
27 Commission within 30 days from the date the incomplete notice of intent was returned to the
28 joining claimant, the Commission shall deem the filing to be withdrawn.

29 | Note: Authority cited: Sections 17527(g), 17553(a), and 17558.7(g), Government
30 Code. Reference: Section 17558.7, Government Code.

31 **§ 1185.5. Opting Out of a Consolidated Incorrect Reduction Claim.**

32 Pursuant to Government Code section 17558.7(f), each claimant that files a notice of intent to
33 join a consolidated incorrect reduction claim may opt out and not be bound by any determination
34 made on the consolidated claim.

35 (a) To opt out of a consolidated incorrect reduction claim, claimants shall file a written notice
36 with the Commission within 15 days of service of the Office of State Controller's comments. A
37 copy of the notice must be served in accordance with section 1181.3.

38 (b) No later than one year after opting out, or within the statute of limitations under section
39 1185.1(c), whichever is later, a claimant that opts out of a consolidated claim shall file an
40 individual incorrect reduction claim in order to preserve its right to challenge a reduction made
41 by the Controller on that same mandate.

1 (c) If a claimant opts out of a consolidated incorrect reduction claim and an individual incorrect
2 reduction claim for that entity is already on file with the Commission, the individual filing is
3 automatically reinstated.

4 | Note: Authority cited: Sections 17527(g), 17553(a), and 17558.7(g), Government Code.
5 Reference: Section 17558.7, Government Code.

6 **§ 1185.6. Executive Director's Authority to Consolidate or Sever Incorrect Reduction**
7 **Claims.**

8 The executive director may consolidate or sever part or all of any incorrect reduction claim with
9 another incorrect reduction claim, if necessary to ensure the complete, fair, or timely
10 consideration of any incorrect reduction claim.

11 (a) At least 30 days before the action is taken, the executive director shall simultaneously serve
12 on all persons on the mailing list described in section 1181.4 of these regulations a notice of any
13 proposed action to consolidate or sever and shall post the notice on the Commission's website.

14 (b) During the 30-day notice period, a claimant may serve and file a written request that an
15 individual incorrect reduction claim be severed from a proposed consolidation. Timely requests
16 to sever shall be approved by the executive director.

17 (c) Late requests for severing an individual incorrect reduction claim shall be denied.

18 | Note: Authority cited: Sections 17527(g) 17553(a), and 17558.8(b), Government Code.
19 Reference: Sections 17530, 17554 and 17558.8, Government Code.

20 **§ 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed**
21 **Decision.**

22 (a) The Commission shall conduct a hearing in accordance with article 7 of these regulations
23 before adopting a decision on an individual or consolidated incorrect reduction claim.

24 (b) Before hearing an individual or consolidated incorrect reduction claim, Commission staff
25 shall prepare a ~~written analysis of proposed decision for~~ the incorrect reduction claim that shall
26 include, ~~but not be limited to,~~ a review of the incorrect reduction claim, comments and any
27 statements filed by the Office of State Controller and the claimant's rebuttals filed on the claim
28 and, to the extent that it is relevant to the claim, a review of the test claim decision and decision
29 and parameters and guidelines. The ~~analysis proposed decision~~ shall also include a staff
30 recommendation on whether the claimant's reimbursement claim was incorrectly reduced.

31 (c) At least eight weeks before the hearing or at a time required by the executive director or
32 stipulated to by the claimant and the Office of State Controller, Commission staff shall distribute
33 | ~~a the draft~~ proposed decision to all those on the mailing list described in section 1181.4 of these
34 regulations.

35 (d) Written comments shall be filed and served as described in section 1181.3 of these
36 regulations, by the date determined and publicized by the executive director. A three-week
37 period for comments shall be given, subject to the executive director's authority to expedite all
38 matters pursuant to Government Code section 17530. All written comments timely filed shall be
39 reviewed by Commission staff and may be incorporated into the proposed decision for the
40 incorrect reduction claim.

1 (e) It is the Commission’s policy to discourage the introduction of late comments, exhibits, or
2 other evidence filed after the three-week comment period described in subdivision (d) of this
3 section. The Commission need not rely on, and staff need not respond to, late comments,
4 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
5 period expires.

6 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
7 | 17530 and 17551(d), Government Code.

8 **§ 1185.8. Withdrawal of Incorrect Reduction Claims.**

9 (a) An incorrect reduction claim, except for a claim by the original claimant in a consolidated
10 incorrect reduction claim, may be withdrawn by written application any time before a decision is
11 adopted or by oral application at the time of hearing. If an application is made, the executive
12 director shall issue a letter to the claimant and the State Controller dismissing the claim.

13 (b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction
14 claim, may be withdrawn by written application any time before a decision is adopted or by oral
15 application at the time of hearing. The original claimant shall file and serve the written
16 application in accordance with section 1181.3 of these regulations and Commission staff shall
17 post a copy of the notice on the Commission's website for 60 days prior to dismissal of the
18 incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60
19 days of providing notice of its intent to take over the claim, perfect the filing by submitting the
20 written narrative as required by section 1185.1. If none of the joint claimants takes over the claim
21 by substitution of parties within 60 days of service and posting of the application to withdraw,
22 the executive director shall issue a letter to everyone on the mailing list described in section
23 1181.4 of these regulations dismissing the claim and providing the joint claimants with an
24 opportunity to perfect their individual claims within 60 days of service by submitting the written
25 narrative as required by section 1185.1. The letter shall be posted on the Commission's website.

26 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
27 | 17530 and 17551(d), Government Code.

28 **§ 1185.9. Reinstatement of Costs.**

29 If the Commission determines that a reimbursement claim was incorrectly reduced, the
30 Commission shall send the decision to the Office of State Controller and request that the Office
31 of State Controller reinstate the costs that were incorrectly reduced.

32 | Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
33 | 17551(d), Government Code.

34 **Article 6. State Mandates Apportionment System**

35 **§ 1186.1. Definitions: State Mandates Apportionment System.**

36 (a) Request for Inclusion. A Request for Inclusion is a factual statement about a mandated cost
37 program and a petition for a review of the described program by the Commission on State
38 Mandates. The review is intended to result in a decision whether or not to include the program in
39 the State Mandates Apportionment System.

1 (b) Stable costs. Stable costs are those costs incurred by local agencies or school districts as a
2 result of implementing a mandated cost program which, when reviewed on a statewide basis over
3 a three-year period, have not fluctuated significantly.

4 (c) Request for Removal. A Request for Removal is a factual statement about significant
5 modifications or amendments to a program which is part of the State Mandates Apportionment
6 System. The statement is intended to result in the discontinuance of the program in the State
7 Mandates Apportionment System.

8 Note: Authority ~~cited: Section 17527(g), Government Code. and~~ Reference-cited: Sections
9 17615 and 17615.1, Government Code.

10 **§ 1186.2. Request for Inclusion.**

11 (a) Any local agency, school district, the Department of Finance or the State Controller's Office
12 may request that the Commission review a mandated cost program for possible inclusion in the
13 State Mandates Apportionment System in accordance with Government Code section 17615.1.

14 (b) In order to obtain a review and determination regarding inclusion in the system, a local
15 agency, school district or state agency must file a "Request for Inclusion" with the Commission.

16 (c) The request for inclusion must contain at least the following:

17 (1) The chapter number of the law which established the mandated cost program(s).

18 (2) A detailed narrative describing the mandated cost program with an explanation of the reasons
19 why the mandated cost program should be included in the State Mandates Apportionment
20 System.

21 (3) Any other pertinent information which will substantiate the request or which would have a
22 bearing on the decision of the Commission in this matter.

23 (d) The Commission shall consider the recommendation submitted from the Controller for each
24 new mandate submitted for inclusion in the State Mandates Apportionment System in
25 accordance with Government Code section 17615.4(c).

26 (e) Requests for inclusion will be considered incomplete if any of the preceding elements or
27 documents required in subdivision (c) of this section are illegible or not included. Incomplete
28 requests for inclusion shall be returned to the requester for completion.

29 (f) Requests for inclusion filings and any state agency recommendations shall be subject to the
30 requirements of article 7 of these regulations beginning at section 1187.1.

31 Note: Authority ~~and reference-cited: Section 17527(g), Government Code. Reference:~~ Sections
32 17615, and 17615.1 and 17615.4, Government Code.

33 **§ 1186.3. Adoption of Finding for Request for Inclusion.**

34 (a) The Commission, after reviewing the request for inclusion and conducting at least one
35 hearing in accordance with article 7 of these regulations, shall adopt a finding that the mandated
36 program will or will not be included in the State Mandates Apportionment System.

37 (b) The primary criteria to be used by the Commission in making a determination will include a
38 review of the mandated program to determine if the program has a history of stable costs for

1 most claimants, if the mandated program has been recently modified, and if inclusion would
2 accurately reflect the costs of the state mandated program.

3 (c) Upon adoption of a finding that a mandated program should be included in the State
4 Mandates Apportionment System, the Commission shall direct the Controller to include the
5 program in the system.

6 | Note: Authority ~~and reference~~ cited: [Section 17527\(g\), Government Code](#). Reference: Sections
7 | 17615.1 ~~and 17615.4~~, Government Code.

8 **§ 1186.4. Request for Removal.**

9 (a) Any local agency, school district, or state agency may request that the Commission review a
10 mandated program included in the State Mandates Apportionment System that has been modified
11 or amended by the Legislature or an executive order for possible removal of the program from
12 the system in accordance with Section 17615.7 of the Government Code.

13 (b) In order to obtain a review and determination regarding removal of a program from the
14 system, a local agency, school district, or state agency must file a "Request for Removal" with
15 the Commission.

16 (c) The request for removal must contain at least the following elements:

17 (1) The chapter number or executive order of the law which established the mandated cost
18 program.

19 (2) The chapter number of the law or the executive order which significantly modified or
20 amended the costs of the program or a detailed description of the circumstances or events which
21 have caused the changes.

22 (3) A detailed narrative describing the mandated cost program with an explanation of the reasons
23 why the mandated program should no longer be included in the State Mandates Apportionment
24 System.

25 (4) Any other information which will substantiate the request or which would have a bearing on
26 the decision of the Commission in this matter.

27 (d) Requests for Removal will be considered incomplete if any of the preceding elements or
28 documents required in subdivision (c) of this section are illegible or not included. Incomplete
29 Requests for Removal shall be returned to the requester for completion.

30 (e) Request for removal filings and any state agency recommendations shall be subject to the
31 requirements of article 7 of these regulations beginning at section 1187.

32 | Note: Authority ~~and reference~~ cited: [Section 17527\(g\), Government Code](#). Reference: Section
33 | 17615.7, Government Code.

34 **§ 1186.5. Adoption of Finding for Request for Removal.**

35 (a) The Commission, after reviewing the request for removal and conducting at least one hearing
36 in accordance in article 7 of these regulations, shall adopt a finding that the mandated program
37 will or will not continue to be included in the State Mandates Apportionment System.

38 (b) The primary criteria to be used by the Commission in making a determination regarding
39 removal will include whether the mandated program was significantly modified or amended by

1 the Legislature or by executive order so as to affect the ongoing costs of the program in a way
2 that the historical costs of the program are no longer an accurate reflection of continuing costs.

3 (c) Upon adoption of a finding that a mandated program should be removed from the system, the
4 Commission shall direct the Controller to remove the program from the system. In that direction
5 to the Controller, the Commission shall specify if the program will be removed temporarily or
6 for an indefinite period of time.

7 | Note: Authority ~~and reference~~ cited: [Section 17527\(g\), Government Code](#). Reference: Sections
8 | [17615.5 and 17615.7](#), Government Code.

9 **§ 1186.6. Reviewing an Apportionment or Base Year Entitlement.**

10 (a) Upon request of a local agency, school district or state agency the Commission shall review
11 the apportionment or base year entitlement pursuant to Government Code section 17615.8(a).

12 (b) In order to obtain a review of an apportionment or base year entitlement a "Request for
13 Review" shall be filed with the Commission.

14 (c) The request for review shall contain at least the following elements:

15 (1) Identification of the mandated program that is alleged to require review.

16 (2) A detailed narrative describing the need to modify the apportionment or base year
17 entitlement.

18 (3) A statement to the effect that the other mandated programs included in the local agency or
19 school district's apportionment are not overfunded in an amount sufficient to offset any
20 underfunding.

21 (4) Cost information that outlines the amount of the funding for the total apportionment and the
22 calculations necessary to show that the program needing modification either under or over
23 reimburse the local agency or school district's actual costs by 20 percent or by \$1,000, whichever
24 is less.

25 | Note: Authority ~~and reference~~ cited: [Sections 17527\(g\) and 17615.8\(a\), Government Code](#).
26 | [Reference](#): Section 17615.8, Government Code.

27 **§ 1186.7. Adjustment to Apportionment.**

28 (a) The Commission, after reviewing an apportionment or base year entitlement and conducting
29 at least one hearing in accordance with article 7 of these regulations, shall adopt a finding that
30 the apportionment or base year entitlement will or will not be adjusted.

31 (b) If the Commission determines that a local agency or school district's apportionment falls
32 short of reimbursing for all mandates upon which the apportionment or base year entitlement is
33 based by 20 percent or by \$1,000, whichever is less, then the Commission shall direct the
34 Controller to adjust the apportionment accordingly.

35 (c) If the Commission determines that a local agency or school district's apportionment
36 adequately reflects the costs incurred by the local agency or school district for all mandates upon
37 which that apportionment is based, the Commission may, in its discretion, direct the Controller
38 to withhold the costs of the Commission's review from the next apportionment to the local
39 agency or school district. A direction to withhold costs from the next apportionment will be

1 made only when the Commission determines that the request to review an apportionment was
2 frivolous and without merit.

3 Note: Authority ~~and reference~~ cited: Section 17527(g) and 17615.8(a), Government Code.
4 Reference: Section 17615.8~~17615.9~~, Government Code.

5 **Article 7. Quasi-Judicial Hearing Procedures and Decisions**

6 **§ 1187.1. Scheduling and Noticing the Hearing.**

7 (a) A "matter," subject to hearings and decisions under article 7 of these regulations, shall
8 include test claims, proposed parameters and guidelines, requests to amend parameters and
9 guidelines, incorrect reduction claims, requests for inclusion or removal from the State Mandates
10 Apportionment System, requests for review of apportionment or base year entitlement for
11 programs included in the State Mandates Apportionment System, requests for review of the
12 Office of State Controller's claiming instructions, and requests for mandate redetermination.

13 (b) A matter is set for hearing when Commission staff issues its draft proposed decision. A
14 written notice of the date, time, and place of hearing shall be provided to everyone on the
15 mailing list as described in section 1181.4 of these regulations and shall be posted on the
16 Commission's web site.

17 Note: Authority cited: Sections 17527(g), ~~and~~ 17553(a), 17558.7(g) and 17558.8(b), Government
18 Code. Reference: Sections 17551, 17553(a), 17557(~~e~~), 17571, 17615.1, 17615.4, 17615.7,
19 17615.8 and 17615.9, Government Code.

20 **§ 1187.2. Assignment to Hearing Panels/Hearing Officers.**

21 (a) After an informational hearing, in accordance with Article 8 of these regulations, the
22 Commission's chairperson may assign a matter before the Commission to a hearing panel
23 consisting of one or more members or to a hearing officer for hearing and preparation of a
24 proposed decision that may be adopted as the decision in the case.

25 (b) Assignments by the Commission chairperson of members on hearing panels shall be rotated
26 among the members with the composition of the members so assigned being varied and changed
27 to assure that there shall never be a fixed and continued composition of members.

28 (c) A matter shall be heard and decided by the Commission itself at the request of any two
29 members of the Commission.

30 Note: Authority cited: Sections 17527(c), 17527(g) and ~~17533~~17553(a), Government Code.
31 Reference: Sections 17532, and 17551, ~~17553 (a), 17557(e), 17571, 17615.1, 17615.4, 17615.7,~~
32 ~~17615.8 and 17615.9~~, Government Code.

33 **§ 1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.**

34 (a) Any party may ask that a matter be heard by the Commission itself rather than by a hearing
35 panel or hearing officer.

36 (b) Any party may request the disqualification of any hearing officer or Commission member
37 before the taking of evidence at a hearing by filing an affidavit stating with particularity the
38 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the
39 request concerns a Commission member, the issue shall be determined by the other members of
40 the Commission. Where the request concerns the hearing officer, the issue shall be determined

1 by the Commission itself, if the Commission itself hears the case with the hearing officer;
2 otherwise the issue shall be determined by the hearing officer.

3 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:
4 Sections 17527, 17532, and 17551, ~~17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7,~~
5 ~~17615.8 and 17615.9,~~ Government Code.

6 **§ 1187.4. Informal Conference.**

7 (a) An informal conference may be scheduled by the Commission or the executive director of
8 their own accord or by request of a party or interested party to the matter in question. The parties
9 and interested parties to the matter shall be invited to participate. With the consent of the parties,
10 the informal conference may be a teleconference.

11 (b) At least 10 days before any informal conference, Commission staff shall serve notice of the
12 conference to those on the mailing list for the matter in question as established pursuant to
13 section 1181.4 of these regulations.

14 (c) The purpose of an informal conference may be to:

15 (1) Set dates for receiving comments or claimant rebuttal; completing the proposed decision; and
16 hearing the matter.

17 (2) Give the claimant or requester the opportunity to present the matter and to respond to
18 questions from Commission staff and parties and interested parties for the purpose of resolving
19 or clarifying issues of fact or law.

20 (3) Consider whether a reasonable reimbursement methodology may be developed and included
21 in the parameters and guidelines.

22 (4) Review a draft reasonable reimbursement methodology and proposed statewide estimate of
23 costs that are jointly prepared by the test claimant and the Department of Finance pursuant to
24 Government Code section 17557.1.

25 (5) Identify issues and determine methods of resolving those issues.

26 (d) Any party may notify the executive director of any interested parties who should be invited
27 to attend an informal conference.

28 (e) Anything said, any document disclosed, and any new representations of fact made during an
29 informal conference shall not be made part of the administrative record of a test claim unless
30 properly admitted into the record through the submission of an amendment to a test claim,
31 written comment, rebuttal, or public testimony.

32 Note: Authority cited: Sections 17527(g), 17553(a), Government Code. Reference: Sections
33 17518.5, ~~17527(e),~~ 17530, 17551, 17553(a) and 17557.1, Government Code.

34 **§ 1187.5. Evidence Submitted to the Commission.**

35 (a) The hearings will not be conducted according to technical rules relating to evidence and
36 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on
37 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and
38 unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of
39 supplementing or explaining other evidence but shall not be sufficient in itself to support a
40 finding unless it would be admissible over objection in civil actions.

1 (b) Oral or written representations of fact offered by any person at an article 7 hearing shall be
2 under oath or affirmation. All written representations of fact submitted to the Commission must
3 be signed under penalty of perjury by persons who are authorized and competent to do so and
4 must be based upon the declarant's personal knowledge or information or belief.

5 (c) Official notice may be taken in the manner and of the information described in Government
6 Code Section 11515.

7 (d) Each party shall have the right to present witnesses, introduce exhibits, and propose to the
8 chairperson questions for opposing witnesses. Evidence may be submitted to support or rebut
9 any issue. If declarations are to be used in lieu of testimony, the party proposing to use the
10 declaration shall comply with Government Code Section 11514.

11 Note: Authority ~~and reference~~ cited: Sections 17527(g), Government Code. Reference: Sections
12 11514, 11515, 17527(e), 17553, and 17557, ~~17610, 17621 and 17622,~~ Government Code.

13 **§ 1187.6. Conduct of Hearing.**

14 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose to
15 the chairperson questions for opposing witnesses in support or rebuttal of any matter relevant to
16 the issues even though that matter was not covered in the direct examination.

17 (b) The presiding member, Commission members, hearing panel member or hearing officer may
18 question any party or witness and may admit any relevant and material evidence.

19 (c) The taking of evidence in a hearing shall be controlled by the Commission or hearing officer
20 in the manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to
21 taking evidence, the issues and the order of presenting evidence will be explained.

22 (d) The hearing will ordinarily proceed in the following manner. Staff of the Commission will
23 summarize the matter. The claimant will state its position and present its evidence. The
24 Department of Finance or other affected state agency will thereafter state its position and present
25 its evidence. The claimant will then be given an opportunity to reply.

26 (e) The Commission or hearing officer may call a party, or any other person who is present, to
27 testify under oath or affirmation. Any member of the Commission, its executive director, or
28 hearing officer may question witnesses.

29 (f) The Commission or the executive director may require that prepared written testimony or
30 other evidence be submitted in advance of any hearing, for the purpose of facilitating the orderly
31 consideration of issues at the hearing.

32 (g) Commission public hearings shall be recorded by stenographic reporter or electronic
33 recording or both. The transcript or recordings shall be kept for the period of time required by
34 applicable law governing the retention of records of state agency public proceedings, or until
35 conclusion of administrative or judicial proceedings, whichever is later.

36 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
37 17527(c), 17532, 17551, and 17553(a), ~~and 17555,~~ Government Code.

38 **§ 1187.7. Witnesses and Subpoenas.**

39 (a) A party shall arrange for the presence of its own witnesses at a hearing on a claim.

1 (b) A subpoena may be issued upon a majority vote of the Commission. A party requesting a
2 subpoena shall submit a written application to the Commission at least six weeks prior to the
3 Commission meeting at which the request will be considered.

4 (c) An application for a subpoena to compel the attendance of a witness shall be made by
5 affidavit and shall give the name and address of the person to be subpoenaed, shall describe the
6 matters to be testified on, shall set forth in detail the relevance to the issues involved in the claim,
7 shall specify the date, time and place of the hearing on the claim and that, to the best of the
8 applicant's personal knowledge or information or belief, the person to be subpoenaed has
9 knowledge of the matters. If the applicant is unable to obtain the name of the person who has
10 knowledge of the matters, the name of the director of the state or local agency or superintendent
11 of a school district may be used for the application.

12 (d) An application for subpoena duces tecum for the production by a witness of books, papers,
13 correspondence, memoranda, or other records, including records of the claimant, shall be made
14 by affidavit and shall give the name and address of the person to be subpoenaed, shall describe
15 the matters or things desired to be produced, shall set forth in detail the relevance to the issues
16 involved in the claim, shall specify the date on which the matters shall be produced, and that, to
17 the best of the applicant's personal knowledge or information or belief, the witness has the
18 matters or things in his or her possession or under his or her control and that none of the matters
19 or things desired to be produced are public records accessible to the public pursuant to Section
20 6250 et seq., of the Government Code. If the applicant is unable to obtain the name of the person
21 who has possession or control of the matters or things desired to be produced, the name of the
22 director or superintendent or custodian of records of the state or local agency or school district
23 may be used for the application.

24 (e) When a request for subpoena or subpoena duces tecum is approved by the Commission, the
25 subpoena or subpoena duces tecum shall be issued signed by the executive director, but
26 otherwise be blank.

27 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces tecum shall
28 be completed by the requesting party, and the name, address, and telephone number of the
29 requesting party shall be included on the form. Service of subpoenas and subpoenas duces tecum
30 shall be made with a copy of the affidavit and shall be arranged for by requesting parties.

31 (g) Except as otherwise provided in this section, service of subpoenas or subpoenas duces tecum
32 shall be in accordance with the provisions of Section 1985 et seq. of the Code of Civil Procedure.

33 | Note: Authority cited: Sections [17527\(g\)](#) and [17553\(a\)](#), Government Code. Reference: Sections
34 [17527\(d\)](#), [17551](#) and [17553\(a\)](#), Government Code.

35 **§ 1187.8. Representation at Hearing.**

36 (a) A party may appear in person or through an authorized representative.

37 (b) A representative of a party shall be deemed to control all matters respecting the interest of
38 that party in the proceeding.

39 (c) Withdrawal of appearance of any representative may be effected by filing and serving a
40 written notice of withdrawal in accordance with section 1181.3 of these regulations.

1 | Note: Authority ~~and reference~~ cited: Sections 17527(g) and 17553(a), Government Code.
2 | Reference: Sections 17527(c), 17551, 17553, ~~17555, 17620, 17621 and 17622~~, Government
3 | Code.

4 | **§ 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and**
5 | **Continuances of Hearings.**

6 | (a) Requests for Extensions of Time

7 | Any party or interested party to a matter may request an extension of time by filing a request
8 | with the executive director before the date set for filing of comments or rebuttals with
9 | Commission staff on that matter. The request shall fully explain the reasons for the extension,
10 | propose a new date for filing, and be simultaneously served in accordance with section 1181.3 of
11 | these regulations. So long as a postponement of a hearing would not be required, there is no
12 | prejudice to any party or interested party, and there is no other good reason for denial, the
13 | request shall be approved. A party to a matter may request an extension of time that would
14 | necessitate rescheduling a hearing, but shall also include a request for postponement of the
15 | hearing, pursuant to section 1187.9(b). Within two business days of receipt of the request, the
16 | executive director shall determine whether the extension will be granted and notify all persons on
17 | the mailing list prepared pursuant to section 1181.4 of these regulations.

18 | (b) Requests for Postponement of Hearing

19 | A party to an article 7 matter may request a postponement of a hearing on that matter, until the
20 | next regularly scheduled hearing. Although postponements of hearings are disfavored, each
21 | request for a postponement must be considered on its own merits. The request shall fully explain
22 | the reasons for the postponement, and be filed and served in accordance with section 1181.3 of
23 | these regulations. Within two business days of receipt of the request, the executive director shall
24 | determine whether the postponement will be granted and notify all persons on the mailing list
25 | prepared pursuant to section 1181.4 of these regulations. The executive director may postpone
26 | the matter only on an affirmative showing of good cause.

27 | (1) Circumstances that may indicate good cause include:

28 | (A) The unavailability of a party, party representative, or witness because of death, illness, or
29 | other excusable circumstances;

30 | (B) The substitution of a party representative, but only where there is an affirmative showing that
31 | the substitution is required in the interests of justice;

32 | (C) The addition of a new party if:

33 | 1. The new party has not had a reasonable opportunity to prepare for hearing; or

34 | 2. The other parties have not had a reasonable opportunity to prepare for hearing in regard to the
35 | new party's involvement in the matter;

36 | (D) A party's excused inability to obtain essential testimony, documents, or other material
37 | evidence despite diligent efforts;

38 | (E) A significant, unanticipated change in the status of the matter as a result of which the matter
39 | is not ready for hearing; or

- 1 (F) The number and complexity of the issues ~~in the proposed decision or in comments filed on~~
2 ~~the matter.~~
- 3 (2) Other factors to be considered: In determining whether to grant a postponement, the
4 executive director shall consider the facts and circumstances that are relevant to the
5 determination. These may include:
- 6 (A) The proximity of the hearing date;
- 7 (B) Whether there was any previous postponement, extension of time, or delay of hearing due to
8 any party;
- 9 (C) The length of the postponement requested;
- 10 (D) The availability of alternative means to address the problem that gave rise to the request for a
11 postponement;
- 12 (E) The prejudice that parties or witnesses will suffer as a result of the postponement;
- 13 (F) If the matter was granted expedited scheduling, the reasons for that status and whether the
14 need for a postponement outweighs the need to avoid delay;
- 15 (G) The Commission's backlog of matters and the impact of granting a postponement on other
16 pending matters;
- 17 (H) Whether the claimant or requester representative is engaged in a trial or other hearing that
18 conflicts with the Commission hearing;
- 19 (I) Whether, pursuant to Government Code 17554, all parties have stipulated to a postponement;
20 and
- 21 (J) Whether the interests of justice are best served by a postponement, by moving forward with
22 the hearing on the matter, or by imposing conditions on the postponement.
- 23 (3) Approval of Requests for Postponement
- 24 (A) A request filed by the claimant or requester at least 15 days before the hearing shall be
25 approved by the executive director for good cause.
- 26 (B) A request filed by stipulation of the parties, including the claimant or requester, shall be
27 approved by the executive director for good cause.
- 28 (C) A request filed by the claimant or requester less than 15 days before the hearing may be
29 approved by the executive director for good cause.
- 30 (D) A request filed by an interested party may be approved by the executive director for good
31 cause. If a state agency makes a request before filing comments on the test claim, that request
32 shall be accompanied by a notice of intent to oppose the test claim in whole or in part.
- 33 (4) Postponement on Commission Staff's Own Motion: The executive director may postpone a
34 hearing on a matter for good cause and shall notify all persons on the mailing list prepared
35 pursuant to section 1181.4 of these regulations.
- 36 (c) Continuance of a Hearing
- 37 (1) Prior to the adoption of its written decision on the matter being heard, the Commission on its
38 own motion, or upon a clear showing of good cause at the request of a party, may continue a

1 hearing to another time or place. Written notice of the time and place of the continued hearing,
2 except as provided herein, shall be in accordance with section 1187.1 of these regulations. When
3 a continuance is ordered during a hearing, oral notice of the time and place of the continued
4 hearing may also be given to each party present at the hearing.

5 (2) In determining whether there is good cause for a continuance within the meaning of
6 subdivision (a) the following policy should be taken into consideration: Continuances are not
7 favored by the Commission. The parties are expected to submit for decision all matters in
8 controversy at a single hearing and to produce at the hearing all necessary evidence, including
9 witnesses, documents and all other matters considered essential in the proof of a party's
10 allegations. Continuances will be granted only upon a clear showing of good cause.

11 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
12 17527, ~~17532~~, 17551, and 17553(a), ~~17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and~~
13 ~~17615.9~~, Government Code; California Rules of Court, Rule 3.1332.

14 **§ 1187.10. Decision; Action on Proposed Decision.**

15 (a) The Commission shall adopt a decision for all matters subject to hearings and decisions under
16 article 7 of these regulations.

17 (b) If a matter is heard before the Commission itself, the Commission may adopt the proposed
18 decision on the same day as the hearing.

19 (c) If a matter is heard by a hearing panel or a hearing officer alone, the panel or hearing officer
20 shall prepare a proposed decision that may be adopted as the decision of the Commission at the
21 next Commission meeting.

22 (d) A copy of the proposed decision shall be filed by Commission staff as a public record and a
23 copy of the proposed decision shall be served by Commission staff on each party. The
24 Commission itself may adopt the proposed decision or decide the case itself, provided that the
25 Commission itself shall decide no matters provided for in this subdivision without affording the
26 parties the opportunity to present either oral or written argument before the Commission.

27 (e) If the proposed decision of Commission staff is not adopted by the Commission, as provided
28 in subsections (b) or (c), the Commission shall direct appropriate modification of the proposed
29 decision and thereafter adopt it as the Commission's decision.

30 (f) Except as provided for in subdivision (b), the proposed decision shall be prepared within a
31 reasonable time following submission of the matter to the hearing officer or panel, and within a
32 reasonable time after the evidentiary hearing. It shall be served on the parties promptly
33 thereafter.

34 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
35 17532, 17551, and 17553(a), ~~17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9~~,
36 Government Code.

37 **§ 1187.11. Form of Decision.**

38 (a) Any decision adopted pursuant to evidence introduced at an adjudicatory hearing shall be in
39 writing, be based on the record, and shall include a statement of reasons for the decision,
40 findings and conclusions. A copy of the decision shall be served on those identified on the

1 mailing list established pursuant to section 1181.4 of these regulations. The effective date of the
2 decision is the date it is first mailed or served.

3 (b) After a decision has been adopted and served, it shall not be changed except to correct
4 clerical errors, in which case a corrected decision shall be prepared and served on all persons on
5 the mailing list prepared pursuant to section 1181.4 of these regulations.

6 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code and Topanga
7 Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506. Reference:
8 Sections ~~17532~~, 17551, and 17553(a), ~~17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and~~
9 ~~17615.9~~, Government Code.

10 **§ 1187.12. Withdrawal of a Matter.**

11 A matter, or any portion of a matter, other than a test claim, may be withdrawn by written
12 application of the claimant or requester any time before a decision is adopted, or by oral
13 application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the
14 claimant upon written application to the executive director any time before a decision is adopted
15 or after enactment of a legislatively determined mandate on the same statute or executive order
16 pursuant to Government Code section 17574. The claimant or requester shall file and serve the
17 written application in accordance with section 1181.3 of these regulations. Dismissal of items
18 withdrawn pursuant to this section shall be in accordance with the procedures described in
19 section 1187.15 of these regulations.

20 Note: Authority cited: Sections 17527(g), and 17553(a), ~~17573 and 17574~~, Government Code.
21 Reference: Sections ~~17530~~, 17551, and 17553, ~~17557, 17571, 17573, 17574, 17615.1, 17615.4,~~
22 ~~17615.7, 17615.8 and 17615.9~~, Government Code.

23 **§ 1187.13. Abandonment of a Matter.**

24 (a) The executive director may deem a matter "abandoned" if any of the following events occurs:

25 (1) The claimant does not respond, within 60 days of service, to a written notification sent to the
26 superintendent of the school district or chief administrative officer of the local agency or director
27 of a state agency that the matter will be deemed "abandoned."

28 (2) The claimant or requester provides written notification to the Commission of its withdrawal
29 from a test claim.

30 (3) The matter has been postponed or placed on inactive status by the claimant or requester for a
31 period of more than one year. However, delays or postponements under the following
32 circumstances will not be considered for purposes of computing whether a matter has been
33 postponed or placed on inactive status by the claimant for more than one year:

34 (A) Delays or postponements made at the request of the Commission or opposing party to the
35 claim or request;

36 (B) Delays or postponements, made at the request of the claimant or requesting party, pending
37 the resolution of a matter currently before the Commission of an issue similar to or related to the
38 postponed matter; and

39 (C) Delays or postponements, made at the request of the claimant or requesting party, pending
40 the resolution of litigation of an issue similar to or related to the postponed matter.

1 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
2 17530 and 17553(a), Government Code.

3 **§ 1187.14. Substitution of Parties and Dismissal of a Matter.**

4 (a) A matter, other than a test claim, that has been withdrawn in accordance with
5 ~~1187.13~~ 1187.12 or deemed abandoned in accordance with section ~~1187.4~~ 1187.13, may be
6 dismissed by the executive director. Commission staff shall provide written notice of dismissal
7 to everyone on the mailing list for the matter to be dismissed.

8 (b) A test claim that has been withdrawn or deemed abandoned may be dismissed by the
9 Commission on its own motion or by a motion of a party after notice and an opportunity to be
10 heard has been made to the claimant, parties and interested parties as provided below.

11 (1) For test claims that are withdrawn ~~or~~, deemed abandoned, or filed by an agency that is not
12 eligible to seek reimbursement because it is not subject to the taxing and spending limitations of
13 article XIII A and B of the California Constitution, Commission staff shall serve written notice to
14 initiate dismissal of the test claim to everyone on the mailing list for the matter. The notice shall
15 announce that another local agency or school district may take over the claim by substitution of
16 parties within 60 days of the issuance of the notice. The notice shall also announce the
17 opportunity to provide written comments on the proposed dismissal of the test claim. A copy of
18 the notice shall also be posted on the Commission's website.

19 (2) Written comments shall be filed and served in accordance with section 1181.3 of these
20 regulations.

21 (3) If no other local agency or school district takes over the test claim by substitution of parties
22 within 60 days of the issuance of the notice, the Commission shall hear the proposed dismissal of
23 the test claim.

24 (c) The hearing on a dismissal of a matter shall be conducted in accordance with article 7 of
25 these regulations.

26 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:
27 Sections ~~17525, 17527(e), 17532,~~ 17551, 17553(a), ~~17557(e), 17571, 17615.1, 17615.4, 17615.7,~~
28 ~~17615.8 and 17615.9,~~ Government Code.

29 **§ 1187.15. Reconsideration of a ~~Prior Final~~ Adopted Decision.**

30 (a) Notwithstanding section 1187.11(b) of these regulations, the Commission may make
31 substantive changes to an ~~prior final~~ adopted decision under this section or order a
32 reconsideration of all or part of a matter on petition of any party. The power to order a
33 reconsideration or amend a test claim decision shall expire 30 days after the ~~statement of~~ adopted
34 decision is delivered or mailed to the claimant. If additional time is needed to evaluate a petition
35 for reconsideration filed before the expiration of the 30-day period, the Commission may grant a
36 stay of that expiration for no more than 30 days, solely for the purpose of considering the
37 petition. A request for reconsideration shall be deemed automatically stayed for the 30-day
38 period. If no action is taken on a petition within the time allowed for ordering reconsideration,
39 the petition shall be deemed denied.

- 1 (b) Except as provided elsewhere in this section, any party, interested party, ~~affected state~~
2 ~~agency~~, or Commission member may request that the Commission reconsider and change an
3 adopted decision ~~and change a prior final decision~~ to correct an error of law.
- 4 (c) All requests for reconsideration shall be submitted to the Commission in accordance with
5 section 1181.3 of these regulations and shall contain the following:
- 6 (1) The name and address of the requesting party;
- 7 (2) A copy of the Commission's ~~prior final~~adopted decision;
- 8 (3) A detailed statement of the reasons for the request, including:
- 9 (A) An explanation of the reasons for the request for reconsideration; and,
- 10 (B) All documentation the requester intends to submit to support the request;
- 11 (4) A description of the proposed change ~~to be made in the prior final decision~~; and
- 12 (d) Commission member requests may be made orally during a regularly scheduled Commission
13 meeting. Commission staff shall prepare the written request, as specified in subsections (c)(1-4)
14 above.
- 15 (e) Any signatory to a written agreement that settles a matter may not request reconsideration of
16 that matter if the matter is settled with prejudice.
- 17 (f) Before the Commission considers the request for reconsideration, Commission staff shall
18 prepare a written analysis regarding whether the adopted decision is contrary to law which shall
19 include but not be limited to a review of the written comments filed by other state agencies,
20 interested parties, and the requester. Commission staff shall make a ~~and~~ recommendation in the
21 analysis on whether the request for reconsideration should be granted. The Commission shall
22 consider the request for reconsideration at a scheduled meeting. Five affirmative votes shall be
23 required to grant the request for reconsideration.
- 24 (g) If the Commission grants the request for reconsideration, a hearing shall be conducted to
25 determine if the ~~prior final~~adopted decision in question is contrary to law and to
26 must be revised to correct an error of law.
- 27 (1) The following procedures shall govern the Commission's ~~review~~reconsideration of the ~~prior~~
28 ~~final~~adopted decision:
- 29 ~~(A) Before the Commission considers whether a prior final decision is contrary to law,~~
30 ~~Commission staff shall prepare a written analysis regarding whether the prior final decision is~~
31 ~~contrary to law which shall include but not be limited to a review of the written comments filed~~
32 ~~by other state agencies, interested parties, and the requester. Commission staff analysis shall~~
33 ~~describe the request for reconsideration and assist the Commission in determining whether the~~
34 ~~prior final decision is contrary to law.~~
- 35 ~~(B)~~ At least eight weeks before the Commission is scheduled to consider whether an prior
36 finaladopted decision is contrary to law, or at another time required by the executive director,
37 Commission staff shall prepare a draft ~~staff analysis~~proposed decision and distribute it to those
38 identified on the mailing list for the matter established pursuant to section 1181.4 of these
39 regulations the requester, interested parties, affected state agencies, and any person who requests
40 a copy.

1 | (~~EB~~) Written comments may be filed with Commission staff concerning the draft proposed
2 | decision. All representations of fact shall be supported by documentary evidence in accordance
3 | with section 1187.5 of these regulations. Written comments shall be filed and served in
4 | accordance with section 1181.3 of these regulations. A three-week period for comments shall be
5 | given, subject to the executive director's authority to expedite all matters pursuant to
6 | Government Code section 17530. All written comments timely filed shall be reviewed by
7 | Commission staff and may be incorporated into the ~~written analysis~~proposed decision regarding
8 | whether the ~~prior final~~adopted decision is contrary to law and presented to the Commission
9 | before the scheduled meeting.

10 | (2) The procedures set forth in article 7 shall govern the Commission's hearings and decisions
11 | process, except that five affirmative votes shall be required to change an ~~prior final~~adopted
12 | decision.

13 | (h) If the Commission changes an ~~prior final~~adopted decision, the procedures set forth in
14 | Sections 1183.7 through 1183.14 of these regulations shall govern the adoption of parameters
15 | and guidelines and the statewide cost estimate, if applicable.

16 | (i) Failure to seek Commission reconsideration of an ~~prior final~~adopted decision shall not affect a
17 | claimant's or state agency's right to seek judicial review pursuant to Government Code section
18 | 17559 (b).

19 | (j) This section only applies to reconsiderations requested pursuant to Government Code section
20 | 17759 (a); it does not apply to remands or reconsiderations directed by the courts or by statute.

21 | Note: Authority cited: Sections ~~17500~~, 17527(c) and (g), 17553(a) and 17559(a), Government
22 | Code. Reference: Sections 17532, 17551 and 17559, Government Code.

23 | **Article 8. Rulemaking and Informational Hearings**

24 | **§ 1188.1. Scheduling and Noticing of an Informational Hearing**

25 | (a) The Commission may, upon its own motion, set an informational hearing on any subject
26 | within its jurisdiction. Matters subject to informational hearings under article 8 of these
27 | regulations include: a proposed assignment of an article 7 matter to a hearing officer, a
28 | rulemaking proceeding, the adoption of a statewide cost estimate, and any other subject that
29 | meets the definition of "informational hearing" in section 1181.2 of these regulations and is not
30 | subject to hearings under article 7 of these regulations.

31 | (b) An article 8 matter is set for hearing when Commission staff issues its notice and agenda
32 | providing the date, time, and place of the hearing to everyone on the mailing list described in
33 | section 1181.4 of these regulations.

34 | (c) Commission staff shall provide notice of an informational hearing in accordance with
35 | Government Code section 11120 et seq. The notice shall include the following:

36 | (1) A statement of the authority pursuant to which the hearing is ordered, and a reference to any
37 | code sections or other provisions of law pursuant to which the information is to be gathered or
38 | disseminated;

39 | (2) A statement of the nature and purpose of the proceedings;

- 1 (3) A statement requiring the presence and participation of any persons the Commission may
- 2 direct, consistent with the nature and purpose of the proceedings;
- 3 (4) A statement indicating the time during which written comments will be received and the
- 4 manner by which the comments shall be filed;
- 5 (5) A statement that any person may make oral comments on the subject of the hearing; and
- 6 (6) A statement setting forth additional procedures deemed necessary by the Commission and not
- 7 inconsistent with these regulations.

8 Note: Authority cited: Sections 17527(c) and 17527(g), Government Code. Reference: Sections
9 ~~11125, 17525~~, 17527(c) and 17532, Government Code.

10 **§ 1188.2. Rulemaking.**

11 (a) Petitions:

12 (1) Any person may petition the Commission to request rulemaking hearings. The petition shall
13 be filed and served in accordance with section 1181.3 of these regulations and shall include:

- 14 (A) The name, address, and telephone number of the petitioner;
- 15 (B) The substance or nature of the regulation, amendment, or repeal requested;
- 16 (C) The reasons for the request; and
- 17 (D) Reference to the authority of the Commission to take the action requested.

18 (2) The petition shall be filed with the executive director who shall, within seven days after its
19 filing, determine whether the petition contains the information specified in subsection (1).

20 (A) If the executive director determines that the petition is complete, it shall be certified in
21 writing as complete and the petitioner shall be so notified.

22 (B) If the executive director determines that the petition is not complete, it shall be returned to
23 the petitioner accompanied by a statement of its defects. The petitioner may correct the petition
24 and resubmit it at any time.

25 (3) Upon certification by the executive director, the Commission shall, within 60 days from the
26 filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the
27 petition, directing staff to prepare an appropriate order pursuant to subdivision (b) of this section.

28 (b) Commission Order to Institute a Rulemaking Proceeding. The Commission may, upon its
29 own motion or upon granting a petition filed pursuant to subdivision (a) of this section, adopt an
30 order to institute a rulemaking proceeding in accordance with the procedures of Government
31 Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

32 (c) Notice.

33 (1) Notice of a rulemaking proceeding shall be given in accordance with Government Code
34 section 11346.4.

35 (2) At least 10 days prior to the first hearing in a proceeding ordered pursuant to subdivision (b)
36 of this section, the executive director shall cause notice of the hearing to be mailed to every
37 person requested to participate in the proceedings, and to any person who the executive director

1 determines to be concerned with the subject matter of the proceeding, and shall post a copy of
2 the notice on the Commission's website.

3 (3) In addition to the requirements of subsections (c)(1) and (2) of this section, notice of
4 additional hearing shall be required at least 10 days prior to the commencement of the hearing
5 unless continuation is orally announced in a public hearing.

6 (4) Nothing in this section shall preclude the Commission from publishing notice in additional
7 forms or media as the executive director may prescribe.

8 (5) A copy of the order adopted pursuant to subdivision (b) of this section shall accompany the
9 initial notice prepared and mailed pursuant to this section, unless a copy of the order has been
10 previously mailed to those persons who would receive the notice.

11 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11340.6,
12 | ~~11340.7, 11347, 11347.1, 11346.2, 11346.4, 11346.8, 11346.9~~, 17527(c) and (g), 17530, 11346.4,
13 and 17551, Government Code.

14 **Article 10. Mandate Redetermination Process**

15 **§ 1190.1. Filing a Request to Adopt a New Test Claim Decision.**

16 (a) A local agency or a school district, statewide association of local agencies or school districts,
17 the Department of Finance, Office of the State Controller, or other affected state agency, may file
18 a request to adopt a new test claim decision to supersede a previously adopted test claim decision
19 by making a showing that the state's liability pursuant to Article XIII B, section 6 (a) of the
20 California Constitution for the previously adopted test claim decision has been modified based
21 on a "subsequent change in law" as defined by Government Code section 17570(a)(2). Such a
22 request is known as a "request for mandate redetermination."

23 (b) All requests for mandate redetermination shall be filed on a form developed by the executive
24 director and shall contain a detailed analysis of how and why the state's liability for mandate
25 reimbursement has been modified pursuant to article XIII B, section 6(a) of the California
26 Constitution and all of the elements and accompanying documents required by the form and
27 Government Code section 17570(d).

28 (c) The detailed analysis of how and why the state's liability for mandate reimbursement has
29 been modified pursuant to article XIII B, section 6 (a) of the California Constitution based on a
30 "subsequent change in law" as defined by Government Code section 17570 requires more than a
31 written narrative or simple statement of the facts and law. It requires the application of the law
32 (Gov. Code § 17570 (a) and (b)) to the facts (i.e. the alleged subsequent change in law)
33 discussing, for each activity addressed in the prior test claim decision, how and why the state's
34 liability for that activity has been modified. Specific references shall be made to statutes and
35 chapters, articles, sections, and page numbers that are alleged to impose or not impose a
36 reimbursable state-mandated program.

37 (d) The requester shall file a request for mandate redetermination and accompanying documents
38 with the Commission in accordance with section 1181.3 of these regulations.

39 (e) Within 10 days of receipt of a request for mandate redetermination, Commission staff shall
40 notify the requester if the request is complete or incomplete and refer the requester to these
41 regulations. Requests for mandate redetermination shall be considered incomplete if any of the

1 elements required in subdivisions (b), (c), or (d) of this section are illegible or are not included. If
2 a complete request for mandate redetermination is not received within 30 calendar days from the
3 date the incomplete request was returned, the executive director shall disallow the original
4 request filing date. New requests for mandate redetermination may be accepted on the same
5 subsequent change in law alleged to modify the state's liability pursuant to article XIII B, section
6 6(a) of the California Constitution.

7 (f) A request for mandate redetermination shall be filed on or before June 30 following a fiscal
8 year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal
9 year.

10 (g) A requester may not add a new subsequent change in law to a request for mandate
11 redetermination after the request has been deemed complete.

12 (h) Any request for mandate redetermination that fails to allege a "subsequent change in law," as
13 defined by Government Code section 17570, shall be returned by the executive director with a
14 written notice stating the reason that the request is being returned. These filings may include, but
15 are not limited to, requests that meet the requirements for a proposed parameters and guidelines
16 amendment or a new test claim filing.

17 | Note: Authority cited: Sections 17527(g), [17553\(a\)](#), and 17570(d) Government Code. Reference:
18 Sections 17530 and 17570 Government Code.

19 **§ 1190.2. Review and Response.**

20 (a) Within 10 days of receipt of a complete request for mandate redetermination, Commission
21 staff shall send a written notice to the Department of Finance, Office of the State Controller, any
22 affected state agency, the original test claimant, and any known interested party, that:

23 (1) A copy of the request for mandate redetermination has been posted on the Commission's
24 website, and

25 (2) Written comments concerning the request for mandate redetermination may be filed within
26 30 days and evidence may also be presented at the hearing on the request for mandate
27 redetermination.

28 (b) Content and Form. Written comments on the request for mandate redetermination shall
29 contain the following documentary evidence, if applicable:

30 (1) If representations of fact are made, they must be supported by documentary evidence which
31 shall be submitted with the response. All documentary evidence shall be authenticated by
32 declarations under penalty of perjury signed by persons who are authorized and competent to do
33 so and must be based on the declarant's personal knowledge or information or belief.

34 (2) A copy of relevant portions of state constitutional provisions, state and federal statutes, and
35 executive orders, and a copy of administrative decisions and court decisions that may impact the
36 alleged mandate, unless the authorities are also cited in the request to adopt a new test claim
37 decision. The specific statutes and chapters, articles, sections, and page numbers must be
38 identified. Published court decisions arising from state mandate determinations by the Board of
39 Control and the Commission, article XIII B, section 6 of the California Constitution, and
40 Government Code sections 17500 et seq. are exempt from the requirements of this subsection.
41 When an omnibus bill is relevant to the response, only the relevant pages of the statute, including
42 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

1 (c) The written comments and supporting documentation shall be signed at the end of the
2 document, under penalty of perjury by an authorized representative, with the declaration that it is
3 true and complete to the best of the representative's personal knowledge or information or belief.
4 The date of signing, the representative's title, address, telephone number and e-mail address shall
5 be included.

6 (d) Filing. Written comments and supporting documentation concerning a request for mandate
7 redetermination shall be filed and served in accordance with Section 1181.3 of these regulations.
8 Any representations of fact shall be supported by documentary evidence, submitted with the
9 comments, in accordance with section 1187.5 of these regulations.

10 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d), Government Code. Reference:
11 Sections ~~17530, and~~ 17570, Government Code.

12 **§ 1190.3. Rebuttal.**

13 (a) Parties and interested parties shall be given an opportunity to rebut written comments
14 concerning a request for mandate redetermination by filing written rebuttals within 30 days of
15 service of the comments.

16 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if
17 applicable:

18 (1) If new representations of fact are made, they must be supported by documentary evidence
19 which shall be submitted with the rebuttal in accordance with section 1187.5 of these regulations.

20 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
21 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,
22 unless the authorities are also cited in the request to adopt a new test claim decision or any
23 response thereto. The specific statutes and chapters, articles, sections, and page numbers shall be
24 identified. Published court decisions arising from state mandate determinations by the Board of
25 Control and the Commission, article XIII B, section 6 of the California Constitution, and
26 Government Code sections 17500 et seq. are exempt from the requirements of this subsection.
27 When an omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including
28 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

29 (c) The rebuttal to a comment concerning a request for mandate redetermination shall be filed
30 with Commission staff and served in accordance with section 1181.3 of these regulations.

31 (d) The rebuttal shall be signed at the end of the document, under penalty of perjury, with the
32 declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge
33 or information or belief. The date of signing, the declarant's title, address, and telephone number
34 and e-mail address shall be included.

35 Note: Authority cited: Sections 17527(g), 17553(a), and 17570(d), Government Code.
36 Reference: Sections ~~17530 and~~ 17570, Government Code.

37 **§ 1190.4. Executive Director's Authority to Consolidate Requests for Mandate**
38 **Redetermination.**

39 (a) The executive director may consolidate two or more requests for mandate redetermination for
40 the second hearing, if some or all of the same statutes, regulations or executive orders are at
41 issue, if necessary to ensure the complete, fair, or timely consideration of any request for

1 mandate redetermination.

2 (b) At least 10 days before the action is taken, the executive director shall serve on the parties
3 and interested parties on the mailing list described in section 1181.4 of these regulations, and
4 post on the Commission’s website, a notice of any proposed action to consolidate.

5 Note: Authority cited: Section 17527(g), 17553(a), and 17570(d), Government Code. Reference:
6 Sections 17530, 17554, and 17570, Government Code.

7 **§ 1190.5. Hearing Process and Form of Decision.**

8 Notwithstanding any other provision of these regulations, mandate redetermination process
9 hearings and decisions shall be subject to article 7 of these regulations. There shall be a two-step
10 hearing process for requests to adopt a new test claim decision as follows:

11 (a) The First Hearing:

12 (1) The first hearing shall be limited to the issue of whether the requester has made an adequate
13 showing which identifies a subsequent change in law as defined by Government Code section
14 17570, material to the prior test claim decision, that may modify the state’s liability pursuant to
15 article XIII B, section 6 (a) of the California Constitution. The Commission shall find that the
16 requester has made an adequate showing if it finds that the request, when considered in light of
17 all of the written comments and supporting documentation in the record of this request, has a
18 substantial possibility of prevailing at the second hearing.

19 (2) At least eight weeks before the hearing or at another time required by the executive director
20 or stipulated to by the parties, Commission staff shall prepare a ~~staff analysis~~draft proposed
21 decision and distribute it to the parties, interested parties, and any person who requests a copy,
22 and shall post it on the Commission’s website. A request for mandate redetermination is set for
23 the first hearing when Commission staff issues its draft ~~staff analysis~~proposed decision. A
24 written notice of the date, time, and place of the first hearing shall be served on everyone on the
25 mailing list described in section 1181.4 of these regulations and posted on the Commission’s
26 website.

27 (3) Written comments concerning the ~~staff-draft proposed decision analysis~~ may submitted to
28 Commission staff. Written comments shall be filed and served as described in section 1181.3 of
29 these regulations, by the date determined and publicized by the executive director. A three-week
30 period for comments shall be given, subject to the executive director's authority to expedite all
31 matters pursuant to Government Code section 17530. All written comments timely filed shall be
32 reviewed by Commission staff and may be incorporated into the ~~final written analysis~~proposed
33 decision of the request to adopt a new test claim decision.

34 (A) It is the Commission’s policy to discourage the introduction of late comments, exhibits, or
35 other evidence filed after the three-week comment period described in subdivision (a)(3) of this
36 section. The Commission need not rely on, and staff need not respond to, late comments,
37 exhibits, or other evidence submitted in response to a draft proposed decision.

38 (4) Before the first hearing on the request for mandate redetermination, Commission staff shall
39 prepare a proposed decision limited to the issue of whether the requester has made a showing
40 that identifies a subsequent change in law, material to the prior test claim decision, which may
41 modify the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution.
42 This proposed decision shall consider the request, written comment, rebuttals and supporting

1 documentation filed by the parties and interested parties. The proposed decision for the first
2 hearing shall find that the requester has made an adequate showing if staff finds that the request,
3 when considered in light of all of the written comments and supporting documentation in the
4 record of this request, has a substantial possibility of prevailing at the second hearing.

5 (5) If, at the first hearing, the Commission finds that:

6 (A) The requester has not made an adequate showing, when considered in light of all of the
7 written comments, rebuttals and supporting documentation in the record and testimony at the
8 hearing, that the request for mandate redetermination has a substantial possibility of prevailing at
9 the second hearing, the Commission shall publish a decision denying the request for mandate
10 redetermination.

11 (B) The requester has made an adequate showing, when considered in light of all of the written
12 comments, rebuttals and supporting documentation in the record and testimony at the hearing,
13 the Commission shall publish a decision finding that an adequate showing has been made and
14 setting the second hearing on whether the Commission shall adopt a new test claim decision to
15 supersede the previously adopted test claim decision.

16 (6) Everyone on the mailing list described in section 1181.4 of these regulations shall be
17 provided written notice that the Commission's decision has been posted on the Commission's
18 website and, if applicable, that the date, time, and place of the second hearing have also been
19 posted on the Commission's website.

20 (b) The Second Hearing:

21 (1) If the Commission proceeds to the second hearing, it shall consider whether the state's
22 liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified
23 based on the subsequent change in law alleged by the requester, thus requiring adoption of a new
24 test claim decision to supersede the previously adopted test claim decision. If the Commission
25 finds that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution
26 has been modified based on the subsequent change in law alleged by the requester, it shall adopt
27 a new decision that reflects the modified liability of the state.

28 (2) Before the second hearing, Commission staff shall prepare a proposed decision. At least
29 eight weeks before the hearing or at another time required by the executive director or stipulated
30 to by the parties, Commission staff shall prepare a draft proposed decision and distribute it to
31 everyone on the mailing list described in section 1181.4 of these regulations and post it on the
32 Commission's website. The proposed decision shall consider the request, and any written
33 comments and rebuttals and supporting documentation filed.

34 (3) Any party or interested party may file written comments concerning the draft proposed
35 decision with Commission staff. Written comments shall be filed and served as described in
36 Section 1181.3 of these regulations, by the date determined and publicized by the executive
37 director. A three-week period for comments shall be given, subject to the executive director's
38 authority to expedite all matters pursuant to Government Code section 17530. All written
39 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
40 proposed decision.

41 (A) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
42 other evidence filed after the three-week comment period described in subdivision (b)(3) of this

1 section. The Commission need not rely on, and staff need not respond to, late comments,
2 exhibits, or other evidence submitted in response to a draft proposed decision.

3 (4) If, at the second hearing, the Commission finds that the state’s liability pursuant to article
4 XIII B, section 6(a) of the California Constitution:

5 (A) has not been modified based on a subsequent change in law as defined by Government Code
6 section 17570 (a)(2), the Commission shall publish a decision denying the request.

7 (B) has been modified based on a subsequent change in law, as defined by Government Code
8 section 17570 (a)(2) the Commission shall adopt a new decision to supersede the prior decision.
9 The new decision shall be prepared in writing, based on the record, and shall include a statement
10 of reasons for the decision, findings, and conclusions.

11 (5) Everyone on the mailing list described in section 1181.4 of these regulations shall be
12 provided written notice that a copy of the decision has been posted on the Commission’s
13 website.

14 (6) After a decision or proposed decision has been served or posted on the Commission’s
15 website, it shall not be changed except to correct clerical errors, in which case a corrected
16 decision or proposed decision shall be prepared and posted on the Commission’s website.
17 Everyone on the mailing list described in section 1181.4 of these regulations shall be provided
18 written notice that a copy of the revised decision has been posted on the Commission’s website.

19 (7) If a new decision is adopted ~~which~~that finds that the State’s liability under article XIII B,
20 section 6 (a) of the California Constitution has been modified~~there are costs mandated by the~~
21 ~~state pursuant to article XIII B, section 6 (a) of the California Constitution~~, the amount and
22 method of reimbursement shall be redetermined in accordance with article 3 of these regulations.

23 | Note: Authority cited: Section 17527(g), 17553(a), and 17570(d), Government Code. Reference:
24 Sections 17530 and 17570, Government Code.