

COMMISSION ON STATE MANDATES

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January 4, 2005

Mr. Lawrence L. Hendee
Sweetwater Union High School District
1130 Fifth Avenue
Chula Vista, CA 91910-2896

And Affected State Agencies and Interested Parties (See Enclosed Mailing List)

RE: **Proposed Statewide Cost Estimate**
AIDS Prevention Instruction and AIDS Prevention Instruction II, 99-TC-07, 00-TC-01
Sweetwater Union High School District, Claimant
Education Code Section 51201.5, et al.

Dear Mr. Hendee:

The staff analysis and proposed statewide cost estimate for this program are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the staff analysis by **January 11, 2005**. Comments filed with the Commission are required to be simultaneously served on the parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) To request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1) of the Commission's regulations.

Hearing

This matter is set for hearing on **January 27, 2005**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

Mr. Hendee
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Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Tina Poole at (916) 323-8220 with questions.

Sincerely,

PAULA HIGASHI
Executive Director

Enclosure

ITEM 7

PROPOSED STATEWIDE COST ESTIMATE DRAFT STAFF ANALYSIS

Statutes, 1998, Chapter 403

Education Code Sections 51201.5, 51229.8,
51554 and 51553, Subdivision (b)(1)(A)

AIDS Prevention Instruction II (99-TC-07, 00-TC-01)

Sweetwater Union High School District, Claimant

EXECUTIVE SUMMARY

Summary of the Mandate

The *AIDS Instruction* program requires school districts to cooperatively plan and conduct in-service training for all teachers and school employees who provide AIDS prevention instruction, including salaries and benefits of resource teachers who instruct employees and students; to provide appropriate written notice explaining the purpose of the AIDS prevention instruction to each pupil's parent or guardian; and to participate in the selection and purchase of AIDS instructional materials. In 1993, the Commission on State Mandates (Commission) determined that this program was a state-mandated program.

The test claim legislation for the *AIDS Prevention Instruction II* program adds instructional content to the AIDS prevention instruction and altering the parent/guardian notification requirements.

The claimant, Sweetwater Union High School District filed the test claim on March 20, 2000. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Statewide Cost Estimate

The SCO provided unaudited claims totals to the Commission on July 9, 2004. The actual claims data showed that school districts filed eight claims between fiscal years 1998-1999 and 2003-2004. Because only two out of 1,086 districts filed these eight claims, Commission staff delayed preparing this statewide cost estimate in anticipation of more claims being filed. To date, no new claims have been filed.

Therefore, based on the data provided by the SCO, staff made the following assumptions:

- The statewide cost estimate is based on eight unaudited claims filed by two school districts.¹

¹ Claims data reported by the SCO as of December 2, 2004.

- The claiming data may be inaccurate. The Los Angeles Unified School District, which has an enrollment of 747,009 students, is claiming an average of \$3,362 per year for this program with the initial year claim of \$3,018. The Upland Unified School District, which has an enrollment of 13,585 students, is claiming an average of \$7,854 per year with the initial year claim of \$10,472. According to the claimant representative, the variance in claiming is due to controversial nature of sex education programs and the method of implementation from one district to another. The claimant representative indicated that the Los Angeles Unified School District may submit an amended claim; but to date, no amendments have been filed.
- The actual amount claimed will increase if late or amended claims are filed. Only two of the 1,086 school districts have filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until June 7, 2005.
- Significant numbers of late claims will not be filed because the cost to perform the reimbursable activities for *AIDS Prevention Instruction II* are minimal when compared to the costs already claimed for the original *AIDS Instruction* mandate and are less than the \$1,000 minimum for filing an annual reimbursement claim. The claimant representative verified this assumption, stating that it is unlikely that more claims will be filed because most school districts are unable to meet the \$1,000 minimum filing threshold.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

The proposed statewide cost estimate includes seven fiscal years for a total of \$44,622. This averages to \$6,375 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	1	\$3,018
1999-2000	1	\$2,942
2000-2001	1	\$4,834
2001-2002	1	\$2,849
2002-2003	2	\$13,735
2003-2004	2	\$8,499
2004-2005 (estimated)	N/A	\$8,745
Total	8	\$44,622

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$44,622** for costs incurred in complying with the *AIDS Prevention Instruction II* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

STAFF ANALYSIS

Background and Summary of the Mandate

On February 25, 1993, the Commission on State Mandates (Commission) determined that the provisions of Education Code sections 51201.5 and 51229.8, as added by Statutes 1991, chapter 818, impose a new program or higher level of service in an existing program on school districts, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission determined that the provisions of Education Code sections 51201.5 and 51229.8 require school districts to cooperatively plan and conduct in-service training for all teachers and school employees who provide AIDS prevention instruction, including salaries and benefits of resource teachers who instruct employees and students; to provide appropriate written notice explaining the purpose of the AIDS prevention instruction to each pupil's parent or guardian; and to participate in the selection and purchase of AIDS instructional materials. In July 1993, the Commission adopted the parameters and guidelines for the *AIDS Instruction* program.

On October 24, 2002, the Commission adopted its Statement of Decision for the *AIDS Prevention Instruction II* test claim. The Commission found that Education Code sections 51201.5 and 51554 as added or amended by Statutes 1998, chapter 403 impose new activities on school districts within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514 by adding instructional content to the AIDS prevention instruction and altering the parent/guardian notification requirements.

The claimant, Sweetwater Union High School District, filed the test claim on March 20, 2000. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. Instructional Costs

1. In-service training

The costs of instructors in providing HIV/AIDS prevention instruction to school district employees with assigned responsibility for providing the HIV/AIDS prevention instruction to grades 7-12. In addition, the salaries and related benefits for the time of the school district employee with assigned responsibility for HIV/AIDS prevention instruction in grades 7-12, while in the training class is also reimbursable.

2. HIV/AIDS Prevention Instruction

The salaries and related benefits of non-classroom district employees, such as resource teachers, who provide this mandated HIV/AIDS prevention instruction to students of the district will be reimbursed.

Beginning January 1, 1999, instruction includes the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities, and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section 51553 (Ed. Code, § 51201.5, subd. (b).).

The reasonable costs of consultants providing this instruction are also reimbursable. However, in-classroom teacher time is not a reimbursable item.

3. Planning

The costs of planning by the school district and by the county office of education for the AIDS instruction in-service program. The salaries and benefits of district employees participating in this cooperative in-service training and planning project are reimbursable.

4. Instructional Materials

The salaries and benefits of the employees of the school district and of the county office of education involved in the selection process that identifies instructional materials and the cost of those materials are reimbursable.

Beginning January 1, 1999, instructional material must accurately reflect Education Code section 51201.5, subdivision (b).

B. Notification

1. Annual Parent Notification

a. Providing written notification to parents or guardians informing them of planned AIDS prevention instruction and their options.

2. Parent Notification of Guest Speaker and/or Assembly on AIDS Prevention

a. Beginning January 1, 1999, notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) informing parents or guardians of their right to obtain a copy of Education Code sections 51201.5 and 51533 from the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction.² (Ed. Code, § 51201.5, subd. (d)(3).)

² Notification for assemblies or guest speakers that occur or appear more frequently is not reimbursable.

- b. Beginning January 1, 1999, notifying parents or guardians at the beginning of each school year, or for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or district administrator that is employed by the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. (Ed. Code, § 51554, subd. (b).)

C. Education Code sections 51201.5 and 51553

1. Beginning January 1, 1999, the one-time cost of revising the annual parent or guardian notification regarding the right to obtain a copy of Education Code sections 51201.5 and 51553 from the school district.
2. *Beginning January 1, 1999, keeping on file copies of Education Code section 51201.5 and 51553 to give out on request.*

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by June 7, 2004. The Commission received initial claims data from the SCO on July 9, 2004. The claims data included eight claims filed by two of the 1,086 districts. Therefore the Commission delayed preparing this statewide cost estimate in anticipation of more claims being filed. To date, no new claims have been filed.

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology will be reported to the Legislature.

Staff made the following assumptions:

Assumptions

- The statewide cost estimate is based on eight unaudited claims filed by two school districts.³
- The claiming data may be inaccurate. The Los Angeles Unified School District, which has an enrollment of 747,009 students, is claiming an average of \$3,362 per year for this program with the initial year claim of \$3,018. The Upland Unified School District, which has an enrollment of 13,585 students, is claiming an average of \$7,854 per year with the initial year claim of \$10,472. According to the claimant representative, the variance in claiming is due to controversial nature of sex education programs and the method of implementation from one district to another. The claimant representative indicated that the Los Angeles Unified School District may submit an amended claim; but to date, no amendments have been filed.
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³ Claims data reported by the SCO as of December 2, 2004.

- Significant numbers of late claims will not be filed because the cost to perform the reimbursable activities for *AIDS Prevention Instruction II* are minimal when compared to the costs already claimed for the original *AIDS Instruction* mandate and are less than the \$1,000 minimum for filing an annual reimbursement claim. The claimant representative verifies this assumption, stating that it is unlikely that more claims will be filed, because most school districts are unable to meet the \$1,000 minimum filing threshold.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1998-1999 through 2003-2004 Projected Costs

- Staff reviewed the summary claims data provided by the SCO for fiscal years 1998-1999 through 2003-2004. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The proposed statewide cost estimate was developed based on the eight unaudited, actual reimbursement claims.

2004-2005 Projected Costs

- Staff projected totals for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.

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