

ITEM 7
FINAL STAFF ANALYSIS
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES
AS MODIFIED BY STAFF

Education Code Section 51225.3
Statutes 1983, Chapter 498

Graduation Requirements
CSM 4181A, 05-PGA-05, 06-PGA-04, 06-PGA-05

San Diego Unified School District, Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, Sweetwater Union High School District, Mountain View-Los Altos High School District, State Controller's Office, Requestors

Executive Summary

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

Requests to Amend the Parameters and Guidelines

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The history is summarized in the Background section of the staff analysis.

The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed. The proposals are as follows:

1. Amend the Eligible Claimants section of the parameters and guidelines to specifically identify county offices of education. In initial comments, the Department of Finance objected to this request.
2. Clarify that the activities of "acquisition of additional space" and "remodeling existing space" include "planning, design, land, demolition, building construction, fixtures, and facility rental." There is no dispute regarding this amendment.
3. Amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased facility costs for acquiring or remodeling space. The proposal authorizes reimbursement for 50% of the actual total cost of acquisition and

remodeling for grades 9-12 science instruction facilities expended during the claim year, reduced by 50% of the total amount of restricted construction funding received. The Department of Finance and the State Controller's Office object to this proposal.

4. Amend the parameters and guidelines to clarify that "acquisition" of equipment includes the activities of "planning, purchasing, and placement" of additional equipment and "furniture." There is no dispute to this request.
5. Amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased costs for acquiring equipment and furniture. The proposed formula is similar to the formula proposed for acquiring or remodeling space; 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller's Office object to this proposal.
6. Amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for claiming increased teacher salary costs incurred as a result of the test claim statute. The proposed formula is the "one quarter class load method." This proposal is made by the school districts and the State Controller's Office. The Department of Finance objects to this proposal, and estimates the cost to the state at \$3 billion for fiscal years 1995-1996 through 2007-2008 and \$250,000 thereafter if the Commission adopts the proposed methodology.
7. Amend the parameters and guidelines to add reimbursement for the salaries and benefits of "other science instruction personnel," such as lab assistants. The Department of Finance and the State Controller's Office object to this proposal.
8. Amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies. There is no dispute to this request.
9. Amend the parameters and guidelines to include a proposed reasonable reimbursement methodology for science instruction materials and supplies. There are two separate proposals made. One proposal provides reimbursement for 50% of the total costs, reduced by 50% of any restricted funding received. The Department of Finance and the State Controller's Office object to this proposal. The second proposal is made by the State Controller's Office and is similar, but not the same as, the one-quarter class load method. The Department of Finance objects to this proposal.
10. Amend the offset section of the parameters and guidelines to incorporate language from the court's decision in *San Diego Unified School Dist. v. Commission on State Mandates* (Sacramento County Superior Court, Case No. 03CS01401), and to specifically identify potential offsetting revenue.

The parties also dispute the potential period of reimbursement for the requests.

Staff Analysis

For the reasons stated in the analysis, staff recommends that the Commission amend the parameters and guidelines as described below. The proposed amendments have different periods of reimbursement based on the filing dates of the requests, with the first period of reimbursement beginning in fiscal year 1995-1996. Because of the different periods of reimbursement, and the fact that the parameters and guidelines for the *Graduation Requirement* program have been

amended twice in the past with different periods of reimbursement (in 1991 and 2005), four separate proposed documents reflecting these amendments would be required.

Proposed Amendments Beginning in Fiscal Year 1995-1996 (See Pink Attachment)

- A. Amend the Eligible Claimants section to specifically identify county offices of education as eligible claimants.
- B. Add the reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs. Staff proposes the following language:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
 2. The number of additional classes is the enrollment in (1) divided by the average science class size.
 3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
 4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.
- C. Add a section to the parameters and guidelines regarding record retention. School districts must retain documentation supporting the data elements for the one quarter class load method; e.g., enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources.
 - D. Amend the Offset section of the parameters and guidelines to add the following language:

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from July 1, 1995 through June 30, 2004, and received

reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

The parameters and guidelines adopted on January 24, 1991, would be amended to reflect these changes for costs incurred beginning in fiscal year 1995-1996. A section on “Claim Preparation and Submission: Reasonable Reimbursement Methodology” is added to clarify the claiming method.

Proposed Amendments Beginning Fiscal Year 2004-2005 (See Blue and Green Attachments)

- A. Amend the Offset section of the parameters and guidelines to add the following language taken from the court’s decision in *San Diego Unified School District v. Commission on State Mandates, et al.* (Sacramento County Superior Court Case No. 03CS01401):

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller’s Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers’ salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

This proposed amendment is implemented by adopting a *separate* parameters and guidelines document to reflect this amendment for costs incurred from July 1, 2004, until December 31, 2004. The parameters and guidelines adopted on December 9, 2005, for costs incurred from January 1, 2005, until June 30, 2006, would then be amended to reflect the proposed offset language. Other amendments are proposed beginning fiscal year 2006-2007 (see below), and this offset language would be included in those proposed parameters and guidelines.

Proposed Amendments Beginning Fiscal year 2006-2007 (See Yellow Attachment)

- A. Amend the parameters and guidelines to clarify the activity of supplying the new science classes as follows: “Increased cost ~~to school district~~ for ~~staffing and~~ supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).”
- B. Amend the activity of “acquisition of additional space” and “remodeling existing space” as follows:

Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for conducting

~~new science classes~~ the mandated additional year of science instruction,
providing that space is lacking in existing facilities. ...

Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction ~~to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets~~ essential to maintaining a level of instruction sufficient to meet college admission requirements.

- C. Identify the “acquisition of additional equipment” in a separate paragraph from the acquisition of additional space for purposes of clarity. Amend the language to specify that “acquisition” includes “planning, purchasing, and placement” of additional equipment and “furniture” as follows:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes~~ ... the mandated additional year of science instruction.

- D. Amend the Offset section of the parameters and guidelines to specifically identify the sources of revenue appropriated from the state and used by school districts for instructional materials for the second science course mandated by the test claim statute. The following language is proposed:

In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected; federal funds; and funds appropriated to school districts from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim. §§

- E. Amend the Offset section of the parameters and guidelines to reflect current boilerplate language as follows:

VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting ~~savings-revenues~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected; federal funds; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (who is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the

science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); and funds appropriated to school districts from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

VIII. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

A new document reflecting the proposed amendments beginning in fiscal year 2006-2007 would be adopted.

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*

3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005, through June 30, 2006*
4. (Yellow Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 05-PGA-05, 06-PGA-04, 06-PGA-05); Effective for Reimbursement Claims Filed for Costs Incurred *Beginning in Fiscal Year 2006-2007*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.

STAFF ANALYSIS

Chronology

- 01/22/87 Commission adopts Statement of Decision
- 03/23/88 Commission adopts parameters and guidelines on consent
- 08/24/88 Commission adopts non-substantive amendment to parameters and guidelines
- 07/27/89 Commission adopts statewide cost estimate
- 01/24/91 Commission amends parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements, as directed by Statutes 1990, chapter 459
- 01/--/91 Initial claiming instructions issued by State Controller's Office
- 08/20/93 The State Controller's Office issues letters to school districts denying reimbursement claims for teacher salary costs. Forty-one (41) incorrect reduction claims filed regarding the reimbursement of teacher salaries and remodeling and leasing additional space
- 1996-1997 Commission hearings and workshops between State Controller's Office and school districts to discuss reimbursement methodologies for teacher salary costs
- 08/13/96 San Diego Unified School District files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course
- 09/23/96 The Commission continues the request to amend the parameters and guidelines filed by San Diego Unified School District until after incorrect reduction claims are resolved
- 2000-2002 Commission issues Statements of Decision denying incorrect reduction claims
- 09/19/03-1/09/04 Six lawsuits challenging the incorrect reduction claims for teacher salary costs, and the costs for remodeling and leasing additional space, filed by San Diego Unified School District, Castro Valley Unified School District, Sweetwater Union High School District, San Jose Unified School District, Clovis Unified School District, and Grossmont Union High School District filed in the Sacramento County Superior Court. Court consolidates cases for purposes of hearing (*San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case No. 03CS01401)
- 12/27/04 Sacramento County Superior Court issues Ruling on Submitted Matter in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case No.03CS01401. Court affirms Commission's decision on classroom construction and remodeling costs, and overrules Commission's decision on teacher salary costs
- 2/09/05 Court enters Judgment and issues Peremptory Writ of Mandate in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No.03CS01401

- 05/26/05 Commission sets aside Statements of Decision on the incorrect reduction claims relating to teacher salary costs and directs the State Controller's Office to reevaluate claims for teacher salary costs pursuant to court's order in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No.03CS01401
- 10/13/05 Mountain View- Los Altos High School District files request to amend parameters and guidelines to amend the "Offsetting Savings and Reimbursement" section by adding language directly from the court ruling and judgment for teacher salary costs in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401
- 08/24/05-09/27/05 Sixteen (16) school districts file lawsuits challenging the incorrect reduction claims on teacher salary costs filed in Sacramento County Superior Court. Court consolidates cases for purposes of hearing (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)
- 12/09/05 Commission amends parameters and guidelines to require school districts to reduce a valid reimbursement claim for a new science facility by the amount of state bond funds received, as directed by Statutes 2004, chapter 895, section 17 (AB 2855)
- 05/24/06 Sacramento County Superior Court enters a judgment pursuant to the parties' stipulation in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.* The stipulation acknowledges that the judgment and writ entered in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* is binding for other reimbursement claims pursuant to principles of collateral estoppel
- 07/28/06 Commission sets aside Statements of Decision on the incorrect reduction claims filed by the 16 school districts in *West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, pursuant to court order and stipulation
- 07/28/06 & 10/26/06 Commission fully complies with Peremptory Writ of Mandate in *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* by determining that the State Controller properly reevaluated the reimbursement claims of the six petitioner school districts, adopting decisions sustaining the Controller's reevaluation of the claims, and remanding the reevaluated claims to the Controller for payment
- 10/13/06 San Diego Unified School District requests that the following school districts be added as requesting parties to amend the parameters and guidelines: Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

- 02/28/07 San Diego Unified School District files letter requesting that the proposed amendments to the parameters and guidelines be amended to reflect the “One Quarter Class Load Method”
- 03/02/07 Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District file separate request to amend parameters and guidelines to clarify reimbursement components and add methodologies for claiming reimbursement for “other science personnel,” acquisition and remodeling of additional space, and science instruction materials
- 03/20/07 State Controller’s Office files request to amend parameters and guidelines to include a standardized method for calculating the increased costs for staffing and supplying the science course, and requiring supporting documentation for the amount received by a school district to construct a new facility from restricted resources or state bond funds
- 03/29/07 Pre-hearing conference held on proposed amendments to the parameters and guidelines
- 04/16/07 San Diego Unified School District requests that its proposal of February 28, 2007, be withdrawn and replaced with proposed language modifying the request to amend the parameters and guidelines, without prejudice to the effective date of the 1996 request
- 06/08/07 Administrative record for the incorrect reduction claims and *San Diego Unified School District, et al. v. Commission on State Mandates, et al.* (2005), Sacramento County Superior Court, Case No. 03CS01401, provided to the Department of Finance
- 06/08/07 Notice of comment period, informational hearing, and background information issued
- 06/29/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines
- 07/11/07 State Controller’s Office files comments
- 07/13/07 Commission grants Department of Finance’s request for extension of time
- 07/26/07 Department of Finance requests extension of time to file comments on requests to amend parameters and guidelines
- 08/03/07 Commission grants Department of Finance’s request for extension of time
- 09/05/07 Department of Finance files comments
- 10/10/07 Request for postponement of hearing to January 31, 2008, filed by Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District

- 10/09/07 Commission approves request for postponement of hearing and issues notice of hearing on all the requests to amend the parameters and guidelines for January 31, 2008
- 01/09/08 Commission issues draft staff analysis and notice of hearing for March 27, 2008
- 01/25/08 Commission issues staff's Draft Proposed Parameters and Guidelines
- 01/30/08 Castro Valley Unified School District, et al., file comments on draft staff analysis
- 01/39/08 State Controller's Office files comments on draft staff analysis
- 01/31/08 Pre-hearing Conference
- 02/15/08 Department of Finance files comments on draft staff analysis
- 03/14/08 Final Staff Analysis issued

Background

This item addresses several proposals to amend the parameters and guidelines for the *Graduation Requirements* program. Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines.

The *Graduation Requirements* program and the decisions of the Commission and the State Controller's Office regarding reimbursement for this program have a long history, including two separate lawsuits challenging the Commission's decisions on incorrect reduction claims. The proposals at issue attempt to clarify the reimbursable activities and recommend the adoption of reasonable reimbursement methodologies in lieu of actual costs claimed. The history of this claim and a summary of the proposals follow.

Statement of Decision and Parameters and Guidelines

On January 22, 1987, the Commission adopted a Statement of Decision approving the *Graduation Requirements* test claim on Education Code section 51225.3, as added by Statutes 1983, chapter 498. The Commission determined that Education Code section 51225.3 constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-87 school year, to complete at least two courses in science before receiving a high school diploma. The test claim statute increased the number of science courses required for high school graduation from one science course to two science courses. Thus, Education Code section 51225.3, subdivision (a), states the following:

- A. Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:
 - (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.
 - [(1)] ...
 - (C) Two courses in science, including biological and physical sciences.

On March 23, 1988, the Commission adopted the parameters and guidelines on the consent calendar. The following reimbursable activities are in the parameters and guidelines:

1. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
2. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.
3. Increased cost to school district for staffing and supplying the new science classes mandated.

The offset paragraph of the parameters and guidelines states the following:

Any savings the Claimant experiences as a direct result of this statute must be deducted from the cost claimed, e.g., *reductions in non-science classes resulting from increase in required science classes*. In addition, reimbursement for this mandate received from any source, e.g., federal, state, block grants, etc., shall be identified and deducted from this claim. (Emphasis added.)

The parameters and guidelines were amended on August 24, 1988, and January 24, 1991. The August 24, 1988 amendment was a technical, non-substantive amendment. The January 24, 1991 amendment was based on a statute requiring the Commission to amend the parameters and guidelines to specifically require documentation to demonstrate actual need for capital improvements. Documentation requirements and the following language related to the first reimbursable activity was added: “However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.”

The parameters and guidelines were subsequently amended on December 9, 2005, pursuant to Statutes 2004, chapter 895, section 17 (AB 2855), for costs incurred beginning January 1, 2005 (the effective date of the bill). AB 2855 provided that if a school district or county office of education submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility. This language was included in Section VII, the Offsetting Savings and Reimbursements, of the parameters and guidelines. Other non-substantive and technical changes were also made.

Statewide Cost Estimate

From August 1988 until July 1989, the Commission conducted hearings on the adoption of a statewide cost estimate for the *Graduation Requirements* program.¹ During the hearings, the Department of Finance reported to the Commission that the cost estimates by

¹ SDUSD-Administrative Record, pages 269-283.

Commission staff (\$159,413,000) might be inaccurate based on the failure of the school districts to offset the additional science classes with corresponding staff reductions in non-science classes, and the failure of school districts to account for overall increased enrollment.² In response to a revised estimate, the Department of Finance proposed a statewide cost estimate in the amount of \$16.8 million based on the assumption that the cost of hiring science teachers would be offset by the reduction of non-science, elective courses and the termination of those teachers, pursuant to Education Code section 44955.³ On July 27, 1989, the Commission adopted, on consent by the parties, a statewide cost estimate in the amount of \$16.8 million for fiscal years 1984-85 through 1989-90 for all school districts.⁴

Incorrect Reduction Claims - Teacher Salary Costs

On August 20, 1993, the State Controller's Office sent school districts a letter denying reimbursement for all teacher salary costs, which stated in relevant part the following: "The addition of science classes should have resulted in offsetting savings due to a corresponding reduction of non-science classes. Your claims do not indicate a corresponding reduction." The Controller took the position that since the Legislature did not increase the minimum school day and year or the credits required for high school graduation, the districts could shift students from non-mandated classes to science classes, eliminate the non-mandated classes, use the authority under Education Code section 44955⁵ to terminate teachers of the non-mandated classes, and thereby offset the costs of the teachers' salaries for the second science course. Thus, by reorganizing the class offerings and reallocating revenues for teacher salaries, the Controller expected that districts could avoid incurring a net increase in the cost of teacher salaries, except for any differential between the salaries of the teachers hired for the second science course and the salaries of the terminated teachers of non-mandated courses.

Forty-one (41) school districts that did not identify any offsetting savings related to the cost of teacher salaries, filed incorrect reduction claims with the Commission based on the reduction of their costs incurred during fiscal years 1984-85 through 1995-96. After several hearings and workshops between the parties, the incorrect reduction claim of San Diego Unified School District was decided first, on September 28, 2000. The Commission upheld the action of the State Controller's Office. The Commission determined that the State Controller's Office did not incorrectly reduce the claim for teacher salaries since the reductions were performed in accordance with the parameters and guidelines, the claiming instructions, and Education Code section 44955. The Commission further determined that the school district did not include any offsetting savings with respect to teacher salaries or claim salary differentials pursuant to Education Code section 44955, or provide any documentation to support its claim for teacher salaries. The other school districts that filed incorrect reduction claims incorporated by reference the arguments and record of San Diego into their claims for teacher salaries. Adopting the same

² SDUSD-AR, p. 125.

³ SDUSD-AR, pp. 159-162.

⁴ SDUSD-AR, pp. 207 [adopted statewide cost estimate], 281 [minutes of the Commission's July 27, 1989 hearing].

⁵ Education Code section 44955 provides authority to school districts to terminate the services of permanent employees when state law requires the modification of curriculum.

conclusions and findings as the San Diego incorrect reduction claim, the Commission denied the incorrect reduction claims of the other school districts.

Incorrect Reduction Claims - Science Classroom Construction and Remodeling Costs

In November 1996, Grossmont Union High School District filed its initial reimbursement claim with the State Controller's Office for science classroom construction and remodeling in four of its schools for fiscal years 1994-95 through 1995-96 in the amount of \$337,113. In 1994 and 1996, Clovis filed reimbursement claims with the State Controller's Office for leasing portable science classrooms in the amount of \$72,034 for fiscal years 1994-95 through 1995-96.

The State Controller's Office reduced these reimbursement claims because each school district did not provide documentation to show that the board certified that an analysis of all appropriate science facilities within the district was conducted and a determination made that the existing facilities could not reasonably accommodate the increased enrollment for the additional science class required by Education Code section 51225.3, as required by the parameters and guidelines and claiming instructions.

The school districts then filed incorrect reduction claims with the Commission. On January 24, 2002, the Commission adopted Statements of Decision denying the incorrect reduction claims for the classroom costs of Grossmont and Clovis, and upheld the action of the State Controller's Office to reduce the claims. The Commission found that there was no evidence in the record, as specifically required by the parameters and guidelines, that the governing board conducted an analysis of the science facilities within the district and made specific findings that no facilities existed to reasonably accommodate the increased enrollment in the science course required by Education Code section 51225.3.

First Lawsuit Filed by School Districts Challenging the Reductions (*San Diego Unified School District, et al. v. Commission on State Mandates et al.*, Case No. 03CS01401 et al.)

San Diego Unified School District, San Jose Unified School District, Sweetwater Union High School District, Castro Valley Unified School District, Grossmont Union High School District, and Clovis Unified School District filed lawsuits in the Sacramento County Superior Court challenging the Commission's decisions on the incorrect reduction claims.

The Sacramento County Superior Court upheld the Commission's decisions on the classroom construction and remodeling claims of Grossmont Union High School District and Clovis Unified School District. The court held that these districts did not satisfy the certification requirement of the parameters and guidelines when they submitted their reimbursement claims and, thus, the Controller properly reduced the reimbursement claims.

The court, however, disagreed with the Commission's decisions upholding the Controller's reduction of claims for teacher salary costs on the ground that the school districts did not identify any offsetting savings due to a corresponding reduction of non-science teachers pursuant to Education Code section 44955. Thus, the court granted the petitions for peremptory writ of mandate on that issue and remanded the case to the Commission for rehearing with directions.

The court's holding on the teacher salary issue is stated on page 17 of the decision as follows:

The court concludes that the Controller's offsetting savings requirement and the Commission's IRC decision sustaining the requirement are invalid to the extent that the requirement precludes reimbursement under [article XIII B,] section 6 for

the teachers' salaries incurred by SDUSD and other school districts in providing the second science course mandated by Education Code section 51225.3 without offsetting the science teachers' salaries by terminating, pursuant to Education Code section 44955, teachers of courses not mandated by the state.

In reaching its conclusion, the court made the following findings:

1. The court determined that the finding in the Statement of Decision, that school districts are eligible to receive reimbursement for the increased costs to staff the second science course mandated by Education Code section 51225.3, is final and binding on the parties.⁶
2. The court concluded that the plain language of the test claim statute mandates school districts to *add* a second science course without requiring school districts to replace or eliminate existing course offerings. The court found that Education Code section 51225.3 preserves the school districts' right to specify and offer other courses not required for high school graduation on an equal par with the courses mandated by the state. In this respect, the court distinguished this case from *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, where the state legislation directed law enforcement officers to reallocate training resources in a certain manner to include domestic violence training. Unlike the statute in the *County of Los Angeles* case, the test claim statute here does not give the state-mandated courses a higher priority than courses specified by a school district and does not require school districts to redirect their resources to the mandated courses.⁷
3. The court agreed that the authority to lay off teachers given to a district by Education Code section 44955 applies when the state modifies curriculum. But the court concluded that the authority given by section 44955 rests entirely in the *discretion* of a school district. The court determined that the plain language of Education Code section 44955 does not suggest legislative intent to require the district to use section 44955 as an offset to avoid the actual increased costs for teacher salaries.⁸
4. When determining the teacher salary issue, the court reviewed the legislative history of Education Code section 44955 and found only an enrolled bill report by the Department of Finance that supported the position that school district claims should have identified offsetting savings. The court held that the opinion of the Department of Finance in the enrolled bill report is not indicative of legislative intent and, thus, the court did not rely on the Department's interpretation.⁹

In addition, the court acknowledged the opinion of the Department of Education regarding Education Code section 44955, which was consistent with the position that school district claims should have identified offsetting savings. However, the court held that the Department's interpretation of Education Code section 44955 was not binding on

⁶ Exhibit R, page 13, fn. 3.

⁷ Exhibit R, page 15.

⁸ Exhibit R, pages 15-16.

⁹ Exhibit R, page 16, fn. 4.

the court, and was contrary to the terms and structure of Education Code sections 44955 and 51225.3.¹⁰

5. The court also relied on the Supreme Court case of *San Diego Unified School District v. Commission on State Mandates* (2004) 44 Cal.4th 859, 887-888 [*Expulsions*], where the Supreme Court stated in dicta that the underlying intent of section 6 would be contravened if reimbursement were denied for a local agency's costs of providing state-mandated protective clothing and safety equipment for its employees on the ground that the local agency had initial discretion to reduce its employees and thereby avoid incurring increased costs for the mandated clothing and equipment.¹¹

The court remanded the case for further review by the State Controller's Office of the school districts' reimbursement claims for teacher salaries. The court held that its conclusion

...does not prevent the Controller, when auditing school district' reimbursement claims ...from requiring claimants to provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. Such a documentation requirement has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9). Further, the documentation requirement reflects a reasonable expectation that savings to offset the science teachers' salaries may be generated when students taking the second science course do not increase the number of classes that they take overall. Thus, the Controller can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.¹²

The Peremptory Writ of Mandate directed the Commission to set aside the Statements of Decision on the issue of teacher salary costs, directed the State Controller's Office to reevaluate the claims in accordance with the court's ruling, and then required the Commission to review the Controller's reevaluations and determine if the reevaluations were proper. When reevaluating the claims, the court provided the following instructions:

- The Controller may not deny or reduce a claim for teacher salary costs on the ground that the district has not exercised its authority under Education Code section 44955 and/or shown a reduction in non-science classes and teachers corresponding to the addition of the new mandated science class.
- The Controller may not require a showing by the school districts that the claimed teacher salary costs could not have been offset pursuant to Education Code section 44955.

On July 28, 2006, and October 26, 2006, the Commission fully complied with the Peremptory Writ of Mandate by (1) determining that the State Controller properly reevaluated the reimbursement claims of each petitioner school district; (2) adopting decisions sustaining the

¹⁰ Exhibit R, page 17, fn. 5.

¹¹ Exhibit R, page 17.

¹² Exhibit R, page 18.

Controller's reevaluation of the claims filed by each petitioner school district; and (3) remanding the reevaluated claims to the Controller for payment. The lawsuit in *San Diego Unified School District* resulted in reimbursement to the six school districts for teacher salary costs in the amount of \$32,627,355.

Second Lawsuit Filed by Sixteen School Districts Challenging the Reduction for Teacher Salaries (*West Contra Costa Unified School District, et al. v. Commission on State Mandates, et al.*, Sacramento County Superior Court, Case Nos. 05CS01253, et al.)

After the ruling in the *San Diego Unified School District* case, sixteen other school districts challenged the Commission's decisions on the *Graduation Requirements* incorrect reduction claims with respect to reimbursement for teacher salaries. These lawsuits involved reimbursement claims for teacher salary costs for fiscal years 1984-85 through 1991-92 in the amount of \$26,378,028.

To avoid further litigation, the parties stipulated that the court's judgment and peremptory writ of mandate for the *San Diego Unified School District* case was binding in these actions under collateral estoppel principles since the second lawsuit involved the same issues previously litigated; reimbursement for teacher salary costs to implement the *Graduation Requirements* mandate. On May 24, 2006, a judgment pursuant to the stipulation was entered by the court. The stipulation required the Commission to set aside its decisions on the incorrect reduction claims, and required the State Controller's Office to reevaluate the school districts' reimbursement claims in accordance with the Court's judgment and writ in *San Diego Unified School District*. The Commission was not required to hear and determine whether the Controller's reevaluations were correct, unless the school districts and the Controller did not agree on the reevaluation. The Commission set aside the Statements of Decision on the incorrect reduction claims on July 28, 2006. No further action was filed with the Commission on these incorrect reduction claims.

One Incorrect Reduction Claim is Still Pending

Six other incorrect reduction claims were filed with the Commission. Five of these claims were dismissed by the Commission in January 2008 because the school districts were paid in full. One incorrect reduction claim remains pending, which raises issues relating to teacher salary costs, material and supply costs, and science room construction costs.

Requests to Amend the Parameters and Guidelines

San Diego Unified School District – Filed August 13, 1996 (CSM 4181 A)
Proposed language modified April 12, 2007

This proposal requests that the parameters and guidelines be amended to include a standardized method (the "One Quarter Class Load Method") for calculating the increased costs to school districts for staffing and supplying the science course. San Diego, in its letter dated April 12, 2007, describes the "One Quarter Class Load Method" for reimbursement of teacher salaries as follows:

This method is based on [the] number of teachers needed to teach the additional year of science assuming a student would take the class in one of the four years of high school. Total secondary enrollment is multiplied by one quarter, and then the remainder is divided by the number of classes taught by a full-time equivalent teacher [5 classes]. The increase in teachers is then multiplied by an average

salary and benefit amount to determine total costs. The total costs are then discounted by the portion of total teachers that are funded by restricted funds (categorical programs) to arrive at the net costs.

San Diego proposes the following formula for the reimbursement of teacher salary costs:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of “increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

San Diego states that a similar formula can be used for supply costs.

This request was continued by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006.

Mountain View–Los Altos High School District – Filed October 13, 2005 (05-PGA-05)

This proposal seeks to amend the “Offsetting Savings and Reimbursement” section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

The State Controller, when auditing school district’s reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers’ salaries incurred by a school district in

providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District, Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District - Filed February 28, 2007 (06-PGA-05)

These districts join in the San Diego Unified School District request to add the “one quarter class load method” for reimbursement of teacher salary costs. The districts, however, propose two changes to San Diego’s formula for claiming teacher salary costs: (1) change the default average science class size to 35 students (instead of 30 students proposed by San Diego), and (2) add the following underlined language to the last step in the formula:

- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with~~ total amount of any restricted or specific purpose funding or reimbursement received or used for ~~this purpose~~ grade 9-12 science instructors during the claim year from sources which do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

On February 28, 2007, these districts proposed new amendments to the parameters and guidelines. As co-claimants to San Diego’s original request to amend the parameters and guidelines, these districts contend that the following proposed amendments are reimbursable beginning July 1, 1995:

1. Amend Section III, Eligible Claimants, to include county offices of education. The districts propose the addition of the following underlined language: “All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.”
2. Amend Section IV, Reimbursable Activities, as follows:
 - a. Increased Facility Costs –
 - Clarify that the activities of “acquisition of additional space” and “remodeling existing facilities” includes “planning, design, land, demolition, building construction, fixtures, and facility rental.”
 - Add the following methodology for claiming increased facility costs for acquiring or remodeling space: “In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose

during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.”¹³

b. Increased Equipment Costs

- Clarify that “acquisition of additional equipment” includes “planning, purchasing, and placement of additional equipment and furniture.”
- Add a standardized method of claiming increased equipment costs, similar to the method proposed for increased facility costs.

c. Add language reimbursing “other science instruction personnel,” such as lab assistants. The districts propose the following formula for claiming costs:

In the absence of more precise cost accounting documentation, the calculation of the increased cost of “other (non-classroom teacher) science instruction personnel (e.g., laboratory assistants) for grades 9-12 for each fiscal year, will be calculated according to the following formula:

- 1) The number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by dividing the number of full-time equivalents (five hours of class per day) of “other science instruction personnel” for grades 9-12 for the claim year by the number two (2).
- 2) This increased costs of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased other science instruction personnel” by the average annual salary and benefit cost for the school district for “other science instruction personnel” for grades 9-12 for the claim year.
- 3) The increased cost of the number of “increased other science instruction personnel” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by one-half of the total amount of any grade 9-12 restricted or specific purpose funding or reimbursement received or used for “other science instruction personnel” during the claim year from sources which do not require repayment by the school district.

d. Science Instruction Materials – Add a standardized method for claiming costs for science instruction materials as follows:

Increased cost to school district for ~~staffing and~~ supplying the new science classes mandated.

¹³ Castro Valley also requests that the Commission move the documentation requirement for acquisition of space to Section IX, Supporting Data for Claims. The Commission made that change when it amended the parameters and guidelines in 2005.

In the absence of more precise cost accounting documentation, the calculated cost of ‘increased science instruction materials (textbooks, materials and supplies)’ shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated cost of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.

3. Amend the section on “Offsetting Savings and Reimbursements” to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.
4. Replace the language setting the maximum reimbursable fee for contracted services with current boilerplate language for claim preparation and submission.

Castro Valley, et al., filed comments on the draft staff analysis. These comments are summarized in the analysis below.

State Controller’s Office – Filed March 20, 2007 (06-PGA-04)

The State Controller’s Office agrees with the use of the “one quarter class load” method for teacher salary costs. The State Controller’s Office, however, proposes three modifications to the proposal of San Diego Unified School District: (1) the Controller’s proposal uses the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) the Controller’s proposal requires school districts to submit supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources; and (3) the Controller’s proposal does not add the indirect cost calculation in the last step *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs.

The State Controller’s Office also proposes the following formula for the increased material and supply costs:

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the “one quarter class load method”].
3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes’ material and supply costs funded by restricted resources.

The Controller’s Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.
- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Controller further requests language in the parameters and guidelines requiring supporting documentation to back up the formulas for materials and supplies as follows: “Supporting documentation shall be required to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources.”

State Agency Comments

Department of Finance

On August 31, 2007, the Department of Finance filed comments opposing many of the requests to amend the parameters and guidelines. Finance argues the following:

1. Eligible Claimants. Finance is opposed to amending the Eligible Claimant section of the parameters and guidelines to include county offices of education. Finance states the following: “Alternative programs that are administered by COEs are intended to provide temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.”
2. One Quarter Class Load method for calculating teacher salary costs. Finance opposes the reimbursement methodology and states the following:
 - If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”
 - “It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would

have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”

- The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
 - Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
 - The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. Education Code section 41372 requires that high school districts expend 50% of their current expenses of education for the payment of salaries of classroom teachers. While current law does not specifically earmark revenue limit apportionments for the additional course in science or any other course required for graduation, it does not preclude the funds from being used for that purpose. This funding should be identified as an offset.
 - If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:
 - (a) Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data.
 - (b) Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.
3. Reimbursement for science instruction personnel other than teachers (lab assistants). Finance opposes this request for reimbursement. Finance states that the “use of other personnel such as laboratory assistants or instructional aides is discretionary on the part of the school district and, therefore, is not a state-reimbursable mandated activity.
4. Reimbursement methodology for facility, equipment, and instructional material costs. Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. Finance further states that funds appropriated in the Budget Act should be specifically identified as an offset. Specifically, Finance states that the 2007 Budget Act contains Proposition 98 funding for instructional materials for core classes, such as science:

The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the

funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.

5. Clarifying the activities of acquisition of additional space and remodeling existing facilities to include “planning, design, land, demolition, building construction, fixtures, and facility rental.” Finance does not dispute this request and states that “[i]t is our understanding that these items are already considered reimbursable activities by the State Controller’s Office.”¹⁴

State Controller’s Office

On July 11, 2007, the State Controller’s Office filed comments on the school districts’ proposals to amend the parameters and guidelines as follows:

1. Proposal of San Diego Unified School District. The State Controller’s Office recommends that the Commission adopt the “one quarter class load method” for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the potential reimbursement period of San Diego’s request. The Controller’s Office argues that San Diego substantially modified their methodology in 2007 to conform to the method first proposed by the Controller’s Office. The Controller’s Office further states that amending the parameters and guidelines back to fiscal year 1995-1996 “could significantly impact State finances.”
2. Proposal of Castro Valley Unified School District, et al. The Controller’s Office states the following:
 - The proposal for reimbursing teacher salary costs “adds the indirect cost calculation before offsetting revenue is applied,” which is “potentially confusing in that indirect costs are part of the calculation and part of a separate section in the Ps & Gs.”
 - There may not be a mandate for reimbursement for “other science instruction personnel.” Also, the method proposed for reimbursing these employees is arbitrary.
 - The method proposed for reimbursing materials, supplies, and facilities (50% of the total costs reduced by 50% of total related revenues), is arbitrary.

¹⁴ Finance also states that it opposes Castro Valley’s proposed amendment to delete the “Professional and Consultant Services” paragraph from the 1991 version of the parameters and guidelines. Finance argues that “[w]ithout this language contracted services could be charged at any rate.”

Castro Valley requests that the paragraph regarding “Professional and Consultant Services” be replaced with current boilerplate language. The Commission made that change when it amended the parameters and guidelines in 2005. With the 2005 amendment, “Professional and Consultant Services” is in Section V, Claim Preparation and Submission, and still sets the maximum reimbursable fee for contracted services at \$65 per hour, adjusted annually by the GNP Deflator.

STAFF ANALYSIS

The proposals are analyzed in the order the issue is presented in the parameters and guidelines.

Issue 1: What is the potential period of reimbursement for the proposed amendments to the parameters and guidelines?

Pursuant to Government Code section 17557, the Commission has the authority, after public notice and a hearing, to amend, modify, or supplement parameters and guidelines. If the Commission amends the parameters and guidelines, the reimbursement period of the amendment is established by law. (Gov. Code, § 17557, subd. (d); Cal. Code Regs., tit. 2, former § 1185.3.)

The parties have raised two issues with respect to the potential period of reimbursement.

Potential Period of Reimbursement for the San Diego Unified School District's Request

In this case, San Diego Unified School District first requested that the parameters and guidelines be amended to include a reimbursement methodology for teacher salary costs using the one-quarter class load method on August 13, 1996. The State Controller's Office recommends that the Commission adopt the "one quarter class load method" for reimbursing teacher salary costs *prospectively* only, and not amend the parameters and guidelines back to fiscal year 1995-1996, the potential period of reimbursement based on Government Code section 17557 and the date of San Diego's filing. The Controller's Office argues that San Diego substantially modified their methodology in 2007 to conform to the method first proposed by the Controller's Office. The Controller's Office states that amending the parameters and guidelines for costs incurred beginning in fiscal year 1995-1996 "could significantly impact State finances."

Based on the requirements of Government Code section 17557, subdivision (d), the Commission's regulations that existed when San Diego filed the request to amend the parameters and guidelines (Cal. Code Regs., tit. 2, former § 1185.3 (Register 87, No. 49)), and on case law interpreting the filing date of amended pleadings, staff finds that if the Commission amends the parameters and guidelines by adopting the one-quarter class load method for teacher salary costs, the reimbursement period would begin for costs incurred in fiscal year 1995-1996.

At the time San Diego filed its request to amend the parameters and guidelines in 1996, the Commission had the authority to include an allocation formula or uniform allowance in the parameters and guidelines. (Gov. Code, § 17557, subd. (b); Stats. 1995, ch. 945.) In addition, former section 1185.3 of the Commission's regulations stated that "a parameters and guidelines amendment filed after the initial claiming deadline must be submitted on or before November 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. Today, Government Code section 17557, subdivision (d), similarly states that "[a] parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and on or before the claiming deadline following a fiscal year, *shall establish* reimbursement eligibility for that fiscal year." (Emphasis added.) Although the Commission has the authority to adopt amendments to the parameters and guidelines, once an amendment is adopted, the period of reimbursement is established by former section 1185.3 of the Commission's regulations and Government Code section 17557.

Under these authorities, the August 1996 filing of the request to amend the parameters and guidelines preserved the potential period of reimbursement for San Diego's proposal for reimbursing teacher salary costs beginning in fiscal year 1995-1996. This request was continued

by the Commission, at its September 26, 1996 hearing, until after the incorrect reduction claims were resolved. The incorrect reduction claim filed by San Diego Unified School District was resolved on October 26, 2006. The administrative record for these requests to amend the parameters and guidelines closed in September 2007.

In April 2007, San Diego filed a document changing the language of the proposed reasonable reimbursement methodology for teacher salary costs. Although the proposed language was changed, the original 1996 proposal used the same method of representing the additional year of science instruction as the later proposals; i.e., dividing the total number of pupils in grades 9-12 by the number four, which represents one additional year of instruction. The one quarter class load method proposal has not changed. The Controller argues that the one quarter class load method of claiming teacher salary costs should be deemed filed in 2007, and result in prospective reimbursement.

Staff disagrees with the Controller. Based on the following law, the 2007 amended language to the proposed one quarter class load method relates back to the original filing date of August 1996. Therefore, pursuant to Government Code section 17557, the period of reimbursement for the proposed method for claiming teacher salary costs begins July 1, 1995.

Government Code section 17557 and section 1183.2 of the Commission's regulations allow a party to request a parameters and guidelines amendment, establish a period of reimbursement for the request, and allow parties and interested parties an opportunity to file comments on the request. These provisions of law, however, are silent with respect to the effect of a subsequent amendment to an original request to amend parameters and guidelines.

Generally, the law allows a party to amend their pleadings.¹⁵ If the subsequent amendment relies on the same set of facts as the original pleading, the subsequent amendment will be deemed filed as of the date of the original amendment.¹⁶ The purpose of the law allowing amendments is to permit correction of errors and omissions, to clarify ambiguities, or to explain mistaken statements made in the original pleadings.¹⁷ The courts have also allowed amendments to relate back to the filing date of the original claim when the amendment does not change the obligation sought to be enforced, but merely changes the form of remedy sought.¹⁸

In this case, staff finds that the 2007 amended language simply clarifies the original proposal and is based on the same set of facts as the original 1996 proposed amendment.

Thus, if the Commission adopts the one-quarter class load method of claiming costs for teacher salaries, the period of reimbursement begins in fiscal year 1995-1996.

Potential Period of Reimbursement for Castro Valley's Request

On October 13, 2006, San Diego Unified School District requested that Castro Valley Unified School District, Clovis Unified School District, Fullerton Joint Union High School District,

¹⁵ Code of Civil Procedure sections 472 and 473.

¹⁶ *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

¹⁷ California Jurisprudence 3d, Volume 43, Limitation of Actions, section 145.

¹⁸ *Ibid.*

Grossmont Union High School District, San Jose Unified School District, and Sweetwater Joint Union High School District (hereafter “Castro Valley”) be joined as co-requestors to San Diego’s request to amend the parameters and guidelines to add the “one quarter class load method” for reimbursing teacher salary costs.

On February 28, 2007, Castro Valley filed a separate document requesting that the Commission further amend the parameters and guidelines in other respects as follows:

- Amend the “Eligible Claimant” section to include county offices of education.
- Clarify the activities of acquiring additional space, remodeling existing facilities, acquisition of additional equipment, and acquisition of materials and supplies.
- Add language reimbursing “other science instruction personnel.”
- Establish reasonable reimbursement methodologies for these activities.

Castro Valley contends that its February 28, 2007 filing is not a separate request to amend the parameters and guidelines, but simply supplemental comments to the original 1996 request. Castro Valley argues that the potential period of reimbursement for the requested amendments identified in its February 28, 2007 letter should go back to the period of reimbursement of San Diego’s request that begins in fiscal year 1995-1996.

Thus, the issue is whether Castro Valley’s proposed amendments, first requested in 2007, relate back to the original period of reimbursement of San Diego’s request (a request joined by Castro Valley), or establishes a new period of reimbursement based on the 2007 filing.

As indicated above, the general rule is that amendments that rely on the same set of facts as the original pleading will be deemed filed as of the date of the original pleading. If the proposed amendment does not rely on the same set of facts as the original pleading, however, the amendment will be deemed filed as of the date of the subsequent amendment.¹⁹

In this case, the original 1996 request to amend the parameters and guidelines was limited to proposing a method for reimbursing teacher salary costs. This was the request that was postponed by the Commission until after the incorrect reduction claims were resolved. With the exception of the request to clarify that county offices of education are eligible claimants, Castro Valley’s 2007 request raises issues that are separate and distinct from the issue of reimbursing teacher salary costs. The 2007 filing raises issues relating to other reimbursable activities and cost components. Thus, the 2007 filing essentially alleges a new cause of action that is not based on the same set of general facts as the teacher salary proposal. In such cases the courts have found that the proposed amendment alleging a new cause of action does not relate back to the original complaint, and is not deemed filed when the original complaint was filed. Rather, the amendment receives a new filing date.²⁰

Accordingly, staff finds that, except for the request to clarify that county offices of education are eligible claimants, Castro Valley’s request to amend the parameters and guidelines filed on February 28, 2007, is deemed filed on February 28, 2007, and does not relate back to the

¹⁹ *Wiener v. Superior Court* (1976) 58 Cal.App.3d 525; *San Diego Gas & Elec. Co. v. Superior Court* (2007) 146 Cal.App.4th 1545.

²⁰ *Ibid.*

August 1996 original request to amend. Pursuant to Government Code section 17557, subdivision (d), the potential period of reimbursement for these requests begins in fiscal year 2006-2007.

Castro Valley's request to amend the parameters and guidelines to clarify that county offices of education are eligible claimants is different, however. As more fully discussed below under Issue 2, this issue raises a question of law regarding what the Legislature originally intended to mandate when it amended the test claim statute. Castro Valley argues that its proposal is a technical amendment clarifying that the test claim statute originally applied to county offices of education. Castro Valley argues that these entities have always been entitled to reimbursement for teacher salary costs as a result of the new mandated science course and, thus, the potential period of reimbursement should begin in fiscal year 1995-1996; the period of reimbursement for the original 1996 parameters and guidelines amendment filing. Staff agrees with Castro Valley.

The legal interpretation of a statute by a court, even when the statute is interpreted after the effective and operative date of the statute, is retroactive to the date the statute became operative.²¹ Unlike the court, however, the Commission is a quasi-judicial agency with limited jurisdiction. The Commission does not have the jurisdiction to clarify the interpretation of a test claim statute and make that interpretation retroactive to the original period of reimbursement after the Statement of Decision becomes final. Once a Statement of Decision is issued, it becomes final unless a party seeks reconsideration within a limited period of time, or challenges the decision in court. The Commission does, however, have jurisdiction to amend the parameters and guidelines under such circumstances when requested by a party pursuant to Government Code section 17557, subdivision (d). The period of reimbursement for any changes to the parameters and guidelines adopted by the Commission based on its legal interpretation of the test claim statute is established by Government Code section 17557, subdivision (d), and is based on the filing date of the request to amend the parameters and guidelines.

As indicated above, San Diego filed the initial request to amend the parameters and guidelines in August 1996 to add a method for reimbursing teacher salary costs and Castro Valley is a co-requestor to that proposed amendment. The request has a potential period of reimbursement beginning in fiscal year 1995-1996. If the Commission finds that county offices of education are mandated by the state to comply with the test claim statute and are eligible claimants, county offices of education would be eligible to receive reimbursement for teacher salary costs. Since the courts have allowed amendments that clarify a pleading to relate back to the filing of the original request, staff finds that the potential period of reimbursement for the request to amend the eligible claimant section of the parameters and guidelines goes back to fiscal year 1995-1996.

Issue 2: Should the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants?

Castro Valley requests that Section III, Eligible Claimants, be amended to include county offices of education. The districts propose the addition of the following underlined language: "All school districts and county offices of education that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3."

²¹ *Donaldson v. Superior Court* (1983) 35 Cal.3d 24, 36-37.

The Department of Finance opposes this request and states the following:

Alternative programs that are administered by COEs are intended to provide temporary educational placements for at-risk students to enable them to return to traditional school district settings. Finance is opposed to allowing COEs to submit separate reimbursement claims from those submitted by school districts, as it could double fund reimbursable costs already claimed by districts.

Staff recommends that the Commission amend Section III to specifically include county offices of education as eligible claimants.

The plain language of the test claim statute, Education Code section 51225.3, applies to all pupils receiving a diploma of graduation in high school. That section states in relevant part the following:

(a) Commencing with the 1988-89 school year, *no pupil shall receive a diploma of graduation from high school* who, while in grades 9 to 12, has not completed all of the following:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[(¶)] ...

(C) Two courses in science, including biological and physical sciences.
(Emphasis added.)

Section 51223.5 is included in the chapter of the Education Code that prescribes the course of study for all of grades 7 through 12, and does not distinguish between courses of study provided by school districts and county offices of education.²²

County offices of education do provide alternative programs for students attending county community schools, as contended by the Department of Finance.²³ Pupils enrolled in county community schools, which are administered by the county superintendent of schools, include pupils that are expelled from a school district, pupils referred as a condition of probation, and homeless children.²⁴ The county superintendent of schools is the executive officer of the county office of education.²⁵ County community schools receive revenue from the State School Fund based on the average daily attendance of pupils.²⁶

In some cases, the education provided by the county is temporary; i.e., when an expelled pupil is readmitted to his or her district of residence.²⁷ However, the county superintendent of schools providing educational services to homeless children “shall be deemed to be the district of

²² Education Code, division 4, part 28, chapter 2, article, 3, sections 51220, et seq.

²³ Education Code section 1983.

²⁴ Education Code sections 1981, 1982, subdivision (a).

²⁵ Education Code section 1010.

²⁶ Education Code section 1982, subdivision (a).

²⁷ Education Code sections 48915.1, 48915.2, 48916.

residence of those children.”²⁸ Furthermore, “[t]he course of study of a county community school shall be adopted by the county board of education and *shall* enable each pupil to continue academic work leading to the *completion of a regular high school program.*” (Emphasis added.)²⁹

Thus, there is nothing in the plain language of the test claim statute, or the statutes governing county offices of education that suggests county offices of education are not required to provide the high school science course required by Education Code section 51223.5 when the county is the school district. Moreover, Government Code section 17518 defines a school district eligible to claim reimbursement under article XIII B, section 6 to include the county superintendent of schools.

Finally, when the Legislature enacted Statutes 2004, chapter 895 (AB 2855) to direct the Commission to amend the parameters and guidelines for this program to identify amounts received from state bond funds to construct new science facilities as an offset, the Legislature specifically referred to funds received “by the school district or county office.” Section 17 of AB 2855 states the following:

Notwithstanding any other law, for purposes of calculating the amount of the state reimbursement pursuant to Section 6 of Article XIII B of the California Constitution for the state-mandated local program imposed by increasing the science course requirement for graduation from one science course to two science courses (Sec. 94, Ch. 498, Stats. 1983), if the school district or *county office* submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or *county office* to construct the new science facility. (Emphasis added.)

The courts have held that subsequent expressions of intent by the Legislature of an earlier act, while not binding, may be considered along with other factors to determine the legislative intent of the earlier-enacted statute.³⁰ Thus, AB 2855 may be properly considered by the Commission, together with other factors described in the analysis above, to determine that the Legislature intended Education Code section 51223.5 to apply to county offices of education.

Staff finds that Education Code section 51223.5 applies to all pupils that graduate from high school whether or not the science course is provided by a school district or a county office of education. Staff recommends that the Commission amend the parameters and guidelines to specifically identify county offices of education as eligible claimants. Pursuant to Government Code section 17557, subdivision (d), and the analysis regarding amendment of pleadings in Issue 1, this proposed amendment is for costs incurred beginning in fiscal year 1995-1996.

²⁸ Education Code section 1982, subdivision (c).

²⁹ Education Code section 1983, subdivision (d).

³⁰ *Fong Eu v. Chacon* (1976) 16 Cal.3d 465, 470.

Issue 3: Should the Commission amend the parameters and guidelines to clarify that the activities of “acquisition of additional space” and “remodeling existing space” includes “planning, design, land, demolition, building construction, fixtures, and facility rental”?

Castro Valley requests that the Commission add the following underlined language to the activities of “acquisition of additional space” and “remodeling existing space” as a result of the requirement to provide the second year of science:

Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space ... necessary for ~~conducting new science~~ classes the mandated additional year of science instruction, providing that space is lacking in existing facilities. ...

Remodeling (planning, design, demolition, building construction, fixtures, and ~~interim facility rental~~) existing space required for the mandated additional year of science instruction ~~to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets~~ essential to maintaining a level of instruction sufficient to meet college admission requirements.

The parameters and guidelines provide that the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed the activities of planning, design, demolition, building construction, fixtures, and facility rental were reimbursable activities.

Staff finds that the proposed activities of planning, design, land, demolition, building construction, fixtures, and facility rental are activities that are necessary to carry out the mandated program.³¹ In addition, amending the parameters and guidelines to include facility rental is consistent with prior Commission decisions on incorrect reduction claims for this program. In an incorrect reduction claim filed by Clovis Unified School District (CSM 4435-I-06/38), the Commission determined that acquisition of additional space includes leasing portable classrooms.³²

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 2006-2007, to include the underlined language proposed by Castro Valley Unified School District with respect to acquisition of additional space and remodeling existing space.

³¹ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

³² Administrative Record – Clovis, page 307.

Issue 4: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased facility costs for acquiring or remodeling space?

Castro Valley Unified School District, et al requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring or remodeling space. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of acquisition and remodeling of facilities for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of acquisition and remodeling of grades 9-12 science instruction facilities expended during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted construction funding or reimbursement received or used for this purpose during the claim year from sources (such as state school construction bond proceeds) which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller's Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a "reasonable reimbursement methodology" and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17557, subdivision (b), states that the Commission may adopt a reasonable reimbursement methodology when adopting parameters and guidelines. Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a "reasonable reimbursement methodology" to "mean a formula for reimbursing local agencies and school districts for costs mandated by the state ..." It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a "cost-efficient manner." (Gov. Code, § 17518.5, subd. (c).) The Commission's regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies "shall include any documentation or assumption relied upon to develop the methodology."

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring or remodeling space for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner.

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring or remodeling space is based on actual costs.

Staff disagrees with Castro Valley's argument. Government Code section 17518.5, subdivision (a), defines "reasonable reimbursement methodology" as a "formula" for reimbursing local agencies and school districts. Webster's Dictionary defines "formula" to mean

“[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation.”³³ The New Oxford American Dictionary defines “formula” as “a mathematical relationship or rule expressed in symbols” and “a method, statement, or procedure for achieving something.”³⁴ Staff finds that the proposed mathematical method for reimbursing school districts for acquiring and remodeling space at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 is applicable and binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for the acquiring or remodeling of space.

Issue 5: Should the Commission amend the parameters and guidelines to specify that “acquisition” of equipment includes the activities of “planning, purchasing, and placement” of additional equipment and “furniture”?

The parameters and guidelines authorize reimbursement for the acquisition of equipment necessary for conducting the new science class. The language identifying acquisition of equipment as a reimbursable activity is included in the same paragraph as the activity of acquiring additional space.

Castro Valley requests that the Commission identify the acquisition of equipment in a separate paragraph for purposes of clarity. The requestors further propose that the Commission add language specifying that “acquisition” of equipment includes “planning, purchasing, and placement” of additional equipment and “furniture.” The requestors propose the following amendments, reflected in underline and strikeout:

Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for ~~conducting new science classes~~ ... the mandated additional year of science instruction.

No party has objected to these requested amendments. The Department of Finance filed comments stating that they believed these activities were already being reimbursed by the State Controller’s Office.

Staff agrees with the requestors’ proposal, and finds that the activities of “planning, purchasing, and placement” of equipment are activities that are necessary to carry out the mandated program.³⁵ In addition, staff agrees that “equipment” includes “furniture.” Staff further agrees that a separate paragraph for the acquisition of equipment and furniture helps to clarify the reimbursable activities.

Thus, staff recommends that the Commission amend the parameters and guidelines, beginning fiscal year 2006-2007, to include the language proposed by Castro Valley with respect to acquisition of equipment and furniture.

³³ Webster’s II New College Dictionary (1999), page 440.

³⁴ The New Oxford American Dictionary (2001), page 666.

³⁵ California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

Issue 6: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology for claiming increased costs for acquiring equipment and furniture?

Castro Valley requests that the Commission amend the parameters and guidelines to include a reimbursement methodology for claiming increased costs for acquiring equipment and furniture. The proposed methodology is as follows:

In the absence of more precise cost accounting documentation, the calculated cost of increased equipment and furniture for the mandated additional year of science instruction shall be fifty-percent (50%) of the actual total cost of science instruction equipment and furniture for grades 9-12 expended for this purpose during the claim year, reduced by fifty-percent (50%) of the total amount of any restricted funding or reimbursement for this purpose received or used during the claim year by the school district from sources which do not require repayment by the school district.

The Department of Finance opposes the use of a standard method for reimbursement of these costs and argues that claims should be based on actual costs. The State Controller's Office also opposes this request on the ground that it is arbitrary.

For the reasons below, staff finds that the proposed formula does not satisfy the requirements of a "reasonable reimbursement methodology" and, thus, recommends that the Commission not adopt the proposed language.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a "reasonable reimbursement methodology" to "mean a formula for reimbursing local agencies and school districts for costs mandated by the state ..." It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a "cost-efficient manner." (Gov. Code, § 17518.5, subd. (c).) The Commission's regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies "shall include any documentation or assumption relied upon to develop the methodology."

The requestors have not filed any documentation or assumptions with the Commission to indicate how the methodology was developed. Thus, there is no evidence in the record that the proposed methodology considers the variation of costs among school districts for acquiring equipment and furniture for the second science course, and there is no evidence in the record that the methodology would provide reimbursement in a cost-efficient manner. The proposed formula begins by using the actual total costs for science instruction equipment and furniture. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, "other coursework as the governing board of the school district may by rule specify." Therefore, the actual total costs for science equipment and furniture for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction equipment and furniture for grades 9-12 expended during the claim year) could result in reimbursement for furniture and equipment for courses that are not mandated by the state. For example, San Diego

Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.³⁶ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.³⁷

In response to the draft staff analysis, Castro Valley argues that the proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring equipment or furniture is based on actual costs.

Staff disagrees with Castro Valley's argument. Government Code section 17518.5, subdivision (a), defines "reasonable reimbursement methodology" as a "formula" for reimbursing local agencies and school districts. Webster's Dictionary defines "formula" to mean "[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation."³⁸ The New Oxford American Dictionary defines "formula" as "a mathematical relationship or rule expressed in symbols" and "a method, statement, or procedure for achieving something."³⁹ Staff finds that a proposed mathematical method of reimbursing school districts for acquiring equipment or furniture at 50% of the total cost is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding with respect to this proposal.

Accordingly, staff recommends that the Commission deny the request to add a reimbursement methodology for the acquisition of equipment and furniture.

Issue 7: Should the Commission amend the parameters and guidelines to include the proposed reimbursement methodology of the "one quarter class load method" for claiming increased teacher salary costs?

Proposals

San Diego Unified School District, Castro Valley Unified School District, et al., and the State Controller's Office request that the Commission amend the parameters and guidelines to include the "one quarter class load method" for claiming increased teacher salary costs. The language and methodology proposed by San Diego Unified School District is as follows:

- a. The "increased pupil load" which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.

³⁶ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8). (See Ex. M.)

³⁷ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3. (See Ex. M.)

³⁸ Webster's II New College Dictionary (1999), page 440.

³⁹ The New Oxford American Dictionary (2001), page 666.

- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is 30 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of ‘increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the percent of science teacher salaries paid with restricted or specific purpose funding or reimbursement received or used for this purpose during the claim year from sources which do not require repayment by the school district.

Castro Valley proposes a similar methodology as follows (language that is different than San Diego’s proposal is noted in underline and strikeout):

In the absence of more precise cost accounting documentation, the calculation of the increased cost of science teachers for each fiscal year, will be calculated according to the following formula:

- a. The “increased pupil load” which results from the mandated additional year of science instruction shall be calculated by dividing the total grade 9-12 pupil enrollment for the claim year by the number four (4), which represents one additional year of instruction.
- b. The number of “increased science classes” for the mandated additional year of science instruction shall be calculated by dividing the “increased pupil load” by the average science class size for grades 9-12 for the claim year. If the claimant cannot determine the average class size for grades 9-12, the default average science class size is ~~30~~ 35 students.
- c. The number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by dividing the number of ‘increased science classes” by the number five (5), which represents the full-time equivalent of classes by each teacher.
- d. This increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction shall be calculated by multiplying the number of “increased science teachers” by the average annual teacher salary and benefit cost for the school district for the claim year.
- e. The increased cost of the number of “increased science teachers” required for the mandated additional year of science instruction, after application of the relevant indirect cost rate, shall be reduced by the ~~percent of science teacher salaries paid with total~~ amount of any restricted or specific purpose funding or reimbursement received or used ~~for this purpose~~ grade 9-12 science instructors during the claim year from sources which

do not require repayment by the school district, first divided by the total number of grade 9-12 science teachers and then multiplied by the number of “increased science teachers.”

The State Controller’s Office proposes three modifications to the proposal of San Diego Unified School District: (1) use the average *science* teacher salary to determine costs, rather than the average teacher salary proposed by San Diego; (2) require districts to retain supporting documentation for enrollment, average class size, total science classes, average science teacher salary and benefits, and costs funded by restricted resources to support the reimbursement claim; and (3) do not add the indirect cost calculation in last step of the calculation *before* offsetting revenue from categorical funds is subtracted. With respect to the last point, the Controller’s Office argues that to add the indirect cost calculation *before* reducing the increased cost of science teacher salaries by restricted or specific purpose funding or reimbursement received by a district would result in state reimbursement of indirect costs associated with ineligible direct costs. Thus, the Controller’s last step in the formula simply states the following: “The reimbursable cost is determined by reducing the increased cost in [step] 4 by the portion of all science teachers funded by restricted resources.” References to the indirect cost calculation remains in the boilerplate section of the parameters and guidelines and would be applied after the increased teacher salary is fully calculated using the “one quarter class load method.” The language proposed by the State Controller’s Office is as follows:

The increased teacher costs are calculated based on the number of teachers to teach the additional year of science as follows:

1. Total regular secondary enrollment (grades 9-12) is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (the de facto standard teacher day consists of 5 class periods)
4. The increased cost is determined by multiplying the number of teachers in (3) by the average salary and benefit cost of a science teacher.
5. The reimbursable cost is determined by reducing the increased cost in (4) by the portion of all science teachers funded by restricted resources.

San Diego Unified School District and the State Controller’s Office include the following “sample calculation” in their proposals:

Sample Calculation

| | |
|--|-------------|
| A. Secondary Enrollment | 28,000 |
| B. One Quarter Class Load (Line A x 1/4) | 7,000 |
| C. Average Science Class Size | 28 |
| D. Increased Classes (Line B/Line C) | 250 |
| E. Number of Classes Per Teacher | 5 |
| F. Increased Science Teachers (Line D/Line E) | 50 |
| G. Average Teacher (or Science Teacher) Salary and Benefits | \$ 60,000 |
| H. Total Costs (Line F x Line G) | \$3,000,000 |

| | |
|--|-------------|
| I. Science Teachers Not Funded by Categorical Programs (90%) | 90% |
| J. Net Science Teacher Costs (Line H x Line I) | \$2,700,000 |

The Department of Finance opposes the adoption of a reimbursement methodology for teacher salary costs, and states the following:

- If the Commission adopts this reasonable reimbursement methodology, Finance estimates statewide costs from fiscal year 1995-1996 through 2008-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner. “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”
- “It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on State Mandates, et al.*, (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.”
- The formula does not take into account dropout rates. The formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.”
- Using a default average science class size does not reflect actual costs. The default proposals are not supported by data.
- The formula does not take into consideration increases in school district revenue limits, or general purpose funding, since the mandate went into effect. This funding should be identified as an offset.

If the Commission considers the proposed reasonable reimbursement methodology, Finance suggests the following amendments:

- Calculate regular secondary enrollment for grades 9-12 with actual ADA reported for grades 9-12 for the entire fiscal year, instead of using CBEDS data (a proposal made in the draft staff analysis).
- Require the retention of records showing the science courses offered by the school district in addition to the mandated science courses, and require that records be retained on teacher salaries and other instructional costs related to the science classes provided.

The “one quarter class load method” for teacher salary costs satisfies the definition of a reasonable reimbursement methodology

Staff finds the “one quarter class load method” satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below.

The one quarter class load method considers a variation of costs among school districts and is cost-efficient

Government Code section 17557, subdivisions (b) and (f), authorize the inclusion of a reasonable reimbursement methodology in the parameters and guidelines “that balances accuracy with simplicity.” Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state . . .,” in lieu of filing detailed documentation of actual costs. Government Code section 17518.5 requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).)

Staff finds that, except for the proposed default class sizes in the formula, the “one-quarter class load method” considers the variation of teacher salary costs among school districts to implement the *Graduation Requirements* mandate. The formulas proposed are calculated using each school district’s actual numbers for enrollment, average science class size, and average teacher salary.

The two proposals from San Diego and Castro Valley use a default class size when the district cannot calculate the average science class size for grades 9-12 for the claim year. As indicated above, San Diego proposes a default science class size of 30, while Castro Valley proposes a default class size of 35. Castro Valley argues that the proposed default class size acknowledges that obtaining district data back to fiscal year 1995-1996 may be impossible since most retention requirements for documents prepared in the normal course of business lapse in three to five years. Castro Valley further states that average class size is reported to the state, but average science class size may not be uniformly available. Castro Valley proposes that the Commission adopt the default class size for the amended claims for costs incurred before fiscal year 2006-2007. Beginning in fiscal year 2006-2007, claimants would be on notice to keep track of the actual average science class size and could reasonably be required to provide that information. Thus, Castro Valley proposes that the default average class size be removed from the formula beginning in fiscal year 2006-2007.

Staff finds, however, that the default class sizes do not comply with the requirements of Government Code section 17518.5. Although Castro Valley’s proposal may be considered equitable, there is no evidence in the record that the default class sizes proposed by San Diego and Castro Valley are based on or consider a variation of actual class sizes among different school districts in the state pursuant to Government Code section 17518.5. Moreover, the difference of five students between the default numbers proposed by San Diego (30) and Castro Valley (35) could be significant statewide. Assuming total secondary enrollment is 1000 and the average annual teacher salary and benefit cost is \$60,000, the annual cost to a district using an average science class size of 30 would result in a \$100,000 reimbursement. A default science class size of 35 would result in an annual reimbursement of \$14,000 less to a district.

Without knowing what the proposed default numbers are based on, staff does not recommend that the Commission adopt a default science class size in the methodology.

Staff further finds that the “one quarter class load method” reimburses school districts for implementing the mandate in a cost-efficient manner. Education Code section 51225.3, subdivision (a), states the following:

Commencing with the 1988-89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 to 12, has not completed all of the following:

- (2) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

[(1)] ...

- (C) Two courses in science, including biological and physical sciences.

The Commission found that the test claim statute increases the number of science courses required for high school graduation from one science course to two science courses. The court, when ruling on the incorrect reduction claims for teacher salary costs, held that the second science class mandated by the test claim statute requires the district to *add* the course to the existing courses offered by the school district.⁴⁰ Since the course has to be taken in one of the four years from grades 9-12, and it constitutes an additional class required to be provided by the school district, the methodology positively identifies the additional course by dividing total enrollment in grades 9-12 for the claim year by four (4). The methodology also uses actual enrollment and salary data from the school district to calculate the cost.

In addition, after the incorrect reduction claims for teacher salary costs were litigated in the *San Diego Unified School District* case, the State Controller’s Office was required by the Court’s judgment and writ to reevaluate the reimbursement claims of the school districts in light of the Court’s ruling. The State Controller’s Office reevaluated the reimbursement claim of Grossmont Union High School District, a district that originally used the “one quarter class load method” to claim costs for science teacher salaries. The Controller’s Office was of the opinion that the “one quarter class load method” was an accurate method of showing increased costs and an easy method to apply. The Commission determined that the Controller properly re-evaluated Grossmont’s claim, and Grossmont’s claim for teacher salary costs, based on the “one quarter class load method,” was approved in full. The Controller’s Office, in comments to the Commission on remand of the Grossmont claim, stated the following:

The method positively identifies the second science course, addresses offsetting savings by the application of a class size differential, and does not require base year data. A shortcoming of this methodology is that it does not specifically identify each teacher associated with the mandate, and therefore it does not specifically identify the funding source of the each [sic] teacher. Despite the shortcoming, this methodology appears to be the most accurate with respect to identifying mandate-related costs and is the easiest to apply.⁴¹

⁴⁰ Exhibit R, page 15.

⁴¹ Exhibit O to Item 19, July 28, 2006 Commission Hearing.

Staff disagrees with the arguments raised by Finance in opposition to the proposed reasonable reimbursement methodology for teacher salary costs

Staff disagrees with the arguments raised by the Department of Finance in opposition to the proposal. Finance contends that the one-quarter class load method does not provide reimbursement in a cost-efficient manner based on its estimate of statewide costs from fiscal year 1995-1996 through 2007-2008 in the amount of \$3 billion, and an additional annual statewide cost of \$250 million if the Commission adopted the proposed reasonable reimbursement methodology. Finance argues that: “Given the magnitude of these costs and the lack of supporting documentation on actual teacher salary costs incurred to comply with this mandate, we strongly suggest that additional data be gathered and taken into consideration before making any determination on whether the proposed method would provide reimbursement in a cost-efficient manner.”

There is evidence of actual teacher salary costs incurred as a result of this program. As a result of the two lawsuits on *Graduation Requirements* that are summarized in the Background section of this analysis, reimbursement for actual teacher salary costs for 22 school districts for fiscal years 1984-1985 through fiscal year 1995-1996 totaled \$59,005,383. This number represents the original amount claimed by these school districts for teacher salary costs as a result of the mandated program. The Controller’s revised audits complied with the court’s writ and showed that there was no evidence of offsetting savings or revenues specifically intended to fund the cost of the *Graduation Requirements* program that would reduce the amounts claimed. After these lawsuits were resolved, another six incorrect reduction claims were filed, covering fiscal years 1999-2000 through 2001-2002. Five of these claims were dismissed at the Commission’s January 2008 hearing because the districts received full payment for teacher salary costs in the amount of \$14,991,452. Thus, there is sufficient evidence of actual teacher salary costs incurred as a result of the *Graduation Requirements* program.

In addition, the court held that the state is required to reimburse school districts for teacher salary costs incurred for the new mandated science class pursuant to article XIII B, section 6. The court’s judgment is final and binding on the state. It is true that not all school districts in the state have filed reimbursement claims for this program. If the Commission adopts the proposed methodology, these school districts would now be able to claim teacher salary costs going back to fiscal year 1995-1996. This will result in a cost to the state. But these costs are reimbursable and the proposed methodology uses actual enrollment and salary data from the school district to calculate the cost. Moreover, as described below, staff is recommending that the Commission adopt the proposal of the State Controller’s Office requiring school districts to retain documentation supporting the data used in the calculation for teacher salary costs.

Finance further argues that the proposed methodology does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. Finance states the following:

It does not provide a mechanism for demonstrating that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. It is possible that students would have replaced an elective course with the additional required science course. In *San Diego Unified School District, et al. v. Commission on*

State Mandates, et al., (No. 03CS01401) the Sacramento County Superior Court recognized that there is a reasonable expectation that school districts may realize offsetting savings when students taking the second science course do not increase the number of classes they take overall. The Ps and Gs should be specific enough to enable the SCO to obtain sufficient documentation to determine the existence of offsetting savings.

The court acknowledged the possibility that the second science class would not result in an increase in the number of classes provided and teachers required for those classes during the school day and year if a school district exercised its discretion under Education Code section 44955 by terminating the services of permanent employees of courses offered by a school district when the state modified the mandated curriculum.⁴² The use of the authority under Education Code section 44955 is discretionary, however. The court held that “there is no suggestion ... of legislative intent to supply the district with an offset mechanism to reallocate teaching staff resources and avoid actual increased costs for teachers’ salaries otherwise reimbursable under section 6 whenever the district adds a newly state-mandated course to its curriculum.”⁴³ The court further held that such an intent would directly conflict with the subdivision (a) of the test claim statute, recognizing the district’s right to specify and provide courses for graduation in addition to the state-mandated courses, and would defeat the purpose of article XIII B, section 6.⁴⁴ Although, under the court’s ruling, the Controller cannot require a school district to show an offset pursuant to Education Code section 44955 in order to receive reimbursement, the Controller “can properly require claimants to demonstrate that the second science course has not increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided.”⁴⁵ The court’s judgment and writ further stated that “the State Controller may require the petitioner to submit cost data and documentation to demonstrate whether it experienced any savings to offset the teachers’ salary costs as a direct result of providing the second science course pursuant to subdivision (a)(1) of Education Code section 51225.3.” This finding is binding on the State Controller’s Office when auditing other reimbursement claims for teacher salary costs for this program under principles of collateral estoppel. Furthermore, as described below under Issue 10, staff recommends that the language from the court’s ruling, judgment, and writ be added to the offset language of the parameters and guidelines beginning fiscal year 2004-2005. Thus, if a district exercises its authority under Education Code section 44955 as a “direct result” of the second science course mandated by the test claim statute that resulted in cost savings, reimbursement is not required for teacher salary costs.⁴⁶ The proposed “one quarter class load method” does not prevent the Controller from requiring the claimants to show that they have not experienced any cost savings.

⁴² Exhibit M, Ruling, pages 16-18.

⁴³ *Id.* at page 16.

⁴⁴ *Ibid.*

⁴⁵ *Id.* at page 18.

⁴⁶ There is no evidence in the record on the *Graduation Requirements* incorrect reduction claims that any of the school districts used their authority under Education Code section 44955 for cost savings.

Furthermore, the claimants are not required to show that the number of classes provided during the school day and year along with the number of teachers required for the classes provided has increased in order to receive reimbursement for teacher salary costs, as suggested by the Department of Finance. Reimbursement is also required if no changes in a district's instructional service is shown. The Legislature, in Government Code section 17565, has determined that "[i]f a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." Thus, even if a school district was requiring the completion of a second science course in order to graduate before the test claim statute was enacted, the district would still be entitled to reimbursement under article XIII B, section 6.

Finance further argues that the formula does not take into account dropout rates. The formula, however, does require districts to report total secondary enrollment for the claim year. Each year, school districts report total enrollment, which, by definition does not include students that have dropped out of school, to the Department of Education for the California Basic Educational Data System (or CBEDS) on "Information Day."⁴⁷ CBEDS Information Day has historically been a date in October when the CBEDS coordinator for each school district submits the requested data to the Department of Education. School enrollment, which is determined by an unduplicated count by grade, gender, and racial/ethnic designation of students enrolled on Information Day, is reported to the state. The CBEDS Manual defines a dropout as a student "not enrolled and attending school as of Information Day ..."⁴⁸ Thus, in order to capture total enrollment that does not include students that drop out, staff recommends that the proposed formula identify total secondary enrollment by using the number reported to the state on the CBEDS Information Day for the claim year. Moreover, the CBEDS manual states that CBEDS data is used by school districts to determine certificated employee ratios, curriculum offerings, course enrollments, and identification of areas of teacher needs – information a school district uses to determine the number of teachers required to teach mandated courses.⁴⁹

In this respect, Finance argues that if the Commission adopts the proposed methodology, that it should use the average daily attendance (ADA) of pupils rather than CBEDS data to calculate total secondary enrollment, since ADA is primarily used for funding purposes. ADA is used for purposes of school funding under Proposition 98 pursuant to Education Code sections 41000, et seq. The ADA number, however, does not include student absences.⁵⁰ Thus, even though a student may be enrolled in school, the ADA enrollment figures may be lower than the enrollment data reported to the state under the CBEDS program on the CBEDS Information Day. Despite student absences, a school district is still required to teach and provide the science course mandated by the test claim statute. The costs incurred in a claim year to provide the science course are *not* affected, or lowered, by student absences. Article XIII B, section 6 of the California Constitution requires reimbursement for the increased costs mandated by the state. Staff finds that the ADA of pupils in a school district does not provide the accurate enrollment

⁴⁷ A copy of 2004 CBEDS Manual is in Exhibit C to Item 19, page 151, of the July 28, 2006 Commission hearing.

⁴⁸ *Id.* at page 159.

⁴⁹ 2007 CBEDS Manual, page 4.

⁵⁰ Education Code sections 41601, 46010.

data necessary to determine the increased costs incurred by school districts for teacher salary costs as a result of this mandated program.

Finance also argues that the formula should not include students in grades 9 and 10 since “it is unlikely they would be enrolled in the second science course required for graduation.” However, there is no evidence in the record to support Finance’s argument. As indicated above, the test claim statute requires that the second science course be taken in one of the four years from grades 9-12. The court concluded that the class constitutes an additional class required to be provided by the school district.

Finally, Finance opposes the adoption of the proposed formula because it does not take into consideration significant increases in school district revenue limits, or general purpose funding, since the mandate went into effect, which should be identified as an offset. Finance states that revenue limits apportionments are the primary source of general purpose funding for school districts and that Education Code section 41372 requires high school districts to expend 50% of their current expense of education for the payment of teacher salaries.

Education Code section 41372 requires high school districts to expend 50%, and unified school districts to expend 55%, of the district’s current expense of education on the salaries of classroom teachers for grades 9 through 12. The “current expense of education” is specifically defined to include the gross total expended for certificated salaries and benefits; classified salaries and benefits; and replacement books, supplies, and equipment. A school district may apply for a hardship exemption from the requirements of the statute. In addition, Education Code section 41373 specifically excludes small high school districts and unified school districts that maintain no individual class session with pupils in attendance exceeding 25 pupils in grades 9 through 12.

However, Education Code sections 41372 and 41373 do *not* require school districts to use the revenue limit apportionments on the salaries of any particular teacher, or on the teachers teaching the courses mandated by Education Code section 51223.5 first. Instead, to the extent these statutes apply to a school district, the district has the discretion to apply the money received on any of its teachers, including teachers of non-mandated courses, as long as the expenditure amounts to 50% of the district’s total “current expense of education.” If, however, a school district subject to Education Code section 41372 and 41373 uses its revenue limit apportionment for the salaries of the teachers teaching the science course mandated by Education Code section 51223.5, as amended by the test claim statute (Stats. 1983, ch. 498), then those funds should be identified as offsetting revenue. Staff recommends specific language in the offset paragraph to reflect these statutes. Proposed offset language is discussed under Issue 10. The proposed “one quarter class load method” for reimbursing teacher salary costs does not alter this potential offset.

Moreover, there is no evidence that the state has appropriated funds specifically intended to fund the cost of providing the second science course mandated by Education Code section 51225.3, as required by Government Code section 17556, subdivision (e). If funds are specifically appropriated for this program in the future, the parameters and guidelines already require school districts to identify such funds as offsetting revenue. The offset paragraph currently provides in relevant part the following:

In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

The proposed “one quarter class load method” does not alter these potential offsets.

Therefore, staff finds the “one quarter class load method” satisfies the definition of a reasonable reimbursement methodology, but recommends modifications to the proposal as described below.

Staff’s proposed modifications to the methodology

San Diego Unified School District recommends that the methodology use the average teacher salary for claiming costs, while the State Controller’s Office proposes the use of the average *science* teacher salary. Staff recommends that the Commission adopt the proposal using the average teacher salary because school districts are already reporting that number to the state Department of Education (Form J-90). School districts voluntarily report to the state the salary and benefits of their certificated personnel on state Form J-90, and in fiscal year 2005-2006, 84% of the school districts in the state (representing 98% of the state’s ADA) reported the average teacher salary to the state.

Staff further recommends that the last step in the proposed formula, which reduces the increased teacher cost by the portion of science teachers funded by restricted resources, be identified in the offset paragraph of the parameters and guidelines and not included in Section IV, Reimbursable Activities. Leaving the offset language in the formula in Section IV of the parameters and guidelines, and having a separate paragraph for offsetting revenues in Section VII, is confusing. All potential offsetting revenue should be identified in one location of the parameters and guidelines. Thus, staff recommends that the offset paragraph be amended to add the following language: “total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual shall be identified and deducted from this claim.”

In addition, the San Diego and Castro Valley proposals discuss the application of the indirect cost rate in the last step of the formula and apply the indirect cost rate to the direct costs before deducting teacher salary costs by the amount of revenue received for salaries from restricted resources. The Controller’s Office does not agree with this language. Staff notes that the current claiming instructions issued by the State Controller’s Office in its School Mandated Cost Manual for the *Graduation Requirements* program requires claimants to calculate indirect costs before applying the offsets. Staff recommends that the indirect cost language remain in the boilerplate language and not be included in the proposed formula.

Finally, the State Controller’s Office requests the addition of language in the parameters and guidelines to state that supporting documentation shall be retained to support data elements needed to complete the calculation including enrollment, average science class size, total science classes, average teacher salary and benefits, and costs funded by restricted resources. This request is supported by the Court’s judgment and ruling in the *San Diego Unified School District* case. The Court held that a documentation requirement for the costs incurred under a mandated program “has a firm legal basis in subdivision (e) of Government Code section 17556 and California Code of Regulations, title 2, section 1183.1(a)(9).”⁵¹ As described below, staff

⁵¹ Ruling, page 18.

proposes that the Commission add record retention language to the parameter and guidelines consistent with the Controller's request.

The Department of Finance wants the Commission to go farther if it adopts the one quarter class load method, and require school districts to retain documentation on science courses offered by a school district that are not mandated by the state and on the number of students completing more than the two science courses mandated by the state. Finance states the following:

We note that while [the draft staff analysis] acknowledges, for purposes of calculating instructional material costs, that the San Diego Unified School District requires three years of science instruction for graduation and the Grossmont Union High School District offers several science courses that do not meet the state's science course requirements for biological and physical sciences, the staff's proposed Record Retention section does not include language requiring districts to retain this information. According to the State Department of Education, not all science courses offered in California high schools meet the state's high school graduation requirements for physical and biological sciences. We contend that retention of these two data elements, science courses offered with relevant CBEDS course code and number of students completing more than two science courses, is relevant and necessary for an accurate cost calculation. Teacher salaries and other instructional costs related to science courses not meeting the state standard for graduation and science classes provided beyond the state's graduation requirement do not qualify as state-mandated reimbursable activities and should be included in the calculation of reimbursable costs.⁵²

The Commission does not have the authority to require school districts to retain documentation regarding science courses that are *not* mandated by the state, or students taking these non-mandated courses. These courses are not reimbursable, and are not included in the proposed one quarter class load method for determining teacher salary costs for the mandated science course. Thus, Finance's request goes beyond the scope of this mandate. The request also defeats the purpose of a reasonable reimbursement methodology, which "balances accuracy with simplicity" and is used in lieu of filing detailed documentation of actual costs. However, the State Controller's Office has the authority, pursuant to Government Code section 17561, subdivision (d)(2), to audit the application of the reasonable reimbursement methodology.

Accordingly, staff recommends that the following record retention language be included in the parameters and guidelines:

RECORD RETENTION

Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter⁵³ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal

⁵² Exhibit Q.

⁵³ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

Accordingly, staff recommends that the following reasonable reimbursement methodology representing the “one quarter class load method” for claiming teacher salary costs be added to the parameters and guidelines beginning in fiscal year 1995-1996:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

The parameters and guidelines adopted on January 24, 1991, would be amended for costs incurred beginning in fiscal year 1995-1996 to include a section on “Claim Preparation and Submission: Reasonable Reimbursement Methodology to clarify the claiming methods for the reimbursable activities.

Issue 8: Should the Commission amend the parameters and guidelines to add reimbursement for the salaries and benefits of “other science instruction personnel”?

Castro Valley requests reimbursement for the salaries and benefits of “other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants)” for grades 9-12. Castro Valley argues that the Statement of Decision and the first parameters and guidelines indicate as a matter of law that reimbursement was not limited to science teachers and, thus, there is no need to determine if other personnel, such as lab assistants, are reasonably necessary within the context of the parameters and guidelines.

The Department of Finance and the State Controller's Office oppose this request, contending that any increased costs incurred for science instruction personnel other than teachers has not been mandated by the state.

For the reasons below, staff disagrees with Castro Valley and recommends that the Commission not adopt this proposal.

The test claim statute mandates school districts to provide a second science course, either biological or physical, in order for students to graduate from high school. The statute is silent with respect to how a school district is to provide the course. Thus, the test claim statute, on its face, does not mandate school districts to hire science instruction personnel, such as lab assistants. It is clear, however, that certificated teachers are required to teach this science course. Since the 1943 Education Code, school districts have been required to conform their educational program to state standards. (Ed. Code, § 51041.) Section 51041 states the following:

The governing board of every school district shall evaluate its educational program, and shall make such revisions as it deems necessary. *Any revised educational program shall conform to the requirements of this division* [Division 4, Instruction and Services, Elementary and Secondary Education]. (Emphasis added.)

The test claim statute, Education Code section 51225.3, is within Division 4 of the Education Code and describes the state-mandated courses of instruction required for high school graduation, including the science course at issue here. Education Code section 44805, enacted before the test statute, further states that "every teacher in the public schools shall enforce the course of study . . . prescribed for schools."

Moreover, despite Castro Valley's assertion that the Commission has already determined that reimbursement is not limited to science teachers, neither the Statement of Decision nor the original parameters and guidelines make a finding that reimbursement is required for "other science instruction personnel." The Statement of Decision states in relevant part that "[s]ome of the Santa Barbara High School District's increased costs resulting from compliance with Education Code Section 51225.3 are costs mandated by the State," but the decision provides no specificity with regard to the reimbursable activities.⁵⁴ (Emphasis added.) The parameters and guidelines authorize reimbursement for the "increased cost to school district for staffing . . .," but do not specifically authorize reimbursement for instructional personnel or lab assistants.⁵⁵ Accordingly, staff finds that hiring science instruction personnel, other than teachers, is not mandated by the state.

Thus, pursuant to section 1183.1, subdivision (a)(4), of the Commission's regulations, the issue is whether using science instruction personnel other than teachers to help provide the science course is reasonably necessary to comply with the mandate to provide the second science course to high school students.

There is no evidence in the record or the law to support the claim that using science instruction personnel other than teachers is reasonably necessary to comply with the mandate to provide the

⁵⁴ Exhibit A.

⁵⁵ Exhibit B.

second science course. Therefore, staff recommends that the Commission deny this request for amendment.⁵⁶

Issue 9: Should the Commission amend the parameters and guidelines to clarify the reimbursable activities with respect to science instructional materials and supplies, and include a reimbursement methodology for the cost of the activity?

The parameters and guidelines authorize reimbursement for “supplying” the new mandated science course. This reimbursable activity is currently in the same paragraph as the activity for “staffing,” or teaching, the science course.

Castro Valley requests that the Commission amend the parameters and guidelines to identify the reimbursement of supplying the science course in a separate paragraph than staffing for purposes of clarity. The requestors further propose the following reimbursement methodology for supplying science instruction materials.

Increased cost to school district for ~~staffing and~~ supplying the new science classes mandated.

In the absence of more precise cost accounting documentation, the calculated cost of “increased science instruction materials (textbooks, materials and supplies)” shall be fifty-percent (50%) of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, after application of the relevant indirect cost rate. The calculated costs of “increased science instruction materials” shall be reduced by one-half of the total amount of any restricted funding or reimbursement received or used for grade 9-12 science instruction materials for the claim year from sources which do not require repayment by the school district.

The State Controller’s Office opposes the reimbursement methodology proposed by Castro Valley on the ground that the methodology is arbitrary. Instead, the State Controller’s Office and San Diego Unified School District propose another formula similar to the one-quarter class load method for teacher salary costs. Although San Diego has not proposed a specific formula or any language for the proposed reasonable reimbursement methodology, the Controller’s Office has proposed the following language for materials and supplies for the science course.

The increased material and supply costs are calculated based on the number of additional classes to teach the additional year of science as follows:

1. Total science material and supply costs are divided by total science classes offered to determine an average cost per science class.
2. The increased cost is determined by multiplying the average material and supply cost per class in (1) by the increased science classes [determined in the second step of the “one quarter class load method”].

⁵⁶ Since staff recommends that the Commission deny the request for reimbursement for instructional personnel other than teachers, staff will not address the requestors’ proposed reimbursement methodology for this alleged cost.

3. The reimbursable cost is determined by reducing the increased cost in (2) by the portion of all science classes' material and supply costs funded by restricted resources.

The Controller's Office uses the following assumptions to support the proposed method for claiming material and supply costs:

- The assumptions for material and supply costs are the same as the teacher costs calculation. The assumption is that the total enrollment will take the additional year of science in one of the four years of high school. The costs are based on the additional classes needed to provide the additional science course.
- The method uses the same increased classes computed in the teacher calculation to determine increased material and supply costs.
- The Schiff-Bustamante grant is a restricted resource and would be considered offsetting revenue just as restricted revenues concerning the teacher costs.
- Total science classes offered to include non mandate science classes – however the method only uses the increased classes from the teacher calculation to determine the increased material and supply costs.

The Department of Finance is opposed to the adoption of a reimbursement methodology for instructional materials. Finance states the following:

Finance is opposed to adopting a cost methodology for instructional materials that uses total costs for all science materials as its basis. The claims submitted for any instructional materials costs should be based on actual procurement costs, which are offset by any State Instructional Materials Fund (commencing with CA Education Code Section 60240) resources provided by the state directly on a per pupil basis, or indirectly as expenditures out of a local instructional materials account which received its revenue from the state fund, or any revenue limit or discretionary funding provided by the state which local education agencies use for purchasing the required materials.

By assuming one-half of science instructional materials costs should be reimbursed by the state, the proposed methodology precludes the possibility that state funds may be sufficient to fund all one-time costs for all classes including science.

The Annual Budget contains funding specifically dedicated to offset costs for instructional materials. The 2007 Budget Act contains \$419.8 million Proposition 98 General Fund to assist local education agencies with obtaining standards aligned instructional materials, including those for science courses, for all students in a timely manner. The state also invested \$1 billion for instructional materials under the Schiff-Bustamante Instructional Materials Program, which required the funds to be used for the core curriculum areas, including science. Further, in 1997-98, the state provided \$71.5 million for the purchase of science laboratory materials and equipment.

First, staff finds that a separate paragraph for supplying the mandated science course helps to clarify the reimbursable activities. Thus, with respect to supplying the science course, staff

recommends that the Commission amend the parameters and guidelines, beginning in fiscal year 2006-2007, with the following language:

Increased cost to school district for ~~staffing and~~ supplying the new science classes mandated with science instructional materials (textbooks, materials, and supplies).

Staff finds, however, that the proposed formulas for reimbursing science instructional materials do not satisfy the requirements of a “reasonable reimbursement methodology” and, thus, recommends that the Commission not adopt the proposed formulas.

Government Code section 17518.5, as amended by AB 1222 (Stats. 2007, ch. 329, eff. Jan. 1, 2008), defines a “reasonable reimbursement methodology” to “mean a formula for reimbursing local agencies and school districts for costs mandated by the state ...” It requires that two elements be shown: (1) that the methodology considers the variation of costs among local agencies and school districts to implement the mandate, and (2) that the methodology reimburses local agencies or school districts for implementing the mandate in a “cost-efficient manner.” (Gov. Code, § 17518.5, subd. (c).) The Commission’s regulations, section 1183.13, subdivision (d), states that proposed reasonable reimbursement methodologies “shall include any documentation or assumption relied upon to develop the methodology.”

There is no evidence in the record that the proposed methodologies reimburse school districts for implementing the mandate in a cost-efficient manner. Both formulas begin by using the actual total costs for science materials and supplies. Although the state mandates schools to provide two science courses in grades 9 to 12 (with the test claim statute increasing the state requirement of one science course to two science courses) - state law, in Education Code section 51225.3, subdivision (a)(2), also allows school districts to offer, at their discretion, “other coursework as the governing board of the school district may by rule specify.” Thus, the actual total costs for science materials and supplies for a claim year may include costs for more than the minimum two science courses. In this respect, the 50% method proposed by Castro Valley (50% of the actual total cost of science instruction materials for grades 9-12 expended during the claim year, reduced by 50% of the restricted funding received for materials) could result in reimbursement for materials and supplies for courses that are not mandated by the state. Although the proposal of the State Controller’s Office uses the average material cost per science class offered in their formula, which is then multiplied by the increased science classes (total enrollment divided by four), the average cost per science class may also include costs for courses that are not mandated by the state. For example, San Diego Unified School District, for the 2007-2008 school year, requires three years of science instruction for graduation, rather than two, and offers 14 science courses to satisfy the graduation requirement.⁵⁷ In addition, Grossmont offers several science courses that do not meet the two required science courses mandated by the state in biological and physical sciences, including Introduction to Forensic Science, Introduction to Health Careers, Healthcare Essentials, and Astronomy.⁵⁸

⁵⁷ See, <http://studata.sandi.net/cos> (San Diego Unified School District, Course of Study K-12: 2007-08, page SCI-8).

⁵⁸ See, Master Course Catalog for Grossmont Union High School District, July 2007, pages R1-R3.

Moreover, staff disagrees with the assumption that the proposed formula for reimbursing materials and supplies is based on the same assumption as the formula for reimbursing teacher salary costs. The proposed formulas are very different. The one quarter class load method for teacher salary costs starts with, and is based on, total enrollment in grades 9 to 12. Every student enrolled in high school is mandated by the state to take and complete the science course at issue in this case to graduate from high school. The proposed formula for materials and supplies, however, is based on the total science material and supply costs of a district, which as indicated above, includes costs that are not mandated by the state.

Thus, staff recommends that the Commission deny these proposed reasonable reimbursement methodologies and continue to authorize reimbursement based on actual costs claimed.

In response to the draft staff analysis, Castro Valley argues that its proposed methodology is not a reasonable reimbursement methodology and, thus, the reasons stated above to deny the request are without foundation. Castro Valley argues that the proposal to reimburse 50% of the total costs for acquiring materials and supplies is based on actual costs.

Staff disagrees with Castro Valley's argument. Government Code section 17518.5, subdivision (a), defines "reasonable reimbursement methodology" as a "formula" for reimbursing local agencies and school districts. Webster's Dictionary defines "formula" to mean "[a] mathematical statement, esp. an equation, of a rule, principle, answer, or other logical relation."⁵⁹ The New Oxford American Dictionary defines "formula" as "a mathematical relationship or rule expressed in symbols" and "a method, statement, or procedure for achieving something."⁶⁰ Staff finds that a proposed mathematical method of reimbursing school districts for acquiring 50 % of their science material and supply costs is a formula and, thus, a proposed reasonable reimbursement methodology. Therefore, Government Code section 17518.5 applies and is binding.

Staff further recommends that the Commission amend the offsetting revenue and reimbursement section of the parameters and guidelines, beginning in fiscal year 2006-2007, to specifically identify the sources of revenue appropriated from the state and used by school districts for instructional materials for the second science course mandated by the test claim statute. The Schiff-Bustamante Instructional Materials Program, a funding source identified by Finance, was repealed in 2002 for lack of funding. (Stats. 2002, ch. 1168 (AB 1818, § 71).) The repeal was effective on January 1, 2004. However, Education Code section 60240 and following, address the State Instructional Materials Fund. Under these provisions, annual appropriations are made for instructional materials. However, there is no requirement in state law that these funds must be used to pay the cost of the *Graduation Requirements* mandate. Rather, commencing with the 2002-2003 fiscal year, the State Controller is required to transfer from the General Fund to the State Instructional Materials Fund money to be allotted to school districts by the Board of Education for instructional materials for grades 9 to 12.⁶¹ School districts shall use the funds apportioned solely for the purchase of instructional materials for grades 9 to 12.⁶² In addition,

⁵⁹ Webster's II New College Dictionary (1999), page 440.

⁶⁰ The New Oxford American Dictionary (2001), page 666.

⁶¹ Education Code section 60247.5.

⁶² Education Code section 60248.

the Superintendent of Public Instruction may allocate to school districts funds that were recovered from publishers and deposited into the Instructional Materials Fund as a result of proceedings against the publisher.⁶³ In the 2006 Budget Act, \$403.5 million was appropriated to the State Instructional Materials Fund.⁶⁴ In the 2007 Budget Act, \$419.8 million was appropriated to the State Instructional Materials Fund.⁶⁵ See Issue 10 below, for the proposed language for the offsetting revenue and reimbursement section of the parameters and guidelines.

Issue 10: Should the Commission amend the Offset section of the parameters and guidelines?

As indicated above, staff recommends that the Commission amend the offset section of the parameters and guidelines, beginning fiscal year 1995-1996, to clarify that the direct and indirect science teacher salary costs incurred as a result of the test claim statute that are funded by restricted resources and program funding as identified by the California Department of Education School Accounting Manual be identified as an offset. Staff further recommends that if a school district is subject to Education Code section 41372 and 41373 (the school district is not a small high school district or unified school district that maintains no individual class session with pupils in attendance exceeding 25 pupils in grades 9 through 12) and uses its revenue limit apportionment for the salaries of the teachers teaching the science course mandated by Education Code section 51223.5, as amended by the test claim statute (Stats. 1983, ch. 498), then those funds should be identified as offsetting revenue beginning in fiscal year 1995-1996. Beginning in fiscal year 2006-2007, staff recommends that the offset paragraph be amended to specifically identify funds appropriated to school districts from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used by school districts for supplying the second science course mandated by the test claim statute.

In addition to these proposals, Castro Valley requests that the Commission amend the offset section to clarify that reimbursement for the mandated program received from state, *other than state mandate reimbursement*, shall be deducted from the claim.

Staff recommends that the Commission deny Castro Valley's request. If the parameters and guidelines are amended by the Commission, the State Controller's Office will be required to issue revised claiming instructions pursuant to Government Code section 17558. Eligible claimants may be allowed to file new claims under the revised claiming instructions. If a claimant has received state mandate reimbursement, in whole or in part, for the claim year for an activity listed in the revised claiming instructions, the claimant would not be eligible to receive 100% reimbursement for the same activity for same claim year that has already been reimbursed.

Mountain View-Los Altos High School District further proposes to amend the "Offsetting Savings and Reimbursement" section of the parameters and guidelines by adding language directly from the court ruling and judgment in the *San Diego Unified School District* action (Sacramento County Superior Court, Case No. 03CS01401). The proposed language states the following:

⁶³ Education Code section 60251.

⁶⁴ Statutes 2006, chapter 47, Item 6110-189-0001.

⁶⁵ Statutes 2007, chapter 171, Item 6110-189-0001.

The State Controller, when auditing school district's reimbursement claims under section VI of these parameters and guidelines, may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3(a)(1) on the ground that the school district could have offset these costs by using its authority under Education Code section 44955(b) to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3(a)(2).

The language proposed by Mountain View-Los Altos High School District is consistent with the court's Judgment (paras. 1 and 2 (b)), and can also be found on pages 17 and 18 of the court's Ruling on Submitted Matter). Pursuant to Government Code section 17557, the potential reimbursement period for this request to amend the parameters and guidelines would begin July 1, 2004.

Staff recommends that the Commission amend the offset section of the parameters and guidelines to add the ruling by the court to the offset section of the parameters and guidelines, beginning in fiscal year 2004-2005. The State Controller's Office is required to comply with the court's ruling when auditing and reimbursing teacher salary costs for the *Graduation Requirements* program under principles of collateral estoppel.⁶⁶ Collateral estoppel precludes a party from re-litigating the matters previously litigated and determined in a prior proceeding and makes the decision on the matter in the prior proceeding binding in the subsequent matter. Thus, even if the Commission does not amend the parameters and guidelines to include this language, it is still binding on the Controller. Staff recommends that the language be added, however, for purposes of clarity and notice to all eligible claimants.

Staff further recommends that the offset section be amended to the current boilerplate language for claims filed for fiscal year 2006-2007 costs. Staff's proposed amendments are as follows:

[Proposed Amendment to the parameters and guidelines *adopted on January 24, 1991 for Costs Incurred Beginning in Fiscal Year 1995-1996*]

VI. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education

⁶⁶ California Rules of Court, Rule 8.1115.

California State School Accounting Manual; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from July 1, 1995 through June 30, 2004, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

[Proposed Amendment to the Parameters and Guidelines for Costs Incurred From July 1, 2004, until December 31, 2004]

VI. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from July 1, 2004 through December 31, 2005, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these

costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

[Proposed Amendment to the parameters and guidelines adopted December 9, 2005 for Costs Incurred From January 1, 2005, until June 30, 2006

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from January 1, 2005 through June 30, 2006, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

[Proposed Amendment to the parameters and guidelines beginning in fiscal year 2006-2007]

VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting savings revenues the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected; federal funds; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; revenue limit revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); and funds appropriated to school districts from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

XIII. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b),

to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the following attached proposed parameters and guidelines amendments:

1. (Pink Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 1995 through June 30, 2004*
2. (Blue Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181A, 05-PGA-05), Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *July 1, 2004, through December 31, 2004*
3. (Green Attachment) Proposed Parameters and Guidelines Amendment (04-PGA-30, CSM 4181 A, 05-PGA-05); Effective for Reimbursement Claims Filed for Increased Science Teacher Salary Costs for Staffing the Mandated Science Class Beginning *January 1, 2005, through June 30, 2006*
4. (Yellow Attachment) Proposed Parameters and Guidelines Amendment (CSM 4181 A, 05-PGA-05, 06-PGA-04, 06-PGA-05); Effective for Reimbursement Claims Filed for Costs Incurred *Beginning in Fiscal Year 2006-2007*

If these documents are adopted, staff recommends that the Commission authorize staff to make necessary technical changes or corrections to these documents before they are issued.

Adopted: 3/23/88
Amended: 8/24/88
Amended: 1/24/91
Proposed Amendment: March 28, 2008 hearing
WP 0066j

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT (CSM 4181 A)

Chapter 498, Statutes of 1983

Education Code Section 51225.3

Graduation Requirements

**EFFECTIVE FOR REIMBURSEMENT CLAIMS FILED FOR INCREASED TEACHER
SALARY COSTS FOR STAFFING THE MANDATED SCIENCE CLASS
BEGINNING JULY 1, 1995 THROUGH JUNE 30, 2004**

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983, added Section 51225.3 to the Education Code. This section requires that beginning with the 1986/87 school year, no pupil shall receive a high school diploma without completing an additional science course above that which was required prior to enactment of Chapter 498/83. One year of science was required prior to Chapter 498/83 and as a result of Chapter 498/83 two science courses are now required. Chapter 498/83 further specifies that the curriculum include one course each of biological and physical sciences.

II. COMMISSION ON STATE MANDATES DECISION

On November 20, 1986, the Commission on State Mandates determined that Education Code 51225.3 as added by Statutes of 1983, Chapter 498, constitutes a reimbursable state mandate by requiring-school districts to provide an additional science course to students prior to their graduation from the twelfth grade.

III. PROPOSED AMENDMENT TO THE PARAMETERS AND GUIDELINES
(March 27, 2008)

The parameters and guidelines amendment adopted by the Commission on March 27, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, and replaces the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. This parameters and guidelines amendment only affects the reimbursement of teacher salary costs and does not affect the other reimbursable activities in this program that may have been claimed and reimbursed.

III.IV. ELIGIBLE CLAIMANTS

All school districts that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3. The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

IV. V. PERIOD OF REIMBURSEMENT

The period of reimbursement for this parameters and guidelines amendment is from July 1, 1995, to June 30, 2004.

~~The graduation requirement provisions of Chapter 498, Statutes of 1983, which amended Education Code section 51225.3 became effective July 28, 1983. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed November 19, 1985. Therefore, costs incurred on or after July 1, 1984 are reimbursable. If total costs for a given fiscal year total less than \$201.00, no reimbursement shall be allowed, except as provided for in Revenue and Taxation Code Section 2233, which allows County Superintendents and County fiscal officers to consolidate claims of school districts and special districts that, taken individually are less than \$201.00.~~

V. VI. REIMBURSABLE COSTS ACTIVITIES

School Districts will be reimbursed for increased costs incurred in providing the additional science course mandated by Chapter 498/83, ~~such as~~ for the following reimbursable activity:

- ~~A. Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.~~
- ~~B. Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.~~
- C. Increased cost to school district for staffing ~~and supplying~~ the new science classes mandated.

VI. VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by

Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from July 1, 1995 through June 30, 2004, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

VIII. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

For costs incurred beginning in fiscal year 1995-1996, the Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, subdivision (b), and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.
 - (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.

(5) An interested party.

2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VII. PROFESSIONAL AND CONSULTANT SERVICES

~~Claimants shall separately show the name of professionals or consultants, specify the functions which the consultants performed relative to the mandate, length of appointment, and the itemized costs for such services. Invoices must be submitted as supporting documentation with the claim. The maximum reimbursable fee for contracted services is \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that~~

~~the fee is no greater than the above maximum. Reasonable expenses will also be paid as identified on the monthly billings of consultants.~~

~~VIII. ALLOWABLE OVERHEAD COSTS~~

~~The overhead cost for all of the above reimbursable costs shall be the Non-Restrictive Indirect Cost Rate from the J-141A.~~

~~IX. SUPPORTING DATA FOR CLAIMS~~

- ~~A. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.~~
- ~~B. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.~~
- ~~C. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - ~~a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.~~
 - ~~b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.~~~~
- ~~D. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.~~
- ~~E. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.~~

~~IX. RECORD RETENTION~~

~~Reasonable Reimbursement Methodology~~

~~Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit~~

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

X. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the amended parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the amended parameters and guidelines adopted by the Commission.

XI. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive,, of the Government Code and other applicable provisions of law have been complied with: and

THAT I am the person authorized by the local agency to file claims with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number

Adopted: 3/23/88
Amended: 8/24/88
Amended: 1/24/91
Proposed Amendment: March 28, 2008 hearing
WP 0066j

**PROPOSED PARAMETERS AND GUIDELINES AMENDMENT
(CSM 4181 A, 05-PGA-05)**

Chapter 498, Statutes of 1983
Education Code Section 51225.3
Graduation Requirements

**EFFECTIVE FOR REIMBURSEMENT CLAIMS FILED FOR INCREASED SCIENCE
TEACHER SALARY COSTS FOR STAFFING THE MANDATED SCIENCE CLASS
BEGINNING JULY 1, 2004 THROUGH DECEMBER 31, 2004**

I. SUMMARY OF MANDATE

Chapter 498, Statutes of 1983, added Section 51225.3 to the Education Code. This section requires that beginning with the 1986/87 school year, no pupil shall receive a high school diploma without completing an additional science course above that which was required prior to enactment of Chapter 498/83. One year of science was required prior to Chapter 498/83 and as a result of Chapter 498/83 two science courses are now required. Chapter 498/83 further specifies that the curriculum include one course each of biological and physical sciences.

II. COMMISSION ON STATE MANDATES DECISION

On November 20, 1986, the Commission on State Mandates determined that Education Code 51225.3 as added by Statutes of 1983, Chapter 498, constitutes a reimbursable state mandate by requiring-school districts to provide an additional science course to students prior to their graduation from the twelfth grade.

III. PROPOSED AMENDMENT TO THE PARAMETERS AND GUIDELINES

The parameters and guidelines amendment adopted by the Commission on March 27, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, and replaces the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. This parameters and guidelines amendment also adds language regarding the reimbursement of teacher salary costs to Section VII, Offsetting Savings and Other Reimbursements, consistent with the court's ruling in San Diego Unified School District v. Commission on State Mandates, Sacramento County Superior Court Case No. 03CS01401. This parameters and guidelines amendment only affects the reimbursement of teacher salary costs and does not affect the other reimbursable activities in this program that may have been claimed and reimbursed.

~~III~~IV. ELIGIBLE CLAIMANTS

~~All school districts that incurred increased costs as a result of implementing Chapter 498, Statutes of 1983, Education Code Section 51225.3.~~ The eligible claimants are any school district

and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

IV. V. PERIOD OF REIMBURSEMENT

The period of reimbursement for this parameters and guidelines amendment is from July 1, 2004, to December 31, 2004.

V-VI. REIMBURSABLE COSTS-ACTIVITIES

School Districts will be reimbursed for increased costs incurred in providing the additional science course mandated by Chapter 498/83, such as for the following reimbursable activity:

- A. ~~Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.~~
- B. ~~Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.~~
- C. Increased cost to school district for staffing ~~and supplying~~ the new science classes mandated.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition, reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from July 1, 2004 through December 31, 2005, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

When auditing reimbursement claims under section V of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course.

The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

VIII. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, subdivision (b), and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (e) A reasonable reimbursement methodology may be developed by any of the following:
 - (1) The Department of Finance.

- (2) The Controller.
 - (3) An affected state agency.
 - (4) A claimant.
 - (5) An interested party.
2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

IX. — SUPPORTING DATA FOR CLAIMS

- A. — ~~Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.~~

- B. ~~Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.~~
- C. ~~Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. ~~Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.~~
 - b. ~~Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.~~~~
- D. ~~Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.~~
- E. ~~Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.~~

X. RECORD RETENTION

Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

XI. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the amended parameters and guidelines from the Commission, to assist local

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the amended parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the amended parameters and guidelines adopted by the Commission.

XII. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive,, of the Government Code and other applicable provisions of law have been complied with: and

THAT I am the person authorized by the local agency to file claims with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number

Proposed Amendment: March 28, 2008 hearing
Amended: 12/09/05
Amended: 01/24/91
Amended: 08/24/88
Adopted: 03/23/88

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements (04-PGA-30, CSM 4181 A, 05-PGA-05)

EFFECTIVE FOR REIMBURSEMENT CLAIMS FILED FOR TEACHER SALARY COSTS FOR STAFFING THE MANDATED SCIENCE CLASS BEGINNING JANUARY 1, 2005 THROUGH JUNE 30, 2006

I. SUMMARY OF THE MANDATE

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.

II. ELIGIBLE CLAIMANTS

~~Any "school district," as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.~~ The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate.

III. PROPOSED AMENDMENT TO THE PARAMETERS AND GUIDELINES

The parameters and guidelines amendment adopted by the Commission on March 27, 2008, was adopted pursuant to Government Code sections 17557 and 17518.5, and replaces the actual cost claiming method with a reasonable reimbursement methodology for claiming increased teacher salary costs for staffing the new mandated science class. This parameters and guidelines amendment also adds language regarding the reimbursement of teacher salary costs to Section VII, Offsetting Savings and Other Reimbursements, consistent with the court's ruling in *San Diego Unified School District v. Commission on State Mandates*, Sacramento County Superior Court Case No. 03CS01401. This parameters and guidelines amendment only affects the reimbursement of teacher salary costs and does not affect the other reimbursable activities in this program that may have been claimed and reimbursed.

III.IV. PERIOD OF REIMBURSEMENT

The period of reimbursement for ~~the activities in~~ this parameters and guidelines amendment ~~begins on~~ is from January 1, 2005, to June 30, 2006.

~~Pursuant to Government Code section 17560, reimbursement for state mandated costs may be claimed as follows:~~

- ~~1. A school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).~~
- ~~2. A school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.~~
- ~~3. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (e) of section 17558 between October 15 and January 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.~~

~~Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.~~

~~There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.~~

IV. REIMBURSABLE ACTIVITIES

~~To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign in sheets, invoices, and receipts.~~

~~Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.~~

For this program, supporting documentation shall also include the following:

- A. ~~Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.~~
- B. ~~Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.~~
- C. ~~Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. ~~Adjusting attendance boundaries to balance attendance between under utilized and over utilized secondary school facilities within the district.~~
 - b. ~~Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.~~~~
- D. ~~Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.~~
- E. ~~Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.~~

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are activity is reimbursable:

- 1. ~~Acquisition of additional space and equipment necessary for conducting new science classes, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.~~
- 2. ~~Remodeling existing space to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.~~
- 3. Increased cost to school district for staffing and supplying the new science classes mandated.

~~V. CLAIM PREPARATION AND SUBMISSION~~

~~Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.~~

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

~~Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.~~

~~Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.~~

~~School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

VI. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY

A. Reasonable Reimbursement Methodology for Increased Teacher Salary Costs for Staffing the Mandated Science Class – Direct Costs

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, subdivision (b), and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of

more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(e) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.

2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

A. Actual Costs

~~Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.~~

A. Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed, e.g., reductions in non-science classes resulting from increase in required science classes. In addition,

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

reimbursement for this mandate from any source, e.g., including but not limited to, federal, state, and block grants; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting; and revenue limit apportionments provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); etc., shall be identified and deducted from this claim. If a school district has previously filed a reimbursement claim for teacher salary costs for the period from January 1, 2005 through June 30, 2006, and received reimbursement from the state, the amount reimbursed shall be identified and deducted from the claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

When auditing reimbursement claims under section V of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the ~~revised~~ amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the ~~revised~~ amended parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the ~~revised~~ amended parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

Proposed Amendment: March 28, 2008 hearing
Amended: 12/09/05
Amended: 01/24/91
Amended: 08/24/88
Adopted: 03/23/88

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 51225.3

Statutes 1983, Chapter 498

Graduation Requirements ~~(04-PGA-30)~~ (CSM 4181 A, 05-PGA-05, 06-PGA-04, 06-PGA-05)

EFFECTIVE FOR REIMBURSEMENT CLAIMS FILED FOR COSTS INCURRED BEGINNING IN FISCAL YEAR 2006-2007

I. SUMMARY OF THE MANDATE

On January 22, 1987, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the *Graduation Requirements* test claim constitutes a reimbursable state-mandated program by requiring students, beginning with the 1986-1987 school year, to complete at least two courses in science before receiving a high school diploma. Under prior law, the Education Code only required the completion of one science course.

II. ELIGIBLE CLAIMANTS

~~Any~~ The eligible claimants are any school district and county office of education as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate ~~is eligible to claim reimbursement.~~

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities in this parameters and guidelines amendment begins on ~~January 1, 2005~~ July 1, 2006.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- ~~1. A school district may file an estimated reimbursement claim by January February 15 of the fiscal year in which costs are to be incurred, and, by January February 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).~~
1. A school district may, by January February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October November 15 and January February 15,

a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

For this program, supporting documentation shall also include the following:

- A. Documentation of increased units of science course enrollments due to the enactment of Education Code Section 51225.3 necessitating such an increase.
- B. Documentation of lack of appropriately configured and equipped space in existing facilities for the new courses.
- C. Certification by the Board that an analysis of all appropriate science facilities within the district was conducted, and a determination made that no such facilities existed to reasonably accommodate increased enrollment for the additional science courses required by the enactment of Education Code Section 51225.3. To reasonably accommodate includes:
 - a. Adjusting attendance boundaries to balance attendance between under-utilized and over-utilized secondary school facilities within the district.
 - b. Taking advantage of other available secondary school science facilities that are within a secure walking distance of the school.

- D. Documentation that the additional space for conducting new science classes is required only when the space would not have otherwise been acquired due to an increase in high school enrollment.
- E. Documentation that remodeling existing facilities was not feasible or would have been more expensive than acquiring additional space.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

1. Acquisition (planning, design, land, demolition, building construction, fixtures, and facility rental) of additional space and equipment necessary for conducting new science classes the mandated additional year of science instruction, providing that space is lacking in existing facilities. However, the acquisition of additional space for conducting new science classes are reimbursable only to the extent that districts can document that this space would not have been otherwise acquired due to increases in the number of students enrolling in high school, and that it was not feasible, or would be more expensive, to acquire space by remodeling existing facilities.
2. Acquisition (planning, purchasing, and placement) of additional equipment and furniture necessary for the mandated additional year of science instruction.
3. Remodeling (planning, design, demolition, building construction, fixtures, and interim facility rental) existing space required for the mandated additional year of science instruction to accommodate the new science class and lab including costs of design, renovation, and special lab equipment and outlets essential to maintaining a level of instruction sufficient to meet college admission requirements.
4. Increased cost to school district for staffing and supplying the new science classes mandated. Reimbursement for this activity is based on the reasonable reimbursement methodology identified in Section IV of these parameters and guidelines.
Reimbursement is not required for other (non-classroom teacher) science instruction personnel (e.g. laboratory assistants).
5. Increased cost for supplying the new science class mandated with science instructional materials (textbooks, materials, and supplies).

V. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Beginning in fiscal year 1984-1985, the maximum reimbursable fee for contracted services was \$65 per hour, adjusted annually by the GNP Deflator. Those claims which are based on annual retainers shall contain a certification that the fee is no greater than the maximum fee specified in the Controller's claiming instructions. Reasonable expenses will also be paid as identified on the monthly billings of consultants.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to

be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY

A. Reasonable Reimbursement Methodology for Direct Costs of Staffing the Mandated Science Class

The Commission is adopting a reasonable reimbursement methodology to reimburse school districts for all direct costs of teacher salaries for staffing the new mandated science class, as authorized by Government Code section 17557, subdivision (b), and 17518.5, in lieu of filing detailed documentation of actual costs.

1. Reasonable Reimbursement Methodology

The definition of reasonable reimbursement methodology is in Government Code section 17518.5 (as amended by Stats. 2007, ch. 329 (A.B. 1222) as follows:

- (a) “Reasonable reimbursement methodology” means a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514
- (b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs.
- (c) A reasonable reimbursement methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.
- (d) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(e) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.

2. One-Quarter Class Load Formula for Claiming the Direct Cost of Teacher Salaries for Staffing the New Mandated Science Class

The reasonable reimbursement methodology shall consist of the following formula to cover all direct costs:

The increased teacher costs are calculated based on the number of teachers that teach the additional year of science as follows:

1. Total regular secondary enrollment for grades 9-12 on the CBEDS Information Day for the claim year is divided by four representing the additional year of science.
2. The number of additional classes is the enrollment in (1) divided by the average science class size.
3. The additional teachers are determined by dividing the additional classes in (2) by the classes taught by a full-time equivalent teacher (5 class periods).
4. The increased cost is determined by multiplying the number of teachers in (3) by the average annual teacher salary and benefit cost for the school district for the claim year.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

A. Actual Costs

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

B. Reasonable Reimbursement Methodology

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561, subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

School districts must retain documentation which supports the reimbursement of teacher salary costs, including documentation supporting enrollment, average science class size, total science classes, average teacher salary and benefits, and offsetting revenue funded by restricted resources during the period subject to audit.

VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting ~~savings-revenues~~ the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected; federal funds; total science teacher salary costs, including related indirect costs, that are funded by restricted resources as identified by the California Department of Education California State School Accounting Manual; revenue limit apportionments

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

provided from the Proposition 98 General Fund that are used by a high school district or unified school district (that is subject to Education Code sections 41372 and 41373 and is required by these statutes to expend either 50% or 55% of its total current expense of education on the salaries of classroom teachers for grades 9 through 12) specifically on the salaries of the science teachers teaching the science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498); and funds appropriated to school districts from the State Instructional Materials Fund (Ed. Code, §§ 60240 et seq.) and used for supplying the second science course mandated by Education Code section 51223.5 (as amended by Stats. 1983, ch. 498) with instructional materials and supplies, and other state funds, shall be identified and deducted from this claim.

If the school district or county office submits a valid reimbursement claim for a new science facility, the reimbursement shall be reduced by the amount of state bond funds, if any, received by the school district or county office to construct the new science facility.

VIII. OFFSETTING SAVINGS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed.

When auditing reimbursement claims under section VI of these parameters and guidelines, the State Controller's Office may require that claimants provide detailed documentation of offsetting savings directly resulting from their provision of the second science course, including savings that offset the salaries of teachers hired for the second science course. The State Controller can require claimants to demonstrate that the second science course has increased the number of classes provided during the school day and year along with the number of teachers required for the classes provided. The State Controller may not deny reimbursement of costs for teachers' salaries incurred by a school district in providing a second science course pursuant to Education Code section 51225.3, subdivision (a)(1), on the ground that the school district could have offset these costs by using its authority under Education Code section 44955, subdivision (b), to terminate teachers of other courses provided by the school district, in particular, courses provided pursuant to Education Code section 51225.3, subdivision (a)(2).

VIII-IX.STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the ~~revised~~ amended parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the ~~revised~~ amended parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the ~~revised~~ amended parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.