

## COMMISSION ON STATE MANDATES

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May 10, 2011

Mr. Michael H. Fine  
Riverside Unified School District  
Business Services & Government Relations  
6050 Industrial Avenue  
Riverside, CA 92504

Ms. Bonnie Ann Dowd  
Palomar Community College District  
1140 West Mission Road  
San Marcos, CA 92069

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

**RE: Final Staff Analysis, Proposed Statewide Cost Estimate and Hearing Date**  
*Student Records, 02-TC-34*  
Education Code Sections 49069.3, 49069.5, 49076.5, and 76234,  
Statute 1989, Chapter 593 (SB 1546); Statutes 1993, Chapter 561 (AB 1539);  
Statutes 1998, Chapter 311 (SB 933); Statutes 2000, Chapter 67 (AB 2453)  
Riverside Unified School District and Palomar Community College District,  
Co-Claimants

Dear Mr. Fine and Ms. Dowd:

The final staff analysis and proposed statewide cost estimate for this matter are enclosed.

### Hearing

This matter is set for hearing on Thursday, **May 26, 2011**, at 9:30 a.m. **Please note that the hearing will be conducted in the offices of the Department of Finance, 915 L Street, Redwood Room, Sacramento, California 95814.** This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

### Special Accommodations

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

Please contact Heidi Palchik at (916) 323-8218 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Bohan".

Drew Bohan  
Executive Director

**ITEM 14**  
**FINAL STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**  
**\$802,888**

Education Code Sections 49069.3, 49069.5, 49076.5, 76234

Statutes 1989, Chapter 593  
Statutes 1993, Chapter 561  
Statutes 1998, Chapter 311  
Statutes 2000, Chapter 67;

*Student Records*  
02-TC-34

Riverside Unified School District and Palomar Community College District, Co-Claimants

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This program addresses various areas of pupil and student record management for kindergarten through 12<sup>th</sup> grade (K-12) school districts and community college districts including access to and the privacy of pupil and student records.

The Commission on State Mandates (Commission) adopted a statement of decision concluding that Education Code sections 49069.3, 49069.5, and 49076.5 for K-12 school districts and Education Code 76234 for community college districts constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The test claim was filed on June 23, 2003. The Commission adopted the statement of decision on May 29, 2009, and the parameters and guidelines on July 29, 2010.<sup>1</sup> Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by January 31, 2011, and late claims by January 31, 2012.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, including community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2001.

**Reimbursable Activities**

The Commission approved the following activities for reimbursement:

A. K-12 School Districts

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster

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<sup>1</sup> Exhibit A.

family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)

2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.  
Educational background information transferred pursuant to Education Code section 49069.5, subdivision (c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subds. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

**B. Community College Districts**

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

**Offsetting Revenue Provisions**

The Commission found that the fee authority to charge a fee that does not exceed the actual cost of furnishing copies of any pupil records, set forth in Education Code section 49065, is applicable to the state-mandated programs here. This fee authority does not extend to furnishing the first two transcripts of former pupils' records, or the first two verifications of various records of former pupils, or the search for or retrieval of any pupil record. Therefore, any revenue

resulting from the fee authority set forth in Education Code section 49065 is offsetting revenue and shall be deducted from the costs claimed for furnishing pupil records.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by 22 school districts and compiled by the SCO. The actual claims data showed that 80 claims were filed for nine fiscal years for a total of \$802,888.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Amendments to Education Code section 49069.5 in 2003 removed two of the five reimbursable activities for school districts. Reimbursement for those activities ended on December 31, 2003. Of the 50 claims that staff reviewed in detail, none of them contained costs for those two deleted activities after fiscal year 2003-2004.

### Assumptions

- 1) *The amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 1,047 school districts and 72 community college districts in California. Of those, only 22 school districts filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until January 31, 2012.

- 2) *The total costs of this program may also increase in future years if there is an increase in the number of requests to:*

#### K-12 School Districts

- provide access to records of current or former pupils to foster family agencies;
- transfer educational and health records to new educational agencies;
- release identity and location information to designated peace officers;

#### Community College Districts

- inform victims of sexual assault or physical abuse of any disciplinary action taken by the community college.

- 3) *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*

- The Commission approved only a small portion of this program as a mandate. Therefore, most school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

- 4) *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits on this program and reduce any claim it deems to be excessive or unreasonable.

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<sup>2</sup> Claims data reported as of March 18, 2011.

## Methodology

*Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.*

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 80 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes nine fiscal years for a total of \$802,888 for the *Student Records* program. This averages to \$89,210 annually in costs for the state for this nine-year period.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of School District Claims Filed with SCO</b>	<b>Estimated Cost</b>
2001-2002	5	\$32,464
2002-2003	6	\$38,314
2003-2004	6	\$46,467
2004-2005	6	\$70,554
2005-2006	7	\$65,714
2006-2007	8	\$78,325
2007-2008	10	\$119,826
2008-2009	10	\$131,350
2009-2010	22	\$219,874
<b>TOTAL</b>	<b>80</b>	<b>\$802,888</b>

### **Comments on the Draft Staff Analysis and Proposed Statewide Cost Estimate**

On April 15, 2011, Commission staff issued the draft staff analysis and proposed statewide estimate for comment.<sup>3</sup> No comments were submitted.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$802,888** for costs incurred in complying with the *Student Records* program.

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<sup>3</sup> Exhibit B.

## Commission on State Mandates

Original List Date: 6/26/2003  
Last Updated: 5/11/2011  
List Print Date: 05/11/2011  
Claim Number: 02-TC-34  
Issue: Student Records

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Adopted: July 29, 2010

## PARAMETERS AND GUIDELINES

Education Code Sections 49069.3, 49069.5, 49076.5, 76234

Statutes 1989, Chapter 593

Statutes 1993, Chapter 561

Statutes 1998, Chapter 311

Statutes 2000, Chapter 67;

### *Student Records*

02-TC-34

#### **I. SUMMARY OF THE MANDATE**

On May 29, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state-mandated program upon school districts and community college districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities for school districts:

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)
2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001 through December 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.

Educational background information transferred pursuant to Education Code section 49069.5, subdivision (c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subs. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001 through December 31, 2003).)

4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

The Commission also approved this test claim for the following reimbursable activity for community college districts:

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

## **II. ELIGIBLE CLAIMANTS**

Any "school district" as defined in Government Code section 17519, including community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

## **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Riverside Unified School District and Palomar Community College District filed the test claim on June 23, 2003, establishing eligibility for reimbursement for fiscal year 2001-2002. Therefore, costs incurred for complying with the mandated activities are reimbursable on or after July 1, 2001. However, the 2003 amendments to section 49069.5 removed two activities. Therefore as indicated above, reimbursement for two activities ends on December 31, 2003.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, subdivision (a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c) between November 15 and 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.  
(Government Code section 17560, subdivision (b).)

5. 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.
6. 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.

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:

##### **A. K-12 School Districts**

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)
2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.

Educational background information transferred pursuant to Education Code section 49069.5, subdivision (c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subs. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)

4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

**B. Community College Districts**

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

**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.

### 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.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

## **VI. RECORD RETENTION**

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 chapter<sup>1</sup> 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.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsets 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, and other state funds, shall be identified and deducted from this claim.

The Commission found the fee authority to charge a fee that does not exceed the actual cost of furnishing copies of any pupil records, set forth in Education Code section 49065, is applicable to the state-mandated programs here. This fee authority does not extend to furnishing the first two transcripts of former pupils' records, or the first two verifications of various records of former pupils, or the search for or retrieval of any pupil record. Therefore, any revenue resulting from the fee authority set forth in Education Code section 49065 is offsetting revenue and shall be deducted from the costs claimed for furnishing pupil records.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

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

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon 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

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

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.



Hearing: May 26, 2011  
j: mandates/2002/02-TC-34/sce/dsa

**ITEM \_\_\_\_**  
**DRAFT STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**  
**\$802,888**

Education Code Sections 49069.3, 49069.5, 49076.5, 76234

Statutes 1989, Chapter 593  
Statutes 1993, Chapter 561  
Statutes 1998, Chapter 311  
Statutes 2000, Chapter 67;

*Student Records*  
02-TC-34

Riverside Unified School District and Palomar Community College District, Co-Claimants

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This program addresses various areas of pupil and student record management for kindergarten through 12<sup>th</sup> grade (K-12) school districts and community college districts including access to and the privacy of pupil and student records.

The Commission on State Mandates (Commission) adopted a statement of decision concluding that Education Code sections 49069.3, 49069.5, and 49076.5 for K-12 school districts and Education Code 76234 for community college districts constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The test claim was filed on June 23, 2003. The Commission adopted the statement of decision on May 29, 2009, and the parameters and guidelines on July 29, 2010.<sup>1</sup> Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by January 31, 2011, and late claims by January 31, 2012.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, including community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2001.

**Reimbursable Activities**

The Commission approved the following activities for reimbursement:

- A. K-12 School Districts

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<sup>1</sup> Exhibit A.

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)
2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.  
 Educational background information transferred pursuant to Education Code section 49069.5, subdivision (c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subds. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

**B. Community College Districts**

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

**Offsetting Revenue Provisions**

The Commission found that the fee authority to charge a fee that does not exceed the actual cost of furnishing copies of any pupil records, set forth in Education Code section 49065, is applicable to the state-mandated programs here. This fee authority does not extend to furnishing

the first two transcripts of former pupils' records, or the first two verifications of various records of former pupils, or the search for or retrieval of any pupil record. Therefore, any revenue resulting from the fee authority set forth in Education Code section 49065 is offsetting revenue and shall be deducted from the costs claimed for furnishing pupil records.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by 22 school districts and compiled by the SCO. The actual claims data showed that 80 claims were filed for nine fiscal years for a total of \$802,888.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Amendments to Education Code section 49069.5 in 2003 removed two of the five reimbursable activities for school districts. Reimbursement for those activities ended on December 31, 2003. Of the 50 claims that staff reviewed in detail, none of them contained costs for those two deleted activities after fiscal year 2003-2004.

### Assumptions

- 1) *The amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 1,047 school districts and 72 community college districts in California. Of those, only 22 school districts filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until January 31, 2012.

- 2) *The total costs of this program may also increase in future years if there is an increase in the number of requests to:*

#### K-12 School Districts

- provide access to records of current or former pupils to foster family agencies;
- transfer educational and health records to new educational agencies;
- release identity and location information to designated peace officers;

#### Community College Districts

- inform victims of sexual assault or physical abuse of any disciplinary action taken by the community college.

- 3) *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*

- The Commission approved only a small portion of this program as a mandate. Therefore, most school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

- 4) *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

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<sup>2</sup> Claims data reported as of March 18, 2011.

The SCO may conduct audits on this program and reduce any claim it deems to be excessive or unreasonable.

Methodology

*Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.*

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 80 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes nine fiscal years for a total of \$802,888 for the *Student Records* program. This averages to \$89,210 annually in costs for the state for this nine-year period.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of School District Claims Filed with SCO</b>	<b>Estimated Cost</b>
2001-2002	5	\$32,464
2002-2003	6	\$38,314
2003-2004	6	\$46,467
2004-2005	6	\$70,554
2005-2006	7	\$65,714
2006-2007	8	\$78,325
2007-2008	10	\$119,826
2008-2009	10	\$131,350
2009-2010	22	\$219,874
<b>TOTAL</b>	<b>80</b>	<b>\$802,888</b>

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$802,888** for costs incurred in complying with the *Student Records* program.