

ITEM 10
FINAL STAFF ANALYSIS
PROPOSED CORRECTION OF
PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 48902, Subdivision (c)
Chapter 1117, Statutes of 1989 (SB 1275)

Law Enforcement Agency Notifications
06-PGA-07 (04-PGA-03, 01-TC-09, CSM 4505)

San Jose Unified School District, Requestor

EXECUTIVE SUMMARY

The original reimbursement period for the *Law Enforcement Agency Notifications* program began on July 1, 1994. On October 26, 2006, the Commission adopted an amendment to the parameters and guidelines for this program to cap reimbursement effective June 30, 2006.

The Commission then consolidated the parameters and guidelines for the *Law Enforcement Agency Notifications* program with the *Missing Children Reports* program effective July 1, 2007. Therefore, effective July 1, 2007, claimants would file for reimbursement for both programs using the consolidated parameters and guidelines.

On April 20, 2007, the representative for San Jose Unified School District notified staff that because the amendment to the original *Law Enforcement Agency Notifications* program stated that the effective date of the parameters and guidelines was “July 1, 1994 to June 30, 2006,” claimants would be required to re-file reimbursement claims for this entire period, rather than filing reimbursement claims for fiscal years 2005-2006 and 2006-2007 under the original parameters and guidelines and filing reimbursement claims for all subsequent years under the consolidated parameters and guidelines. Therefore, San Jose Unified School District requested that the amended parameters and guidelines for the *Law Enforcement Agency Notifications* program be amended to clarify the period of reimbursement.

The attached proposed correction to the parameters and guidelines for this program clarifies that the original parameters and guidelines are effective for the 2005-2006 and 2006-2007 fiscal years only. Effective July 1, 2007, claimants shall file their reimbursement claims using the consolidated parameters and guidelines. This will prevent claimants from being required to re-file their reimbursement claims for fiscal years 1994-1995 through 2004-2005.

Staff Recommendation

Staff recommends that the Commission adopt the attached correction to the parameters and guidelines.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Corrected: July 26, 2007
Corrected: February 7, 2007
Amendment Adopted: October 26, 2006
Adopted: February 27, 1997

PROPOSED CORRECTED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Section 48902, Subdivision (c)
Chapter 1117, Statutes of 1989

Law Enforcement Agency Notifications
04-PGA-03 (CSM 4505)

Effective for 2005-2006, and 2006-2007 Fiscal Years Only

I. SUMMARY OF THE MANDATE

The test claim statutes require school authorities to notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10.¹

On October 31, 1996, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Law Enforcement Agency Notification* program. The Commission found that Education Code section 48902, subdivision (c) constitutes a new program or higher level of service and impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10.

II. ELIGIBLE CLAIMANTS

Any school district or county office of education that incurs increased costs as a direct result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557 states that a test claim must be submitted on or before June 30 following a fiscal year to establish eligibility for that fiscal year.~~

¹ Penal Code section 626.9, known as the Gun-Free School Zone Act, makes it a crime, with certain exceptions, for a person to possess or to discharge a firearm in a school zone. Penal Code section 626.10 makes it a public offense, with certain exceptions, for a person to bring or possess any dirk, dagger, ice pick, knife unguarded razor blade, taser, stun gun, BB gun, pellet gun or spot marker gun upon school grounds.

~~The test claim for this mandate was filed on December 15, 1995. Therefore, costs incurred for compliance with this mandate are reimbursable on or after July 1, 1994. These~~ This parameters and guidelines amendment are is effective from for 2005-2006, and 2006-2007 fiscal years only July 1, 1994 to June 30, 2006. Effective July 1, 2007, claimants shall use the consolidated parameters and guidelines for *Law Enforcement Agency Notifications and Missing Children Reports*.

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)(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.

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.

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, 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:

1. Preparing and Filing a Report

Preparation of a report to the appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance, or which may violate Penal Code sections 626.9 or 626.10, and filing the report with the appropriate law enforcement authorities.

2. Maintaining a Record of Reports Filed

Maintaining copies of the reports filed with the appropriate law enforcement agency.

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 .

3. Contracted Services

Report the name of the contractor and services 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 State Department of Education.

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 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. 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 OTHER 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 services fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

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

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

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.