

## COMMISSION ON STATE MANDATES

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July 11, 2013

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

Re: **Final Staff Analysis and Proposed Statewide Cost Estimate, and Notice of Hearing**  
*Charter Schools IV, 03-TC-03*  
Education Code Sections 1628, 42100(a), 47605, 47605.6  
Statutes 2002, Chapter 1058  
San Diego Unified School District, Claimant

Dear Ms. Donovan, Mr. Palkowitz, and Ms. Kanemasu:

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

### Hearing

This matter is set for hearing on **Friday July 26, 2013**, at 10:00 a.m., in the State Capitol, Room 447, Sacramento, California. This matter is proposed for the Consent Calendar. Please let us know in advance if you object to this item being on consent and therefore 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(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) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

**Item 12**  
**FINAL STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEWIDE COST ESTIMATE**

**\$12,783**

**(\$4,261 annually)**

Education Code Sections 1628, 42100(a), 47605, 47605.6

Statutes 2002, Chapter 1058

*Charter Schools IV*

03-TC-03

San Diego Unified School District, Claimant

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

The *Charter Schools IV* program implements a comprehensive process for school districts or county boards of education to review a petition for the proposed operation of a charter school.

On January 27, 2012, the Commission on State Mandates (Commission) adopted a statement of decision<sup>1</sup> finding that the test claim statutes impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved the test claim for the activities listed in the Reimbursable Activities section below. The Commission adopted parameters and guidelines on September 28, 2012.<sup>2</sup>

Eligible claimants were required to file initial reimbursement claims for costs incurred between January 1, 2003 through June 30, 2003 and fiscal years 2003-2004 through 2011-2012 with the State Controller's Office (SCO) by May 3, 2013. Annual reimbursement claims for fiscal year 2012-2013 are due by February 18, 2014.

Eligible Claimants and Period of Reimbursement

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

Government Code section 17557(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 test claim was filed on August 29, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. The test

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<sup>1</sup> Exhibit A.

<sup>2</sup> Exhibit B.

claim statute (Statutes 2002, chapter 1058) became effective on January 1, 2003. Therefore, costs incurred for this mandate are eligible for reimbursement on January 1, 2003.

### **Reimbursable Activities**

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

- A. When a K-12 school district receives a petition for the establishment of a charter school pursuant to Education Code section 47605(a), and when a county board of education receives a petition for the establishment of a charter school on appeal pursuant to Education Code section 47605(j), K-12 school districts and county boards of education are eligible to receive reimbursement for the following activities mandated by Education Code section 47605:
  1. Review, and consider at a public hearing the following additional information in the charter school petition:
    - a) If the proposed school will serve high school pupils, a description of how the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements.
    - b) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.
    - c) A description of where the charter school intends to locate in its description of facilities.
    - d) That the notices described below have been provided when the charter school petition proposes to operate one site outside the jurisdictional boundaries of the school district, but within the county where that school district is located:
      - 1) Notice is provided to the school district where the charter school proposes to operate before the charter petition is approved;
      - 2) Notice of the location is provided to the Superintendent of Public Instruction and the county superintendent of schools before the charter school commences operations; and
      - 3) Notice that the school has attempted to locate a single site or facility to house the entire program, but such facility or site is unavailable, or the site is needed for temporary use during a construction or expansion project.
  2. If, after review, the school district or county board of education denies the charter school petition based on the information provided in 1. above, make written factual findings setting forth facts to support the finding.
  3. Consider at an open and public meeting, proposed material revisions to an already approved charter to establish operations at one or more additional sites within the jurisdictional boundaries of the school district.

- B. When county boards of education receives a petition for the establishment of a countywide charter school pursuant to Education Code section 47605.6, county boards of education are eligible to receive reimbursement for the following activities:
1. Hold a public hearing not later than 60 days after receiving a petition to consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. As part of its consideration, the county board of education shall do the following:<sup>3</sup>
    - a) Require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school, any school district where the charter school may operate and upon the county board of education.
    - b) Require the petitioner or petitioners to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.
    - c) Determine whether the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services, and that cannot be served as well by a charter school that operates in only one school district in the county.
    - d) Determine whether granting the charter is consistent with a sound educational practice, and whether the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Education Code section 47605.
    - e) Give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low-achieving pursuant to the standards established by the State Department of Education under Education Code section 54032.
  2. The county board of education shall also consider the information listed below and deny a petition for the establishment of a charter school if the board finds one or more of the following:
    - a) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
    - b) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
    - c) The petition does not contain the number of signatures required.
    - d) The petition does not contain an affirmation of each of the following conditions listed in subdivision (d):
      - 1) That the charter school will meet all statewide standards and conduct the pupil assessments required pursuant to Education Code section 60605 and

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<sup>3</sup> Education Code section 47605.6(a)(1), (h), (i).

any other statewide standards authorized in statute or pupil assessments applicable to pupils in non-charter public schools.

- 2) That the charter school will consult with their parents and teachers regarding the school's educational programs.
- e) The petition does not contain reasonably comprehensive descriptions of all of the following:
- 1) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21<sup>st</sup> century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
  - 2) The measurable pupil outcomes identified for use by the charter school.
  - 3) The method by which pupil progress in meeting those pupil outcomes is to be measured.
  - 4) The location of each charter school facility that the petitioner proposes to operate.
  - 5) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.
  - 6) The qualifications to be met by individuals to be employed by the school.
  - 7) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.
  - 8) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.
  - 9) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the State Board of Education, and the manner in which audit exceptions and deficiencies shall be resolved.
  - 10) The procedures by which pupils can be suspended or expelled.
  - 11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
  - 12) The procedures to be followed by the charter school and the county board of education to resolve disputes relating to provisions of the charter.
  - 13) A declaration whether or not the charter school shall be deemed the exclusive public school employer for the employees of the charter school for the purposes of the EERA.
3. The county board of education shall also consider whether to approve additional locations subsequently proposed by a charter school following the initial approval of

the charter petition as a material revision of the charter at an open, public meeting, held no sooner than 30 days following notification of the school districts where the sites will be located.

- C. K-12 school districts and county superintendents of schools are eligible for reimbursement for the following activities pursuant to Education Code sections 1628 and 42100(a):
1. For school districts, following the approval of a charter petition and as the charter authority, to include the charter school's annual statement of receipts and expenditures with its own annual statement, and file the charter school's statement with the county superintendent of schools.
  2. For county superintendents of schools to receive from a school district (when the school district is the chartering authority) or receive directly from a charter school (when the county board of education is the chartering authority) the charter schools' annual statement of receipts and expenditures.
  3. For county superintendents of schools to verify the mathematical accuracy of the charter schools' annual statements of receipts and expenditures, and transmit the charter schools' statements to the State Superintendent of Schools.

## **Statewide Cost Estimate**

### Assumptions

Staff reviewed the reimbursement claims data submitted by three school districts and compiled by the SCO.<sup>4</sup> The actual claims data showed that one initial claim was filed for fiscal year 2009-2010, one initial claim for fiscal year 2010-2011, and three initial claims for fiscal year 2011-2012 for a total of \$12,783. No claims were filed for the reimbursement period of January 1, 2003 through June 30, 2003 or for fiscal years 2003-2004 through 2008-2009. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program:

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
  - There are approximately 1050 school districts in California; of those, only three districts filed initial reimbursement claims totaling \$12,783 for this program. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for January 1, 2003 through June 30, 2003 and fiscal years 2003-2004 through 2011-2012 may be filed until May 3, 2014.
- *The number of reimbursement claims filed will vary from year to year.*

Some of the reimbursable activities for this program are based on a K-12 school district or county board of education receiving a petition for the establishment of a charter school or a K-12 school district or county superintendent of schools approving a charter petition. Therefore, eligible claimants will only be able to claim reimbursement in the years they

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<sup>4</sup> Claims data reported as of May 17, 2013.

perform the related activities. There may be years in which no petitions are received or approved.

- *The Commission found limited fee authority and offsetting revenue for some of the reimbursable activities and also approved only a portion of the Charter Schools IV program as a mandate.*

Education Code section 47613 authorizes a chartering authority to charge fees for the actual costs of supervisorial oversight. Certain revenue received for the supervisorial oversight fee authority is identified as offsetting and will be deducted from the costs claimed for the reimbursable activities. Therefore, it is possible, with the offsets and limited approved activities, that a claimant may not be able to reach the \$1,000 threshold required for filing reimbursement claims.

- *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 it deems to be excessive or unreasonable.*
- *If eligible claimants choose to participate in K–12 Mandated Programs Block Grant funding, the number of claims filed for actual costs could be lower.*

Methodology

*January 1, 2003 through June 30, 2003 and fiscal years 2003-2004 through 2011-2012*

The statewide cost estimate for the period January 1, 2003 through June 30, 2003 and fiscal years 2003-2004 through 2011-2012 was developed by totaling the five reimbursement claims filed with the SCO, for a total of \$12,783. This averages to \$4,261 annually in costs for the state over the three-year<sup>5</sup> period in which claims were filed. Following is a breakdown of estimated total costs per fiscal year:

<b>Reimbursement Period or Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
January 1, 2003 through June 30, 2003	0	\$0
2003-2004	0	\$0
2004-2005	0	\$0
2005-2006	0	\$0
2006-2007	0	\$0
2007-2008	0	\$0
2008-2009	0	\$0
2009-2010	1	\$1,440
2010-2011	1	\$2,820
2011-2012	3	\$8,523
<b>TOTAL</b>	<b>5</b>	<b>\$12,783</b>

<sup>5</sup> No claims were filed for the reimbursement period of January 1, 2003 through June 30, 2003 or for fiscal years 2003-2004 through 2008-2009.

### **Draft Staff Analysis and Proposed Statewide Cost Estimate**

On June 27, 2013, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.<sup>6</sup> No comments were received.

### **Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of \$12,783 for costs incurred in complying with the *Charter Schools IV* program.

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<sup>6</sup> Exhibit C.



## Commission on State Mandates

Original List Date: 10/6/2003  
Last Updated: 6/20/2013  
List Print Date: 07/11/2013  
Claim Number: 03-TC-03  
Issue: Charter Schools IV

### 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. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

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