

COMMISSION ON STATE MANDATES

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July 10, 2013

Mr. Arthur Palkowitz
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106

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

**RE: Proposed Parameters and Guidelines and Statement of Decision, and
Notice of Hearing**

Teacher Credentialing, 03-TC-09

California Code of Regulations, Title 5, Sections 80556(a),(c),(f) and (j) and
80556.1(e) as added and amended by Register 86, No. 40; Register 94, No. 19
San Diego County Office of Education, Claimant

Dear Mr. Palkowitz:

The proposed parameters and guidelines and statement of decision for the above-named matter are enclosed.

Hearing

This matter is set for hearing on **Friday, July 26, 2013**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. 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(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 7
PROPOSED STATEMENT OF DECISION
AND
PARAMETERS AND GUIDELINES

California Code of Regulations, Title 5, Sections 80556(a),(c),(f) and (j) and 80556.1(e)
as added and amended by Register 86, No. 40; Register 94, No. 19

Teacher Credentialing
03-TC-09

San Diego County Office of Education, Claimant

Executive Summary

The following is the proposed statement of decision for this matter prepared pursuant to section 1188.1 of the Commission on State Mandates (Commission) regulations. As of January 1, 2011, Commission hearings on the adoption of proposed parameters and guidelines are conducted under article 7 of the Commission's regulations.¹ Article 7 hearings are quasi-judicial hearings. The Commission is required to adopt a decision that is correct as a matter of law and based on substantial evidence in the record.² Oral or written testimony is offered under oath or affirmation in article 7 hearings.³

Summary of the Mandate

The test claim regulations address the teacher credentialing process and employment of K-12 teachers. On April 19, 2013, the Commission adopted a statement of decision finding that the test claim regulations 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 *from July 1, 2002 until December 31, 2006*, for the following activities:

¹ California Code of Regulations, Title 2, section 1187.

² Government Code section 17559(b); California Code of Regulations, Title 2, section 1187.5.

³ *Ibid.*

A. Professional growth activities related to renewing clear single or multiple subject credentials:

- If a school district employs one or more holders of professional clear credentials, the chief administrative officer of the employing school district, or his or her designee, shall designate one or more certificated persons to be professional growth advisors.⁴
- The employing school district shall adopt policies and procedures for the selection of professional growth advisors which contribute the best possible match between the credential holder and the advisor.⁵
- The employing school district shall give each credential holder the names and work locations of any professional growth advisors who have been designated by the district.⁶
- The chief administrative officer of the employing school district, or his or her designee, shall remove any professional growth advisor who has been determined by the district or CTC to have willfully and arbitrarily violated Education Code Section 44277 or Article 4 of the regulations.⁷

B. Professional growth activities related to renewing clear service or specialist credentials:

- The school district shall identify professional growth advisors and give each credential holder the names and work locations of any professional growth advisors who have been designated by the agency for these credential areas.⁸

Staff Recommendation

Staff recommends that the Commission:

- Adopt the attached proposed statement of decision and proposed parameters and guidelines; and
- Authorize staff to make any non-substantive, technical corrections to these parameters and guidelines following the hearing.

⁴ California Code of Regulations, title 5, section 80556(a).

⁵ California Code of Regulations, title 5, section 80556(c).

⁶ California Code of Regulations, title 5, section 80556(f).

⁷ California Code of Regulations, title 5, section 80556(j).

⁸ California Code of Regulations, title 5, section 80556.1(e).

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

California Code of Regulations, Title 5,
Sections 80556(a),(c),(f) and (j) and
80556.1(e)

Register 86, No. 40; Register 94, No. 19

Period of reimbursement begins July 1, 2002
and ends December 30, 2006.

Case No.: 03-TC-09

Teacher Credentialing

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION
17500 ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Proposed for Adoption: July 26, 2013)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) adopted this statement of decision and parameters and guidelines during a regularly scheduled hearing on July 26, 2013. [Witness list will be included in the final statement of decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the statement of decision and parameters and guidelines by a vote of [Vote count will be included in the final statement of decision].

I. Summary of the Mandate

The test claim regulations address the teacher credentialing process and employment of K-12 teachers. On April 19, 2013, the Commission on State Mandates adopted a statement of decision finding that the test claim regulations 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 from July 1, 2002, until December 31, 2006, to perform the professional growth activities related to renewing clear single or multiple subject credentials, and clear service or specialist credentials.

II. Procedural History

The test claim statement of decision was adopted on April 19, 2013.⁹ Claimant requested that the Commission issue draft expedited proposed parameters and guidelines, which Commission staff issued for comment on April 25, 2013.¹⁰ On May 9, 2013, the State Controller's Office (SCO) filed comments requesting that language be added to clarify that charter schools are not eligible claimants and also to make consistent the boilerplate language concerning contracted services.¹¹

III. Commission Findings

The test claim statement of decision, the draft expedited parameters and guidelines, and the comments filed by the SCO were reviewed and considered by the Commission as discussed below.

II. Eligible Claimants

The SCO requested to add the following underlined language to section II, Eligible Claimants:

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

The Commission included the language requested by the SCO in Section II of the parameters and guidelines. The test claim was filed by San Diego County Office of Education seeking reimbursement for counties and K-12 school districts. Evidence of increased costs mandated by the state incurred by counties and K-12 school districts was filed by the County and by Grossmont Union High School District. No evidence was filed to support a finding that a charter school has incurred increased costs mandated by the state as a result of the test claim regulations. Thus, the statement of decision on the test claim contained no findings with respect to charter schools. Since the Legislature has treated charter schools differently from school districts, neither the county office of education nor a K-12 school district has standing to claim reimbursement for activities on behalf of a charter school.¹²

⁹ Exhibit A.

¹⁰ Exhibit B.

¹¹ Exhibit C.

¹² Charter schools are exempt from most laws governing public education, and in some cases, depending on the charter, charter schools are not considered the public school employer. Education Code sections 47605(b)(5)(O), 47610, 47611.5.

V. *Claim Preparation and Submission*

The SCO also requested that the language describing the process for reporting contracted services be updated to include the most recent boilerplate language. The Commission updated the language to conform to parameters and guidelines previously adopted by the Commission.

IV. Conclusion

The Commission adopts the parameters and guidelines and statement of decision for the *Teacher Credentialing*, 03-TC-09, with a period of reimbursement beginning July 1, 2002 and ending December 30, 2006.

PROPOSED PARAMETERS AND GUIDELINES

California Code of Regulations, Title 5, Sections 80556(a),(c),(f) and (j) and 80556.1(e)
as added and amended by Register 86, No. 40; Register 94, No. 19

Teacher Credentialing

03-TC-09

Period of reimbursement begins July 1, 2002 and ends December 30, 2006

I. SUMMARY OF THE MANDATE

On April 19, 2013, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim regulations 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 from July 1, 2002 until December 30, 2006. ~~The Commission approved this test claim~~ for the following reimbursable activities:

A. Professional growth activities related to renewing clear single or multiple subject credentials:

- If a school district employs one or more holders of professional clear credentials, the chief administrative officer of the employing school district, or his or her designee, shall designate one or more certificated persons to be professional growth advisors.¹
- The employing school district shall adopt policies and procedures for the selection of professional growth advisors which contribute the best possible match between the credential holder and the advisor.²
- The employing school district shall give each credential holder the names and work locations of any professional growth advisors who have been designated by the district.³
- The chief administrative officer of the employing school district, or his or her designee, shall remove any professional growth advisor who has been determined by the district or CTC to have willfully and arbitrarily violated Education Code Section 44277 or Article 4 of the regulations.⁴

B. Professional growth activities related to renewing clear service or specialist credentials:

- The school district shall identify professional growth advisors and give each credential holder the names and work locations of any professional growth advisors who have been designated by the agency for these credential areas.⁵

¹ California Code of Regulations, title 5, section 80556(a).

² California Code of Regulations, title 5, section 80556(c).

³ California Code of Regulations, title 5, section 80556(f).

⁴ California Code of Regulations, title 5, section 80556(j).

⁵ California Code of Regulations, title 5, section 80556.1(e).

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

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 claimant, San Diego County Office of Education filed the test claim on September 25, 2003 establishing eligibility for reimbursement from beginning July 1, 2002, and ending December 30, 2006, when the program became optional and no longer mandated by the state. ~~until December 30, 2006.~~ Therefore, costs incurred pursuant to California Code of Regulations, title 5, sections 80556(a), (c),(f) and (j) and 80556.1(e), as added and amended in 1986 and 1994,⁶ are reimbursable from July 1, 2002 until December 30, 2006.

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(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(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. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(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(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(a)
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 to 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.

⁶ Register 86, No. 40; Register 94, No. 19.

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 that incurs increased costs, the following activities are reimbursable from July 1, 2002, until December 30, 2006:

A. Professional growth activities related to renewing clear single or multiple subject credentials:

- If a school district employs one or more holders of professional clear credentials, the chief administrative officer of the employing school district, or his or her designee, shall designate one or more certificated persons to be professional growth advisors.⁷
- The employing school district shall adopt policies and procedures for the selection of professional growth advisors which contribute the best possible match between the credential holder and the advisor. *This is a one-time activity.*⁸
- The employing school district shall give each credential holder the names and work locations of any professional growth advisors who have been designated by the district.⁹
- The chief administrative officer of the employing school district, or his or her designee, shall remove any professional growth advisor who has been determined by the district or CTC to have willfully and arbitrarily violated Education Code Section 44277 or Article 4 of the regulations.¹⁰

B. Professional growth activities related to renewing clear service or specialist credentials:

- The school district shall identify professional growth advisors and give each credential holder the names and work locations of any professional growth advisors who have been designated by the agency for these credential areas.¹¹

⁷ California Code of Regulations, title 5, section 80556(a).

⁸ California Code of Regulations, title 5, section 80556(c).

⁹ California Code of Regulations, title 5, section 80556(f).

¹⁰ California Code of Regulations, title 5, section 80556(j).

¹¹ California Code of Regulations, title 5, section 80556.1(e).

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. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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, 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 may 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 California Department of Education approved indirect cost rate for the year that funds are expended.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹² 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.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 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.

¹² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17561(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 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(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statements of decision adopted for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

Commission on State Mandates

Original List Date: 9/30/2003
Last Updated: 6/20/2013
List Print Date: 07/09/2013
Claim Number: 03-TC-09
Issue: Teacher Credentialing

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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