

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
ON:

Education Code Sections 44691(b) and (c);
and Penal Code Section 11165.7(d)

As Added or Amended by:
Statutes 2014, Chapter 797 (AB 1432)

The period of reimbursement begins
January 1, 2015.

Case No.: 14-TC-02

*Training for School Employee Mandated
Reporters*

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

(Adopted January 22, 2016)

(Served January 27, 2016)

DECISION

The Commission on State Mandates (Commission) heard and decided these parameters and guidelines during a regularly scheduled hearing on January 22, 2016.

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 proposed decision to approve the parameters and guidelines on consent, with Commission members Alex, Hariri, Olsen, Ortega, and Ramirez voting to adopt the consent calendar. Commission members Chivaro and Saylor were not present for the vote.

I. Summary of Mandate

On December 3, 2015, the Commission on State Mandates (Commission) adopted a decision finding that Education Code section 44691(b) and (c), and Penal Code section 11165.7(d), as added and amended by the test claim statute, impose a reimbursable state-mandated program on school districts (K-12 school districts and county offices of education) 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, beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:

- a. Certificated and classified employees of the school district who are mandated reporters identified in the Penal Code, *except* those working for a school district police or security department; and
- b. Those persons who are mandated reporters identified in the Penal Code who are working on a school district's behalf to carry out the school district's core mandatory function to educate students.

The training may be provided by either using the online training module developed by California Department of Social Services (CDSS) or an alternative training program that complies with the test claim statute. The costs to develop child abuse and neglect training are *not* mandated by the state. (Ed. Code § 44691(b)(1) and (c); Pen. Code § 11165.7(d).)

2. Develop a process for all persons required to receive training to provide proof of completing the training within the first six weeks of each school year or within the first six weeks of that person's employment. The process developed may include, but not necessarily be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing board or body of the school district. (Ed. Code § 44691(b)(2).)
3. If the online training provided by CDSS is not used, report to the California Department of Education the training being used in its place. (Ed. Code § 44691(c).)

All other provisions in Education Code section 44691 and Penal Code 11165.7, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.

II. Procedural History

On December 3, 2015, the Commission adopted a decision approving the test claim on *Training for School Employee Mandated Reporters*.¹ On December 4, 2015, Commission staff issued the draft expedited parameters and guidelines.² The State Controller's Office filed comments recommending no changes on the draft expedited parameters and guidelines on December 24, 2015.³

III. Commission Findings

The parameters and guidelines for this program include the findings adopted by the Commission in its test claim decision with respect to the period of reimbursement⁴, eligible claimants, and reimbursable activities. None of the parties filed comments recommending changes. The Commission therefore finds that the parameters and guidelines are supported by the findings in the test claim decision.

¹ Exhibit A, Test Claim Decision, adopted December 3, 2015.

² Exhibit B, Draft Expedited Parameters and Guidelines, issued December 4, 2015.

³ Exhibit C, State Controller's Office comments, filed December 24, 2015.

⁴ Based upon the filing date of the test claim on June 1, 2015, the potential period of reimbursement begins July 1, 2013, pursuant to Government Code section 17557(e). However, since the test claim statute became effective on January 1, 2015, the period of reimbursement begins on the effective date of the statute that imposes the state-mandated program.

IV. Conclusion

Based on the foregoing, the Commission hereby adopts the proposed decision and parameters and guidelines as its decision in this matter.

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(Adopted January 22, 2016)

(Served January 27, 2016)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached parameters and guidelines on January 22, 2016.


Heather Halsey, Executive Director

Adopted: January 22, 2016

PARAMETERS AND GUIDELINES

Education Code Section 44691(b) and (c); and Penal Code Section 11165.7(d)

As Added or Amended by:

Statutes 2014, Chapter 797 (AB 1432)

Training for School Employee Mandated Reporters

14-TC-02

Period of reimbursement begins January 1, 2015

I. SUMMARY OF THE MANDATE

On December 3, 2015, the Commission on State Mandates (Commission) adopted a decision finding that Education Code section 44691(b) and (c), and Penal Code section 11165.7(d), as added and amended by the test claim statute, impose a reimbursable state-mandated program on school districts (K-12 school districts and county offices of education) 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, beginning January 1, 2015:

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3. If the online training provided by CDSS is not used, report to the California Department of Education (CDE) the training being used in its place. (Ed. Code § 44691(c).)

All other provisions in Education Code section 44691 and Penal Code 11165.7, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.

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.

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, Lake Elsinore Unified School District, filed the test claim on June 1, 2015, establishing eligibility for reimbursement for the 2013-2014 fiscal year. However, the test claim statute did not become operative until January 1, 2015. Therefore, costs incurred for the activities in these parameters and guidelines are eligible for reimbursement beginning January 1, 2015.

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’s Office (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. (Gov. Code § 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 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 that incurs increased costs, the following activities are reimbursable beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:
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3. If the online training provided by CDSS is not used, report to the CDE the training being used in its place. (Ed. Code § 44691(c).)

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. 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 services that were performed during the period covered by the reimbursement claim. 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. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of Consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

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

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue 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 these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

¹ 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 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 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions 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.