

ITEM 9
PROPOSED PARAMETERS AND GUIDELINES
AND
STATEMENT OF DECISION

Education Code Sections 11504, 49091.10, 51101, 51101.1

Statutes 1990, Chapter 1400; Statutes 1998, Chapter 864; Statutes 1998, Chapter 1031;
and Statutes 2002, Chapter 1037

Parental Involvement Programs
03-TC-16

San Jose Unified School District, Claimant

Executive Summary

The following is the proposed statement of decision for this matter prepared pursuant to section 1188.1 of the Commission's 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

These proposed parameters and guidelines address activities associated with parent involvement and parent rights in the education of their children pursuant to various Education Code sections. The activities include the adoption of parent involvement policies, providing parents access to classrooms and class materials, and providing notice to parents and guardians of pupils that speak a primary language other than English of specific education related rights.

Procedural History

On December 7, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 11504, 49091.10(a), 49091.10(b), 51101(b), and 51101.1(a), as added or amended by the test claim statutes, impose a partial 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. The Commission

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.*

approved the test claim for the reimbursable activities found under Section IV. Reimbursable Activities in the attached parameters and guidelines. On December 17, 2012, Commission staff issued draft expedited parameters and guidelines. On December 28, 2012, the State Controller's Office (SCO) filed comments asserting that charter schools are not eligible claimants. On December 29, 2012, the claimant notified Commission staff that they are not submitting comments. On January 3, 2013, the Department of Finance (Finance) filed comments concerning the potential for duplicative claiming for the one-time activities regarding the adoption of policies.

Staff Analysis

The SCO has requested that the parameters and guidelines specifically state that charter schools are not eligible claimants for this program. Staff agrees. Charter schools are only required to comply with the provisions in their charters, and a small number of other laws governing school districts that specifically require charter school compliance. Unless specifically stated in the statutes, charter schools are not required to comply with a law governing public school districts generally. Education Code section 47610 states the following:

A charter school shall comply with this part [governing charter school operation] and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

- (a) As specified in Section 47611 [governing teacher retirement].
- (b) As specified in Section 41365 [governing the charter school revolving loan fund].
- (c) All laws establishing the minimum age for public school attendance.
- (d) The California Building Standards Code . . .
- (e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

There is no reference to the parental involvement program statutes or activities in section 47610. Nor are there other statutes expressly requiring charter schools to comply with the parental involvement program. This test claim was filed by K-12 public schools, and the mandated activities are required to be performed by K-12 public schools. Staff finds that charter schools are not eligible to claim reimbursement for this program.

Finance raised concerns, in its comments on the draft expedited parameters and guidelines, that claimants might over-claim in instances where the school district complies with the requirement to adopt a policy pursuant to both Education code sections 11504 and 51101(b) by adopting a single policy, or by adopting a policy for the district rather than for each school. Although school districts can comply with both Education code sections 11504 and 51101(b) by adopting a single policy that includes the content required by both sections, school districts are not required to do so. Instead, sections 11504 and 51101(b) impose separate requirements to adopt policies. However, to the extent that school districts choose to adopt a single policy for both requirements

or the same policy for multiple schools within the district, they may claim reimbursement only for the actual costs incurred to adopt that single policy.

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.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Education Code Sections 11504, 49091.10,
51101, 51101.1

Statutes 1990, Chapter 1400; Statutes 1998,
Chapter 864; Statutes 1998, Chapter 1031; and
Statutes 2002, Chapter 1037

Period of reimbursement begins July 1, 2002.

Case No.: 03-TC-16

Parental Involvement Programs

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

(Adopted April 19, 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 April 19, 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 parameters and guidelines and statement of decision by a vote of [Vote count will be included in the final statement of decision].

I. Summary of the Mandate

These proposed parameters and guidelines address activities associated with parent involvement and parent rights in the education of their children pursuant to various Education Code sections. The activities include the adoption of parent involvement policies, providing parents access to classrooms and class materials, and providing notice to parents and guardians of pupils that speak a primary language other than English of specific education related rights.

II. Procedural History

On December 7, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 11504, 49091.10(a), 49091.10(b), 51101(b), and 51101.1(a), as added or amended by the test claim statutes, impose a partial reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514.⁴

The claimant requested that the Commission issue expedited draft proposed parameters and guidelines, which Commission staff issued for comment on December 17, 2012.⁵

On December 28, 2012, the State Controller's Office (SCO) filed comments requesting language be added to Section II. Eligible Claimants of the parameters and guidelines specifying that charter schools are not eligible to claim reimbursement. On December 29, 2012, the claimant notified Commission staff that they are not submitting comments. On January 3, 2013, the Department of Finance (Finance) filed comments requesting language be added to Section IV. Reimbursable Activities of the parameters and guidelines specifying that school districts who choose to adopt a single policy may only claim reimbursement for one of the one-time activities in that section.

III. Commission Findings

The test claim statement of decision, the draft parameters and guidelines, and the comments filed by SCO and Finance were reviewed and considered by the Commission as discussed below. Non-substantive, technical corrections were also made.

II. Eligible Claimants

In comments submitted in response to the draft expedited parameters and guidelines, the SCO requested that the parameters and guidelines specifically state that charter schools are not eligible claimants for this program.⁶ The Commission agrees. Charter schools are only required to comply with the provisions in their charters, and a small number of other laws governing school districts that specifically require charter school compliance. Unless specifically stated in the statutes, charter schools are not required to comply with a law governing public school districts generally. Education Code section 47610 states the following:

A charter school shall comply with this part [governing charter school operation] and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

- (a) As specified in Section 47611 [governing teacher retirement].
- (b) As specified in Section 41365 [governing the charter school revolving loan fund].

⁴ Exhibit A, Test Claim Statement of Decision.

⁵ Exhibit B, Draft Expedited Parameters and Guidelines.

⁶ Exhibit C, SCO Comments dated December 28, 2012.

- (c) All laws establishing the minimum age for public school attendance.
- (d) The California Building Standards Code . . .
- (e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

There is no reference to the parental involvement program statutes or activities in section 47610. Nor are there other statutes expressly requiring charter schools to comply with the parental involvement program. This test claim was filed by K-12 public schools, and the mandated activities are required to be performed by K-12 public schools. Therefore, the Commission finds that charter schools are not eligible to claim reimbursement for this program.

IV. Reimbursable Activities

In comments submitted in response to the draft expedited parameters and guidelines, Finance requested language be added stating “that to the extent school districts choose to use the same policy for both mandated requirements or the same policy for multiple schools within the district, the claimed costs reflect any resulting savings.”⁷ The test claim statement of decision notes that, although school districts can comply with both Education code sections 11504 and 51101(b) by adopting a single policy that includes the content required by section 55101(b) and is also consistent with the purposes and goals set forth in section 11502, school districts are not required to do so. Instead, sections 11504 and 51101(b) impose separate requirements to adopt policies.⁸

Thus, to the extent that school districts choose to adopt a single policy for both parental involvement program policy requirements approved under Education Code sections 11504 and 51101(b) or the same policy for multiple schools within the district, they may only claim reimbursement for actual costs of the adoption of that single policy.

IV. Conclusion

The Commission adopts the parameters and guidelines and statement of decision for the *Parental Involvement Programs*, 03-TC-16, with a period of reimbursement beginning July 1, 2002.

⁷ Exhibit D, Finance Comments dated January 3, 2013.

⁸ Exhibit A, Test Claim Statement of Decision, Page 23.

PROPOSED PARAMETERS AND GUIDELINES

Education Code Sections 11504, 49091.10, 51101, 51101.1

Statutes 1990, Chapter 1400; Statutes 1998, Chapter 864; Statutes 1998, Chapter 1031;
and Statutes 2002, Chapter 1037

Parental Involvement Programs 03-TC-16

Period of reimbursement begins July 1, 2002

I. SUMMARY OF THE MANDATE

This test claim addresses activities associated with parent involvement and parent rights in the education of their children pursuant to various Education Code sections. The activities include the adoption of parent involvement policies, providing parents access to classrooms and class materials, and providing notice to parents of specific education related rights.

On December 7, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 11504, 49091.10(a), 49091.10(b), 51101(b), and 51101.1(a), as added or amended by the test claim statutes, impose a partial 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. The Commission approved the test claim for the reimbursable activities found under Section IV. Reimbursable Activities.

II. ELIGIBLE CLAIMANTS

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

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. San Jose Unified School District filed the test claim on September 25, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, costs incurred for the activities in these parameters and guidelines are reimbursable on or after July 1, 2002.

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.

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:

1. One Time Activities

a. Parent Involvement Policies (Ed. Code, §§ 11504 and 51101(b))

- 1) For school districts formed, or school districts with schools formed, on or after July 1, 2002 that could not have adopted parent involvement policies prior to the 2002-2003 fiscal year, engage in the following one-time activity:

Adopt a policy on parent involvement, consistent with the purposes and goals set forth in Education Code section 11502 (Stats. 1990, ch. 1400), for each school that does not receive funding under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-

Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. No. 100-297). (Ed. Code, § 11504 (Stats. 1990, ch. 1400).)

- 2) For school districts formed, or school districts with schools formed, on or after July 1, 2002 that could not have adopted a policy prior to the 2002-2003 fiscal year, engage in the following one-time activity:

Develop jointly with parents and guardians, and adopt, a policy that outlines how parents or guardians of pupils, school staff, and pupils may share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils at each schoolsite.

The policy must include the following: (1) the means by which the school and parents or guardians of pupils may help pupils to achieve academic and other standards of the school; (2) a description of the school's responsibility to provide a high quality curriculum and instructional program in a supportive and effective learning environment that enables all pupils to meet the academic expectations of the school; and (3) the manner in which the parents and guardians of pupils may support the learning environment of their children, including, but not limited to: (a) monitoring attendance of their children, (b) ensuring that homework is completed and turned in on a timely basis, (c) participation of the children in extracurricular activities, (d) monitoring and regulating the television viewed by their children, (e) working with their children at home in learning activities that extend learning in the classroom, (f) volunteering in their children's classrooms, or for other activities at the school, (g) participating, as appropriate, in decisions relating to education of their own child or the total school program. (Ed. Code, § 51101(b) (Stats. 1998, ch. 864).)

To the extent that school districts choose to adopt a single policy for both 1(a)(1) and 1(a)(2) of the above-referenced activities or the same policy for multiple schools within the district, they may only claim reimbursement for actual costs of the adoption of that single policy.

2. Ongoing Activities

a. Parent Involvement Opportunities (Ed. Code, § 49091.10)

- 1) Promptly make all assessments, excluding standardized tests described in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code, available for inspection by a parent or guardian in a reasonable timeframe or in accordance with procedures determined by the governing board of the school district.¹ (Ed. Code, § 49091.10(a) (Stats. 1998, ch. 1031).)
- 2) Upon written request by a parent or guardian, arrange for the parental observation of the requested class or classes or activities by the parent or guardian within a reasonable timeframe and in accordance with procedures determined by the

¹ In 2009, the Legislature made a non-substantive amendment to section 49091.10 in order to modernize existing statutory references to audio or video recordings. Specifically, the Legislature replaced "tapes" with "audio video records." (Stats. 2009, ch. 88.)

governing board of the school district. (Ed. Code, § 49091.10(b) (Stats. 1998, ch. 1031).)

Teacher time to arrange for the parental observation of a class is not reimbursable.

b. Notice to Parents and Guardians of Pupils that Speak a Primary Language Other than English of Specified Education Related Rights (Ed. Code, § 51101.1)

Provide notice of the rights set forth in Education Code section 51101(a)(1), (a)(2), (a)(3), (a)(4), (a)(11), retention and promotion policies as provided in (a)(12) and (a)(16) (Stats. 2002, ch. 1037), and Education Code section 51101.1(b)(2) and (b)(4) (Stats. 2002, ch. 1037) to the parents and guardians of pupils that speak a single primary language other than English if 15 percent or more of the pupils in the school speak that single primary language. (Ed. Code, § 51101.1(a) (Stats. 2002, ch. 1037).)

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 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 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

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

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.

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 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.