

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Education Code sections 14501, 33126, 35186, 41020, and 42127.6, as Added or Amended by Statutes 2004, Chapter 900 (SB 550); Statutes 2004, Chapter 902 (AB 3001); Statutes 2004, Chapter 903 (AB 2727); Statutes 2005, Chapter 118 (AB 831); Statutes 2006, Chapter 704 (AB 607); and Statutes 2007, Chapter 526 (AB 347).

Williams Case Implementation I, II, III
05-TC-04, 07-TC-06, and 08-TC-01

I. SUMMARY OF THE MANDATE

These parameters and guidelines arise from the consolidated *Williams* case implementation test claim. The test claim alleged reimbursable state-mandated costs incurred by school districts and county offices of education pursuant to implementation of the legislative enactments resulting from the state's settlement in *Eliezer Williams, et al. v. State of California (Williams)*. In *Williams*, the plaintiffs sought to vindicate the rights of public schoolchildren to receive access to sufficient instructional materials; decent, clean, and safe school facilities; and capable teachers.

The case was settled under the Schwarzenegger administration, and the settlement agreement called for legislative action to ensure that students would be provided with sufficient instructional materials, qualified teachers, and clean and safe facilities and instructional spaces. The resulting legislation made a number of changes to the Education Code, addressing deficiencies in the provision of instructional materials, assignment and retention of qualified teachers, and the maintenance of clean and safe facilities and instructional spaces.

On December 7, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 14501, 33126(b), 35186, 41020, and 42127.6 impose reimbursable state-mandated new programs or higher levels of service for 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 the test claim with respect to the reimbursable activities found in 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.

III. PERIOD OF REIMBURSEMENT

This consolidated test claim consists of three initial test claim filings. The claimants, San Diego County Office of Education and Sweetwater High School District, filed the first test claim (*Williams I*, 05-TC-04) on September 21, 2005¹. The claimants filed the second test claim

¹ Based on the September 21, 2005 filing date, the potential period of reimbursement for the *Williams I* test claim would begin July 1, 2004. However, the test claim statutes alleged in *Williams I* were enacted as urgency legislation and became effective on September 29, 2004, and

(Williams II, 07-TC-06) on December 14, 2007². The claimants filed the third test claim (Williams III, 08-TC-01) on July 2, 2008³. 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. However, given the various test claim filing dates and various effective dates of statutes, the beginning of the reimbursement periods differ by approved activity, but range from September 29, 2004 to October 12, 2007. The beginning reimbursement periods for each approved activity are included in Section IV, Reimbursable Activities.

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

July 25, 2005, respectively, and therefore the date of enactment marks the potential period of reimbursement for those activities.

² Based on the December 14, 2007 filing date, the potential period of reimbursement for the *Williams II* test claim would begin July 1, 2006. However the test claim statutes alleged in *Williams II* were enacted September 29, 2006, became effective January 1, 2007, and therefore the period of reimbursement begins on the later effective date of January 1, 2007.

³ Based on the July 2, 2008 filing date, the potential period of reimbursement for the *Williams III* test claim would begin July 1, 2007. However the test claim statute at issue in *Williams III* was enacted as urgency legislation and became effective on October 12, 2007, and therefore the date of enactment marks the potential reimbursement period.

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 costs are 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. Reimbursable activities for school districts:
 - a. Reporting the following information on the School Accountability Report Card, pursuant to Education Code section 33126(b), beginning September 29, 2004, for the following activities:⁴
 - i. Reporting teacher misassignments and vacancies within the School Accountability Report Card.
 - ii. Reporting the availability of textbooks and other instructional materials within the School Accountability Report Card.
 - iii. Reporting any needed maintenance to ensure good repair within the School Accountability Report Card.
 - b. Complying with the Williams Complaint Process pursuant to Education Code section 35186:
 - i. Receiving complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher misassignments or vacancies. The eligible reimbursement period for this activity begins September 29, 2004.⁵
 - ii. Responding to complaints, if requested. The eligible reimbursement period for this activity begins September 29, 2004.⁶
 - iii. Forwarding a complaint beyond the authority of the local school official in a timely manner but not to exceed 10 working days. The eligible reimbursement period for this activity begins September 29, 2004.⁷

⁴ Statutes 2004, chapter 900.

⁵ Education Code section 35186(a)(1) (Stats. 2004, ch. 900 § 12 (SB 550) Stats. 2004, ch. 903 (AB 2727)).

⁶ Education Code section 35186(a)(1) (Stats. 2004, ch. 900 § 12 (SB 550)).

- iv. Making all reasonable efforts to investigate any problem within the principal's authority. The eligible reimbursement period for this activity begins September 29, 2004.⁸
- v. Remedying a valid complaint within a reasonable time period by not to exceed 30 working days; reporting the resolution to the complainant within 45 working days. The eligible reimbursement period for this activity begins September 29, 2004.⁹
- vi. Hearing the complaint at a regularly scheduled hearing of the district governing board. The eligible reimbursement period for this activity begins September 29, 2004.¹⁰
- vii. Reporting summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent and the district governing board. The eligible reimbursement period for this activity begins September 29, 2004.¹¹
- viii. Posting a notice in each classroom identifying the appropriate subjects of complaint, including sufficient textbooks and instructional materials, and facilities conditions; and informing potential complainants of the location where a complaint form may be obtained in the case of a shortage. The eligible reimbursement period for this activity begins September 29, 2004.¹²
- ix. The one-time activity of adding to the posted notice in each classroom that "[t]here should be no teacher vacancies or misassignments." The eligible reimbursement period for this activity begins July 25, 2005.¹³
- x. Receiving complaints regarding "any deficiencies related to intensive instruction and services provided...to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12." The eligible reimbursement period for this activity begins October 12, 2007.¹⁴
- xi. The one-time activity of adding to the posted notice in each classroom in schools that serve grades 10 to 12, that "[p]upils who have not passed the high school exit examination by the end of grade 12 are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the

⁷ Education Code section 35186(a)(3) (2004, ch. 900 § 12 (SB 550)).

⁸ Education Code section 35186(b) (Stats. 2004, ch. 900 § 12 (SB 550)).

⁹ Education Code section 35186(b) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹⁰ Education Code section 35186(c) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹¹ Education Code section 35186(d) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹² Education Code section 35186(f) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹³ Education Code section 35186(f) (Stats. 2005, ch. 118 § 5 (AB 831)).

¹⁴ Education Code section 35186(a) (Stats. 2007, ch. 526 § 2 (AB 347)).

high school exit examination, whichever comes first.” The eligible reimbursement period for this activity begins October 12, 2007.¹⁵

- c. Compliance audits pursuant to Education Code sections 14501 and 41020:
 - i. School districts are required to include within their compliance audit verification of each of the following: reporting requirements for sufficiency of textbooks and instructional materials; teacher misassignments; and the accuracy of the information reported on the School Accountability Report Card. The eligible reimbursement period for these activities begins September 29, 2004.¹⁶
- d. Forwarding reports to the county office of education pursuant to Education Code section 42127.6:
 - i. For school districts to provide the county superintendent with a copy of a study, report, evaluation, or audit that contains evidence that the school district is showing fiscal distress, or a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of section 42127.8. The eligible reimbursement period for this activity begins September 29, 2004.¹⁷

*Reimbursement for this activity is not required to the extent the study, evaluation, or audit was commissioned at the discretion of the district or of the county office of education.*¹⁸

2. Reimbursable activities for county offices of education:

- a. Review of the audit exceptions pursuant to Education Code sections 14501 and 41020:
 - i. County offices of education are required to include in the review of audit exceptions those audit exceptions related to sufficiency of textbooks and instructional materials; teacher misassignments; and the accuracy of information reported on the School Accountability Report Card. The eligible reimbursement period for these activities begins September 29, 2004.¹⁹

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.

¹⁵ Education Code section 35186(f) (Stats. 2007, ch. 526 § 2 (AB 347)).

¹⁶ Education Code section 14501; 41020 (Stats. 2004, ch. 900 (SB 550)).

¹⁷ Education Code section 42127.6 (Stats. 2004, ch. 902 § 1 (AB 3001)).

¹⁸ Education Code section 42127.6 (Stats. 2004, ch. 902 § 1 (AB 3001)).

¹⁹ Education Code section 41020 (Stats. 2004, ch. 900 § 13 (SB 550)).

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 chapter²⁰ 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.

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

²⁰ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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.