BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES FOR: Health and Safety Code Section 120335, as amended and replaced by Statutes 2010, Chapter 434 (AB 354) Period of reimbursement begins July 1, 2011.	Case No.: 11-TC-02 *Immunization Records - Pertussis* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted December 6, 2013*) (*Served December 16, 2013*)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) adopted this statement of decision and parameters and guidelines on consent during a regularly scheduled hearing on December 6, 2013.

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.

I. Summary of the Mandate

The test claim statute prohibits schools from admitting or advancing pupils to the 7th through 12th grade levels during the 2011-2012 fiscal year and, beginning in fiscal year 2012-2013, pupils entering or advancing to the 7th grade level, unless the pupil is fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age, or has documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

On July 26, 2013, the Commission adopted a statement of decision finding that Health and Safety Code section 120335(d) imposes 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, beginning July 1, 2011, to perform activities related to conditionally or unconditionally admitting or advancing students, based on their immunization status, as follows:

A. For fiscal year 2011-2012 only, and for students entering the 7th through 12th grade levels:

(1) Unconditionally admit students who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

(2) Conditionally admit students that have not been fully immunized against pertussis and have not obtained a permanent medical exemption or a personal belief exemption to immunization if that pupil has a temporary medical exemption or is in the process of receiving doses of the required vaccines.

(3) For any student found not to have received all immunizations for pertussis which are required before admission or advancement to grades 7 through 12, or who is found not to have complied with requirements for conditional admission, notify that student's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Exclude from further attendance any pupil who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

B. Beginning July 1, 2012, for students entering the 7th grade:

(1) Unconditionally admit students who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

(2) Conditionally admit students that have not been fully immunized against pertussis and have not obtained a permanent medical exemption or a personal belief exemption to immunization if that pupil has a temporary medical exemption or is in the process of receiving doses of the required vaccines.

(3) For any student who is found not to have complied with requirements for conditional admission, notify that student's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Exclude from further attendance any pupil who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

II. Procedural History

The test claim statement of decision was adopted on July 26, 2013.[1] Claimant requested that the Commission issue draft expedited proposed parameters and guidelines, which Commission staff issued for comment on August 5, 2013.[2]

On September 4, 2013, the State Controller's Office **(S**CO) 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.[3]

On September 10, 2013, the Department of Finance (DOF) filed comments concerning the reimbursable activities contained in the proposed expedited parameters and guidelines as follows:

- Paragraph 2 of Section IVA and B relates to students who have been conditionally admitted to school, but who are not fully immunized against pertussis and have not obtained specified exemptions. The proposed parameters and guidelines include as a reimbursable activity providing a notice to parents that evidence of full immunization or lawful exemption must be provided within 10 school days. The statute and regulations do not require notice to be provided.
- Paragraph 3 of Section IVA and B relates to students found not to have received the immunization and not to have complied with requirements for conditional admission. The proposed parameters and guidelines includes as a reimbursable activity a second notice to parents and guardians that the school is required to exclude the student from further attendance unless written evidence of the pertussis immunization or lawful exemption within 10 school days. This notification is required by the regulations, but the language should conform to the language of the regulation to provide that the notice requirement is for "already admitted" students.
- Paragraph 4 of Section IV A and B relate to students who are excluded from further attendance because they fail to comply with the immunization requirement or provide evidence of a lawful exemption. DOF recommends that this activity provide specific guidance regarding the activities relating to excluding a student from attendance.[4]

On November 19, 2013, Commission staff issued its final staff analysis and proposed statement of decision and parameters and guidelines.

III. Commission Findings

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

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[1] Exhibit A.

[2] Exhibit B.

[3] Exhibit C.

[4] Exhibit D.

II. Eligible Claimants

The SCO requested the addition of the following underlined language to section 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.

The proposed language is not included in Section II of the parameters and guidelines. The test claim was filed by Twin Rivers Unified School District on behalf of all school districts incurring costs related to unconditionally admitting or advancing students unless they are properly immunized against pertussis. The plain language of Health and Safety Code section 120335 prohibits all schools from unconditionally admitting or advancing students unless they are properly immunized. Although individual schools, including charter schools, are not eligible to claim reimbursement, "school districts" are eligible claimants. As defined, "school districts" means "any school district . . . or county superintendent of schools." Therefore, school districts as defined by Government Code section 17519 may properly claim reimbursement for activities required to comply with section 120335 that are performed by the schools within the districts' jurisdiction.

IV. Reimbursable Activities

As indicated above, draft expedited parameters and guidelines were issued for comment, which includes as reimbursable activities identified in the conclusion of the test claim statement of decision and some additional notice activities. The DOF filed comments questioning the language of some of the notice provisions and requested that the language be made clear and specific with respect to the reimbursable activities mandated by Health and Safety Code section 120335(d). The Commission agrees with these general comments.

As determined in the statement of decision on the test claim, the plain language of section 120335(d) prohibits schools from unconditionally admitting or advancing students unless they are properly immunized, and does not affirmatively identify any activities required to comply with the prohibition. However, the Commission recognized that an interpretation of the statute that finds schools are not required to act would improperly ignore the pupils' constitutional right to education and frustrate the manifest purpose of section 120335 and the statutory scheme of which it is a part. The Commission interpreted section 120335 under the rules of statutory construction, where the words of the statute were construed in context of the entire statutory and regulatory scheme. In this respect, the Commission made the following findings on pages 16 and 17 of the statement of decision on the test claim:

> Thus, in this case, it may be presumed that the Legislature, when it enacted the test claim statute, intended school districts to receive and review all immunization records of a pupil, including those records relating to the pertussis immunization, or letters or affidavits in support of an exemption from the immunization requirements. When read with the statutory scheme, school districts must receive documentary evidence of the pertussis immunization in order to properly comply with the prohibition in section 120335(d) from admitting or advancing a student

to the 7th through 12th grade levels, unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age. This interpretation is consistent with the regulations adopted by DPH in 2011.[5]

As noted above, these regulations have not been pled by the claimant and the Commission does not have jurisdiction to make mandate findings on these regulations. However, the regulations may properly be considered as DPH's interpretation of what is required by section 120335 as that statute was amended in 2010. An agency's interpretation of the meaning and legal effect of a statute it is required to implement is entitled to consideration and respect by the courts.[6]

In particular, the portion of the regulations addressing the documentary evidence required is relevant to the issue of what is required to comply with the statutory prohibition against admitting or advancing unimmunized students. Under the regulations, a written record is required to be given to the person immunized by the physician or agency performing the immunization that includes the child's name, birthdate, type of vaccine administered, the date the vaccine was administered, and the name of the physician or agency administering the vaccine pursuant to Title 17, section 6065. Section 6070 of the Title 17 regulations requires school districts to record each student's immunization information on a form supplied by DPH, which becomes part of each student's mandatory pupil record. Each student's immunization record shall contain the child's name, birthdate, date of unconditional or conditional admission, type of vaccine administered, the date the vaccine was administered, date and type of exemption, if any.

In addition, pursuant to section 6051 of the Title 17 regulations, a parent or guardian may exercise the right to refuse required immunizations by asserting either a medical or personal belief exemption, which allows the student to be admitted unconditionally. A permanent medical exemption shall be granted upon the filing with the school a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated.[7] A personal beliefs exemption shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, that such immunization is contrary to his or her beliefs.[8] Any

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[5] California Code of Regulations, Title 17 sections 6020, 6035, 6040, 6051,6055, 6065, 6070, and 6075. (Register 2011, No. 26, eff. 6/30/11). (See also, DPH's Initial Statement of Reasons, dated May 19, 2011.)

[6] *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7; *Carson Citizens for Reform v. Kawagoe* (2009) 178 Cal.App.4th 357, 368-369.

[7] California Code of Regulations, title 17, section 6051(a).

[8] California Code of Regulations, title 17, section 6051(b).

student who lacks documentation of all immunizations required by law, including the pertussis immunization and boosters, and does not have a permanent medical or personal beliefs exemption to the immunization, can be admitted *conditionally* under specified circumstances pursuant to section 6035 of the Title 17 regulations; for example if the student had a temporary medical exemption or was in the process of receiving doses of the required vaccine. However, schools are required to prohibit from further attendance any student admitted conditionally who fails to obtain the required immunizations within the 10 school days time limit set forth in the Title 17 regulations and is not otherwise exempted from immunization requirements, after notice to the parent or guardian.[9]

Consistent with these findings, the parameters and guidelines have been modified to specifically identify the activities required by the statutes and regulations that implement the mandate in Health and Safety Code section 120335(d) as follows:[10]

A. For fiscal year 2011-2012 only, for students entering the 7th through 12th grades:

(1) Receive and review the following documents for all pupils entering the 7th through 12th grades to determine whether to unconditionally admit or conditionally admit the pupil:

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[9] California Code of Regulations, title 17, sections 6040 and 6055. The due process clause of the U.S. and California Constitutions also require that notice be provided before a child is denied a fundamental right, including the right to receive a public education. (*Abella v. Riverside Unified School Dist.* (1976) 65 Cal.App.3d 153, 168-169.)

[10] See, Health and Safety Code sections 120355, 120365, 120370, 120375; and California Code of Regulations, title 17, sections 6035, 6040, 6050, 6051, 6055, and 6065, which implement the mandate in the test claim statute (Health and Safety Code section 120335(d)). See also, Education Code section 48216, which states the following:

(a) The county office of education or the governing board of a school district of attendance shall exclude any pupil who has not been immunized properly pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code.

(b) The governing board of the district shall notify the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil is exempted from the immunization requirement pursuant to Section 120365 or 120370 of the Health and Safety Code.

(c) The governing board of the district, in the notice, shall refer the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refer the parent or guardian to the county health department, or notify the parent or guardian that the immunizations will be administered at a school of the district.

a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*

b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs; *or*

c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grades 7 through 12. Pupils who have a temporary exemption shall be admitted to grades 7 through 12 on condition that the required immunization is obtained at the termination of the exemption.

Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.

(2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.

(3) For any already admitted pupil found not to have received all immunizations for pertussis which are required before admission or advancement to grades 7 through 12, or who is found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

B. Beginning July 1, 2012, only for students entering the 7th grade:

(1) Receive and review the following documents for all pupils entering the 7th grade to determine whether to unconditionally admit and conditionally admit the pupil:

a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*

b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs.

c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grade 7. Pupils who have a temporary exemption shall be admitted to grade 7 on condition that the required immunization is obtained at the termination of the exemption.

Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.

(2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.

(3) For any already admitted pupil who is later found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance any pupil who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or

personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

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.

Finally, staff deleted the language describing reporting of travel expenses from section V, Claim Preparation and Submission. Travel is not required to comply with section 120335(d) because all reimbursable activities, such as receiving and reviewing documents to prove immunization, or an exemption therefrom, occur on-site at each school required to comply with section 120335(d).

V. Conclusion

The Commission adopts the parameters and guidelines and statement of decision for *Immunization Records – Pertussis*, 11-TC-02, with a period of reimbursement beginning July 1, 2011.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES FOR: Health and Safety Code Section 120335, as amended and replaced by Statutes 2010, Chapter 434 (AB 354) Period of reimbursement begins July 1, 2011.	Case No.: 11-TC-02 *Immunization Records - Pertussis* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted December 6, 2013*) (*Served December 16, 2013*)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached parameters and guidelines on December 6, 2013.

Heather Halsey, Executive Director

Adopted: December 6, 2013

PARAMETERS AND GUIDELINES

Health and Safety Code Section 120335

Statutes 2010, Chapter 434 (AB 354)

Immunization Records – Pertussis

11-TC-02

Period of reimbursement begins July 1, 2011

I. SUMMARY OF THE MANDATE

On July 26, 2013, the Commission on State Mandates (Commission) adopted a statement of decision finding that Health and Safety Code section 120335(d), as added and replaced by the test claim statute, imposes a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

A. For fiscal year 2011-2012, only for students entering the 7th through 12th grades:

(1) Unconditionally admit students who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

(2) Conditionally admit students that have not been fully immunized against pertussis and have not obtained a permanent medical exemption or a personal belief exemption to immunization if that pupil has a temporary medical exemption or is in the process of receiving doses of the required vaccines.

(3) For any student found not to have received all immunizations for pertussis which are required before admission or advancement to grades 7 through 12, or who is found not to have complied with requirements for conditional admission, notify that student's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Exclude from further attendance any pupil who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

B. Beginning July 1, 2012, only for students entering the 7th grade:

(1) Unconditionally admit students who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis.

(2) Conditionally admit students that have not been fully immunized against pertussis and have not obtained a permanent medical exemption or a personal belief exemption to immunization if that pupil has a temporary medical exemption or is in the process of receiving doses of the required vaccines.

(3) For any student who is found not to have complied with requirements for conditional admission, notify that student's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Exclude from further attendance any pupil who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

The Commission also found that these provisions require school districts to receive and review the pertussis immunization records of a pupil, or letters or affidavits in support of an exemption from the immunization requirements.

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, Twin Rivers Unified School District, filed the test claim on September 26, 2011, establishing eligibility for reimbursement for the 2010-2011 fiscal year. However, Health and Safety Code section 120335(d) did not become operative until July 1, 2011. Therefore, costs incurred for the activities in these parameters and guidelines are eligible for reimbursement beginning July 1, 2011.

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:

A. <u>For fiscal year 2011-2012 only, for students entering the 7th through 12th grades</u>:

(1) Receive and review the following documents for all pupils entering the 7th through 12th grades to determine whether to unconditionally admit or conditionally admit the pupil:

a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*

b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs; *or*

c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grades 7 through 12. Pupils who have a temporary medical exemption shall be admitted to grades 7 through 12 on condition that the required immunization is obtained at the termination of the exemption.

Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.

(2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.

(3) For any already admitted pupil found not to have received all immunizations for pertussis which are required before admission or advancement to grades 7 through 12, or who is found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

B. <u>Beginning July 1, 2012, only for students entering the 7th grade</u>:

(1) Receive and review the following documents for all pupils entering the 7th grade to determine whether to unconditionally admit or conditionally admit the pupil:

a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*

b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs.

c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grade 7. Pupils who have a temporary medical exemption shall be admitted to grade 7 on condition that the required immunization is obtained at the termination of the exemption.

Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.

(2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.

(3) For any already admitted pupil who is later found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.

(4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

In addition, the following activities are specifically excluded from reimbursement: (1) reporting the immunization status of students to county health departments or the state; (2) recording and maintaining student immunization records; (3) periodically reviewing student immunization records to ensure compliance with the test claim statute. These activities are not required to implement the test claim statute and are instead addressed by the Department of Public Health ("DPH") regulations that were not properly pled and therefore beyond the Commission's jurisdiction.[1]

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.

[1] Test Claim Statement of Decision, at pp. 11-12.

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.

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 chapter[2] 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 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.

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

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.