

COMMISSION ON STATE MANDATES

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January 27, 2016

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

And Parties, Interested Parties, and Interested Persons (See Mailing List)

**Re: Test Claim Decision, Draft Expedited Parameters and Guidelines,
Schedule for Comments, and Notice of Hearing**

*California Assessment of Student Performance and Progress (CAASPP), 14-TC-01
Education Code Sections 60602 et al.*

Plumas County Office of Education, Plumas Unified School District, Porterville Unified
School District, Santa Ana Unified School District, and Vallejo City Unified School
District, Claimants

AND

*California Assessment of Student Performance and Progress (CAASPP), 14-TC-04
California Code of Regulations, Title 5, Sections 850-864; Register 2014, No. 6
Plumas County Office of Education, Plumas Unified School District, Porterville Unified
School District, and Santa Ana Unified School District, Claimants*

Dear Mr. Palkowitz:

On January 22, 2016, the Commission on State Mandates (Commission) adopted the test claim decision partially approving the above-entitled matter. State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

Draft Expedited Parameters and Guidelines. Pursuant to California Code of Regulations, title 2, section 1183.9, the Commission staff is expediting the parameters and guidelines process by enclosing draft parameters and guidelines to assist the claimant. The proposed reimbursable activities are limited to those approved in the decision by the Commission.

Review of Draft Expedited Parameters and Guidelines. Comments may be filed on the draft expedited parameters and guidelines by **February 16, 2016**. (Cal. Code Regs., tit. 2, § 1183.9(b).)

Rebuttals. Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

Adoption of Parameters and Guidelines. After review of the draft expedited parameters and guidelines and all proposed comments, Commission staff will prepare a proposed decision and recommend adoption by the Commission.

Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Test Claimant and Department of Finance Submission of Letter of Intent. Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a *joint reasonable reimbursement methodology and statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs. Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

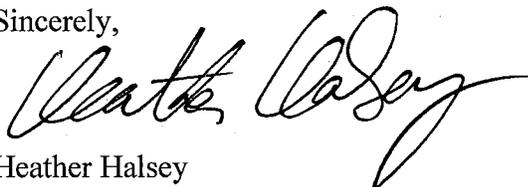
Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs. Upon receipt of the jointly developed proposals, Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs. At least 10 days prior to the next hearing, Commission staff shall review comments and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3.) If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

The parameters and guidelines for this matter are set for hearing on **March 25, 2016**.

Sincerely,



Heather Halsey
Executive Director

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Education Code Section 60640, as amended by Statutes 2013, Chapter 489 (AB 484) and Statutes 2014, Chapter 32 (SB 858); California Code of Regulations, Title 5, Sections 850, 852, 853, 853.5, 857, 861(b)(5), and 864, as added or amended by Register 2014, Nos. 6, 30, and 35

California Assessment of Student Performance and Progress (CAASPP)

14-TC-01 and 14-TC-04

The period of reimbursement begins on the effective date of the statute or regulations that impose the state-mandated program.

I. SUMMARY OF THE MANDATE

On January 22, 2016, the Commission on State Mandates (Commission) adopted a decision finding that the test claim statutes and regulations impose a 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 partially approved the test claim, finding only the following activities to be reimbursable:

- Beginning January 1, 2014, provide “a computing device, the use of an assessment technology platform, and the adaptive engine” to administer the CAASPP assessments to all pupils via computer, which includes the acquisition of and ongoing compliance with minimum technology requirements.¹
- Beginning February 3, 2014, the local educational agency (LEA) CAASPP coordinator shall be responsible for assessment technology, and shall ensure current and ongoing compliance with minimum technology specifications as identified by the CAASPP contractor(s) or consortium.²
- Beginning February 3, 2014, notify parents or guardians each year of their pupil’s participation in the CAASPP assessment system, including notification that notwithstanding any other provision of law, a parent’s or guardian’s written request to excuse his or her child from any or all parts of the CAASPP assessments shall be granted.³
- Beginning February 3, 2014, score and transmit the CAASPP tests in accordance with manuals or other instructions provided by the contractor or the California Department of Education (CDE).⁴

¹ Education Code section 60640 (Stats. 2013, ch. 489), interpreted in light of California Code of Regulations, title 5, sections 850, 853, 853.5, and 857 (Register 2014, Nos. 6, 30, 35).

² California Code of Regulations, title 5, section 857(d) (Register 2014, No. 6).

³ California Code of Regulations, title 5, section 852 (Register 2014, No. 6).

⁴ California Code of Regulations, title 5, section 853 (Register 2014, No. 6).

- Beginning February 3, 2014, identify pupils unable to access the computer-based version of the CAASPP tests; and report to the CAASPP contractor the number of pupils unable to access the computer-based version of the test.⁵
- Beginning February 3, 2014, report to CDE if a pupil in grade 2 was administered a diagnostic assessment in language arts and mathematics that is aligned to the common core academic content standards pursuant to Education Code section 60644.⁶
- Beginning February 3, 2014, comply with any and all requests from CAASPP contractors, and abide by any and all instructions provided by the CAASPP contractor or consortium, whether written or oral, that are provided for training or provided for in the administration of a CAASPP test.⁷

The Commission also found that the following state and federal funds must be identified and deducted as offsetting revenues from any school district's reimbursement claim:

- Statutes 2013, chapter 48 (\$1.25 billion in Common Core implementation funding), *if* used by a school district on the reimbursable CAASPP activities to support the administration of computer-based assessments.
- Funding apportioned by SBE from Statutes 2014, chapter 25, Line Item 6110-113-0001, schedule (8), for fiscal year 2013-2014 CAASPP costs.
- Funding apportioned by SBE from Statutes 2015, chapter 10, Line Item 6100-113-0001, schedule (7) for fiscal year 2014-2015 CAASPP costs.
- Statutes 2014, chapter 25 (Line Item 6110-488) and chapter 32 (appropriation for outstanding mandate claims) *if* used by a school district on the reimbursable CAASPP activities.
- Statutes 2014, chapter 25, Line Item 6110-182-0001, Provision 2 (appropriation "to support network connectivity infrastructure grants) *if* used by a school district on the reimbursable CAASPP activities.
- Any federal funds received and applied to the reimbursable CAASPP activities.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, that 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 reimbursement for that fiscal year. The claimants filed test claim 14-TC-01 on December 23, 2014. On March 17, 2015, claimants filed an amended test claim on 14-TC-01, to replace the original filing. On June 26, 2015, a second test claim (14-TC-04) was filed and consolidated with 14-TC-01. These test claims, all

⁵ California Code of Regulations, title 5, section 857(a) (Register 2014, No. 6).

⁶ California Code of Regulations, title 5, section 861(b)(5) (Register 2014, No. 6).

⁷ California Code of Regulations, title 5, section 864 (Register 2014, No. 6).

filed before June 30, 2015, establish eligibility for reimbursement pursuant to Government Code section 17557(e), beginning July 1, 2013. However, because the test claim statute and regulations each have later effective dates, the period of reimbursement begins on the effective date of each statute or regulation that imposes the reimbursable state-mandated activity, as specified in Section IV. of these parameters and guidelines.

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 (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agenda, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- Beginning January 1, 2014, provide “a computing device, the use of an assessment technology platform, and the adaptive engine” to administer the CAASPP assessments to all pupils via computer, which includes the acquisition of and ongoing compliance with minimum technology requirements.⁸
- Beginning February 3, 2014, the LEA CAASPP coordinator shall be responsible for assessment technology, and shall ensure current and ongoing compliance with minimum technology specifications as identified by the CAASPP contractor(s) or consortium.⁹
- Beginning February 3, 2014, notify parents or guardians each year of their pupil’s participation in the CAASPP assessment system, including notification that notwithstanding any other provision of law, a parent’s or guardian’s written request to excuse his or her child from any or all parts of the CAASPP assessments shall be granted.¹⁰
- Beginning February 3, 2014, score and transmit the CAASPP tests in accordance with manuals or other instructions provided by the contractor or CDE.¹¹
- Beginning February 3, 2014, identify pupils unable to access the computer-based version of the CAASPP tests; and report to the CAASPP contractor the number of pupils unable to access the computer-based version of the test.¹²
- Beginning February 3, 2014, report to CDE if a pupil in grade 2 was administered a diagnostic assessment in language arts and mathematics that is aligned to the common core academic content standards pursuant to Education Code section 60644.¹³
- Beginning February 3, 2014, comply with any and all requests from CAASPP contractors, and abide by any and all instructions provided by the CAASPP contractor or consortium, whether written or oral, that are provided for training or provided for in the administration of a CAASPP test.¹⁴

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.

⁸ Education Code section 60640 (Stats. 2013, ch. 489), interpreted in light of California Code of Regulations, title 5, sections 850, 853, 853.5, and 857 (Register 2014, Nos. 6, 30, 35).

⁹ California Code of Regulations, title 5, section 857(d) (Register 2014, No. 6).

¹⁰ California Code of Regulations, title 5, section 852 (Register 2014, No. 6).

¹¹ California Code of Regulations, title 5, section 853 (Register 2014, No. 6).

¹² California Code of Regulations, title 5, section 857(a) (Register 2014, No. 6).

¹³ California Code of Regulations, title 5, section 861(b)(5) (Register 2014, No. 6).

¹⁴ California Code of Regulations, title 5, section 864 (Register 2014, No. 6).

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs may include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs; and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the CDE 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 chapter¹⁵ 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

The following state and federal funds must be identified as offsetting revenues:

- Funding apportioned by SBE from Statutes 2014, chapter 25, Line Item 6110-113-0001, schedule (8), for fiscal year 2013-2014 CAASPP costs.
- Funding apportioned by SBE from Statutes 2015, chapter 10, Line Item 6100-113-0001, schedule (7) for fiscal year 2014-2015 CAASPP costs.
- Statutes 2013, chapter 48 (Common Core implementation funding), *if* used by a school district on the reimbursable CAASPP activities.
- Statutes 2014, chapter 25 (Line Item 6110-488) and chapter 32 (appropriation for outstanding mandate claims) *if* used by a school district on the reimbursable CAASPP activities.
- Statutes 2014, chapter 25, Line Item 6110-182-0001, Provision 2 (appropriation “to support network connectivity infrastructure grants) *if* used by a school district on the reimbursable CAASPP activities.

Any other offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other applicable state funds, shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER’S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the consolidated test claim and parameters and guidelines adopted by the Commission.

¹⁵ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the consolidated test claims 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.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 27, 2016, I served the:

**Test Claim Decision, Draft Expedited Parameters and Guidelines,
Schedule for Comments, and Notice of Hearing**

California Assessment of Student Performance and Progress (CAASPP), 14-TC-01
Education Code Sections 60602 et al.

Plumas County Office of Education, Plumas Unified School District, Porterville Unified School District, Santa Ana Unified School District, and Vallejo City Unified School District, Claimants

AND

California Assessment of Student Performance and Progress (CAASPP), 14-TC-04
California Code of Regulations, Title 5, Sections 850-864; Register 2014, No. 6

Plumas County Office of Education, Plumas Unified School District, Porterville Unified School District, and Santa Ana Unified School District, Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 27, 2016 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/14/16

Claim Number: 14-TC-01 and 14-TC-04

Matter: California Assessment of Student Performance and Progress (CAASPP)

Claimants: Plumas County Office of Education
Plumas Unified School District
Porterville Unified School District
Santa Ana Unified School District
Vallejo City Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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