



**JOHN CHIANG**  
California State Controller  
Division of Accounting and Reporting

March 8, 2011

Mr. Drew Bohan  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: Request to Amend Parameters and Guidelines  
Pupil Promotion and Retention (98-TC-19)  
Education Code Sections 37252, 37252.5 (now 37252.2), 48070, and 48070.5  
Chapter 100, Statutes 1981; Chapter 1388, Statutes 1982; Chapter 498, Statutes 1983;  
Chapter 1263, Statutes 1990; Chapter 742 and 743, Statutes 1998

Dear Mr. Bohan:

The State Controller's Office is requesting an amendment to the Parameters and Guidelines (P's and G's) for the Pupil Promotion and Retention program to reflect the provision of Education Code section 37252.2 amended by Chapter 724, Statutes of 2010 which provides:

- (i) "School districts are relieved from the obligation to perform any activities under this section that are deemed to be reimbursable state mandates pursuant to Section 6 of Article XIII B of the California Constitution from the date that the act amending this subdivision in 2010 is enacted until July 1, 2013."

Therefore, effective from October 19, 2010 through June 30, 2013, school districts are no longer eligible to file for reimbursable activities pursuant to Education Code section 37252.2.

Below are excerpts from the P's and G's indicating our proposed amendments. Additions are underlined and deletions are indicated with strikethrough.

**I. SUMMARY OF THE MANDATE**

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On May 23, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 37252, 37252.5 (now 37252.2), 48070, and

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48070.5 require new activities, as specified below, which constitute new programs or higher levels of service for school districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

School districts are relieved from the obligation to perform any activities under Education Code section 37252.2 that are deemed to be reimbursable state mandates as amended by Chapter 724, Statutes of 2010. Education Code section 37252.2 (i) is operative from October 19, 2010 through June 30, 2013.

Specifically, the Commission approved this test claim for the increased costs of performing the following specific new activities:

- The governing board of each district maintaining any or all of grades 2 to 9, inclusive, shall offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been retained pursuant to Education Code section 48070.5. (Ed. Code § 37252.5 now Ed. Code § 37252.2). This activity is not required and therefore not reimbursable from October 19, 2010 through June 30, 2013 pursuant to Ed. Code section 37252.2(i).
- The school district shall provide a mechanism for a parent or guardian to decline to enroll his or her child in the supplemental instruction program. (Ed. Code § 37252.5 now Ed. Code § 37252.2). This activity is not required and therefore not reimbursable from October 19, 2010 through June 30, 2013 pursuant to Ed. Code section 37252.2(i).
- Each school district shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instruction programs provided pursuant to Education Code section 37252.5. (~~Ed. Code, § 37252.5~~) (now Ed. Code § 37252.2). This activity is not required and therefore not reimbursable from October 19, 2010 through June 30, 2013 pursuant to Ed. Code section 37252.2(i).

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Teacher time is reimbursable for the provision of summer school and other supplemental instruction pursuant to Education Code sections 37252 and 37252.5, which by its very nature occurs outside of the normal school schedule.

Teacher time is not reimbursable for supplemental instruction pursuant to 37252.2 for the period Oct 19, 2010 through June 30, 2013.

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### III. PERIOD OF REIMBURSEMENT

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Government Code section 17557, subdivision (e), states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim ...

Statutes 1998, chapter 743, which added Education Code section 37252.5 (now 37252.2), was operative September 23, 1998. Therefore, costs incurred for compliance with Statutes 1998, chapter 743 are eligible for reimbursement on or after September 23, 1998.

Statutes 2010, Chapter 724, which amended Education Code section 37252.2 relieving school districts from performing activities under this section that are deemed to be reimbursable state mandates is operative October 19, 2010 through June 30, 2013. Therefore, applicable activities pursuant to Education Code section 37252.2 are not eligible for reimbursement for the period Oct 19, 2010 through June 30, 2013.

Pursuant to Government Code section 17557, subdivision (d) these activities will be reimbursable only for fiscal year 2010-11. However, Chapter 724, Statutes of 2010, made activities pursuant to Education Code section 37252.2 ineligible from October 19, 2010 through June 30, 2013. Consequently, these activities will be reimbursable for the period July 1, 2010 through October 18, 2010 only.

### IV. REIMBURSABLE ACTIVITIES

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Chapter 724, Statutes 2010, which amended Education Code section 37252.2 (i) is operative from October 19, 2010 through June 30, 2013. Therefore, the following activities pursuant to Education Code section 37252.2 are not eligible for reimbursement.

D. Supplemental Instruction Programs for Pupils Enrolled in Grades 2 through 9, Inclusive, Who Have Been Retained Pursuant to Education Code Section 48070.5. (Former Ed. Code § 37252.5, now 37252.2.) (Ongoing Activities – Reimbursement period begins: September 23, 1998.)

1. Develop supplemental instruction programs, with the involvement of parents and classroom teachers, for pupils that have been retained pursuant to Education Code section 48070.5. An intensive remedial program in reading and written expression offered shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills. (Former Ed. Code § 37252.5, subds. (f) and (g); Ed. Code § 37252.2, subds. (e) and (f).)
  - a. Development of the program includes identifying, purchasing, and distributing texts and materials. (Only the pro-rata portion used to implement this activity can be claimed.)

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- b. Development of the program also includes providing reasonable notices and conducting meetings involving parents and classroom teachers in the development and implementation of supplemental instruction programs. (Former Ed. Code § 37252.5, subd. (g); Ed. Code § 37252.2, subd. (f).)
2. Provide supplemental instruction for each pupil that has been retained pursuant to Education Code section 48070.5. Services shall not be provided during the pupil's regular instructional day if it would result in the pupil being removed from classroom instruction in the core curriculum. (Former Ed. Code § 37252.5, subd. (c); Ed. Code § 37252.2, subd. (b).)
3. Provide a mechanism for a parent or guardian to decline to enroll his or her child in the supplemental instruction program. (Former Ed. Code § 37252.5, subd. (a); Ed. Code § 37252.2 subd. (a).)

## V. CLAIM PREPARATION AND SUBMISSION

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#### B. Indirect Cost Rates

~~School districts must use the J-380 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~County offices of education must use the J-580 (or subsequent replacement) nonrestrictive indirect cost rate provisionally approved by the California Department of Education.~~

**Comment:** Program cost accounting (J-380) and (J-580) reports that school districts and county offices of education submit to the California Department of Education (CDE) are no longer applicable. When all districts converted to SACS (Standardized Account Code Structure) in 2003-04, CDE discontinued the software.

School districts and County offices of education must use indirect cost rates from the Restricted Indirect Cost Rates for K-12 Local Educational Agencies (LEAs) Five Year Listing issued by the California Department of Education (CDE) School Fiscal Services Division, for the fiscal year of costs.

## VII. OFFSETTING SAVINGS REVENUES AND REIMBURSEMENTS

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~~Any offsetting savings 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 received 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.~~

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~~Offsetting revenue includes, but is not limited to, annual budget act appropriations (Item 6110-104-0001).~~

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.

#### **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

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The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

If you have any questions, please contact Tiffany Hoang at (916) 323-1127, or email to [thoang@sco.ca.gov](mailto:thoang@sco.ca.gov).

Sincerely,



JAY LAL, Manager  
Local Reimbursement Section

cc: Jim Spano, Bureau Chief, Division of Audits.