

**COMMISSION ON STATE MANDATES**

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January 10, 2013

Mr. Keith Petersen  
SixTen and Associates  
P.O. Box 340430  
Sacramento, CA 95834-0430

*And Affected State Agencies and Interested Parties (see enclosed mailing list)*

**RE: Final Staff Analysis, Proposed Statewide Cost Estimate, and Notice of Hearing**  
*Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils, 96-358-03 et al.*  
San Juan Unified School District and Kern County Office of Education, Claimants

Dear Mr. Petersen:

The final staff analysis and proposed statewide cost estimate for the above-named matter are enclosed.

**Hearing**

This matter is set for hearing on **Friday January 25, 2013**, at 10:00 a.m., in the State Capitol, Room 447, Sacramento, California. This matter is proposed for the Consent Calendar. Please let us know in advance if you object to this item being on consent and therefore you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

**Special Accommodations**

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

**ITEM 7**

**FINAL STAFF ANALYSIS  
PROPOSED STATEWIDE COST ESTIMATE  
\$11,189,686**

***CONSOLIDATED SUSPENSIONS, EXPULSIONS, and EXPULSION  
APPEALS***

*Formerly known as*

*PUPIL EXPULSIONS II (96-358-03, 03A, 98-TC-22, 01-TC-18)*

*PUPIL SUSPENSIONS II (98-TC-23)*

*EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)*

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,  
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;

Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;

Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;

Statutes 2001, Chapter 116

By San Juan Unified School District, Kern County Superintendent of Schools, Claimants

**Beginning Fiscal Year 2012-2013 Consolidated with**

*PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)*

Education Code Section 48911, Subdivisions (b) and (e)

Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;

Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

*PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)*

Education Code Sections 48915, Subdivisions (a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes

1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622; Statutes 1987,

Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters

1255, 1256, and 1257; Statutes 1994, Chapter 146

*PUPIL EXPULSION APPEALS (CSM-4463)*

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;

Statutes 1983, Chapter 498

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

The test claim statutes of the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs require school districts to perform various activities related to

suspending and expelling pupils from school who have committed specified offenses. The Commission on State Mandates (Commission) found that the costs incurred to perform new activities mandated by the test claim statutes (enacted from 1995 to 2002), or triggered by new offenses added by the test claim statutes, constitute a reimbursable state-mandated program beginning in fiscal year 1995-1996.

The suspension and expulsion procedures and post-expulsion requirements enacted by the Legislature between 1975 and 1994 were originally found to impose reimbursable state-mandated costs for possession of a firearm in decisions on the following test claims: *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463).

The *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* test claims were consolidated for hearing. The Commission found that the test claim statutes impose a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

On October 27, 2011, the Commission adopted six sets of parameters and guidelines which include activities that correspond to the statutes with operative dates between 1995 and 2002.<sup>1</sup> Each set covers one or more fiscal years, and was intended to make reimbursement claims easier for school districts to submit and for the State Controller's Office to evaluate and pay. The sixth, and last, set of parameters and guidelines consolidates the Commission's decision in *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* with *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) beginning in fiscal year 2012-2013.<sup>2</sup>

Eligible claimants were required to file initial reimbursement claims for fiscal years 1995-1996 through 2010-2011 with the State Controller's Office (SCO) by October 17, 2012. Claims for fiscal year 2011-2012 must be filed by February 15, 2013. Claims filed more than one year after the applicable deadline will not be accepted.

#### Eligible Claimants, Period of Reimbursement, and Reimbursable Activities

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. This includes county offices of education. Charter schools are not eligible claimants.

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<sup>1</sup> Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

<sup>2</sup> Exhibit A.

The six sets of parameters and guidelines for *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* are summarized in the table below:

<u>Parameters and Guidelines</u>	<u>Period of Reimbursement</u>	<u>Statutes Approved</u>
Set 1	July 1, 1995 - June 30, 1996	§ 48915, as amended by Statutes 1995, chapter 972, and activities triggered by the new offenses added to section 48915.
Set 2	July 1, 1996 - June 30, 1997	§§ 48915.2, 48916, 48916.1, 48918, 48918.5, 48926, as amended by Statutes 1995, chapter 874, Statutes 1996, chapters 915, 937, 1052.
Set 3	July 1, 1997 – June 30, 1999	§§ 48900.8, 48918, as amended by Statutes 1997, chapter 637, Statutes 1998, chapter 498.
Set 4	July 1, 1999 – June 30, 2001	§§ 48918, 48923, as amended by Statutes 1999, chapter 332, Statutes 2000, chapter 147.
Set 5	July 1, 2001 – June 30, 2012	§ 48915, Statutes 2001, chapter 116.
Set 6	Beginning July 1, 2012	All statutes, consolidated with <i>Pupil Suspension from School</i> , <i>Pupil Expulsion from School</i> , and <i>Pupil Expulsion Appeals</i> (CSM-4456, 4455, 4463).

The Commission approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1996:

- a. For the principal or superintendent to immediately suspend, pursuant to section 48911,<sup>3</sup> and recommend expulsion, and for the governing board to order expulsion for:
  1. A pupil who brandishes a knife at another person (§ 48915 (c)(2), Stats. 1995 ch. 972);
  2. A pupil who sells or furnishes a firearm unless the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal (§ 48915 (c)(1) and (d), Stats. 1995, ch. 972);
  3. A pupil’s first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995 ch. 972).

<sup>3</sup> All statutory references are to the Education Code unless otherwise indicated.

For the principal or superintendent to immediately suspend, pursuant to section 48911, and for the governing board to order expulsion, for a pupil who sells a controlled substance, as defined (§ 48915 (c)(3), Stats. 1995 ch. 972).

- b. For the school to perform the following suspension procedures<sup>4</sup> for the offenses listed in (a) and (b) above:
  1. Precede the suspension with an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and give the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)
  2. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever the pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. (§ 48911 (d).)
  3. A school employee shall report the suspension of the pupil including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)
- c. For the principal or superintendent of schools to recommend expelling a pupil for possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972). The section 48918 expulsion hearing procedures are part of this activity.
- d. For the governing board to refer a pupil expelled for any of the most serious offenses (in § 48915 (c)) to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension (§ 48915 (d), Stats. 1995, ch. 972).

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning July 1, 1996:

- a. For the superintendent of schools (or designee) to provide notice to a pupil expelled for any of the most serious offenses (in § 48915 (c)), of the education alternative placement to the pupil's parent or guardian at the time of the expulsion order. (§ 48918 (j), Stats. 1995, ch. 974.)
- b. For the governing board to amend its expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918. This is a one-time activity. (§ 48918 (i), Stats. 1995, ch. 974, §§ 7.5 & 10.)

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<sup>4</sup> These offenses also trigger the expulsion procedures identified in the *Pupil Expulsions from School* (CSM-4455) test claim.

- c. If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)
- d. Ensure that an educational program is provided to the pupil expelled for any of the most serious offenses in subdivision (c) of section 48915. The program must conform to the specifications in section 48916.1. (§ 48916.1, Stats. 1995, ch. 974.)
- e. Recommend a rehabilitation plan to a pupil at the time of the expulsion order (§ 48916 (b), Stats. 1995, ch. 974) when a pupil is expelled for any of the most serious offenses listed in subdivision (c) of section 48915.
- f. For the one-time activity of adopting rules and regulations to establish the process for the required review of all expelled pupils for readmission. (§ 48916 (c), Stats. 1995, ch. 974.)
- g. Perform the following activities when the governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses (in § 48915 (c)). (§ 48916, Stats. 1995, ch. 974.):
  - 1. Review the pupil for readmission. (§ 48916 (a).)
  - 2. Order the expelled pupil's readmission or make a finding to deny readmission if "the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district." (§ 48916 (c).)
  - 3. If readmission is denied, for the governing board to make the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
  - 4. If readmission is denied, the governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the education program for the expelled pupil. (§ 48916 (e).)
- h. Before allowing the expelled pupil to enroll in a school district that did not expel the pupil, for the receiving district's governing board to determine, pursuant to a hearing under Section 48918, whether an individual expelled from another school district for the offenses listed below poses a danger to either the pupils or employees of the school district. (§ 48915.2 (b), Stats. 1995, ch. 974.) This activity is only reimbursable for determinations of applicants who have been expelled by a district that has not entered into a voluntary interdistrict transfer agreement with the receiving district:
  - 1. Unlawful possession of any controlled substance [as specified] ... including the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (§ 48915 (a)(3).)
  - 2. Possessing, selling, or otherwise furnishing a firearm ... [without permission as specified]. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. (§ 48915 (c)(1).)
  - 3. Brandishing a knife at another person. (§ 48915 (c)(2).)

4. Committing or attempting to commit a sexual assault, as defined, or committing a sexual battery, as defined. (§ 48900 (n) & 48915 (c)(4) & (d), Stats. 1996, chs. 915 and 1052, operative Jan. 1, 1997.)

From July 1, 1996 until September 25, 1996, for school districts to maintain outcome data, as specified, for pupils expelled for the most serious offenses in subdivision (c) of section 48915. (§ 48916.1, Stats. 1995, ch. 974.)

Beginning September 26, 1996, for the school district to maintain data on the following and report it to the California Department of Education (CDE) for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) Whether the expulsion order was suspended; (2) The type of referral made after the expulsion; and (3) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

Beginning September 26, 1996 until January 7, 2002, for school districts to maintain data on the following and report it to CDE for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) The number of pupils recommended for expulsion; (2) The grounds for each recommended expulsion; (3) Whether the pupil was subsequently expelled; (4) Whether the expulsion order was suspended; (5) The type of referral made after the expulsion; and (6) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1997:

- a. Amend the school district's rules and regulations, as specified, to include procedures that apply when there is a recommendation to expel a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918 (b) & 48918.5, Stats. 1996, ch. 915, one-time costs.)
- b. For the principal or superintendent to suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for pupils who commit or attempt to commit a sexual assault or sexual battery as defined. (§ 48915 (c)(4), Stats. 1996, ch. 1052.) The section 48911 suspension procedures and section 48918 expulsion hearing procedures are part of this activity.
- c. For the principal or superintendent to recommend expelling a pupil for assault or battery on any school employee. (§ 48915 (a)(5), Stats. 1996, chs. 915 & 1052.) The expulsion hearing procedures in section 48918 are part of this activity.
- d. For school districts to follow specified procedures when a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n). (§ 48918 and 48918.5, Stats. 1996, ch. 915.)

Beginning January 1, 1998, for school districts to identify by offense, in all appropriate official records of a pupil, each suspension of that pupil for any of the most serious mandatory offenses in section 48915, subdivision (c). (§ 48900.8, Stats. 1997, ch. 637.)

Beginning January 1, 1999, for the school district to amend its expulsion rules and regulations as follows:

If compliance by the governing board with the time requirements for the conduct of an expulsion hearing under subdivision (a) of section 48918 is impracticable due to a

summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48915, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held no later than 20 calendar days prior to the first day of school for the school year. (§ 48918 (a), Stats. 1998, ch. 489.)

Beginning January 1, 2000:

For school districts to perform the following one-time activities: (1) updating the school district rules and regulations on notification to the pupil regarding the opportunity to be represented by legal counsel or a nonattorney adviser, and (2) revising the pupil notification to include the right to be represented by legal counsel or a nonattorney advisor. (§ 48918 (b)(5), Stats. 1999, ch. 332). These activities are reimbursable when the pupil commits any of the offenses specified in subdivisions (a) or (c) of section 48915.

Beginning January 1, 2001:

For a county board of education to remand an expulsion matter to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subdivision (b), Stats. 2000, ch. 147.) This activity is reimbursable for an expulsion for any reason.

For a school district, when adopting the required findings on remand from the county board of education, to: (1) take final action on the expulsion in a public session (not hold another hearing) and; (2) provide notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion (§ 48918 (j)); and (3) maintain a record of each expulsion and the cause therefor. (§ 48918 (k)). (§ 48923 (b), Stats. 2000, ch. 147.) This activity is only reimbursable when the district governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses. (listed in § 48915 (c).)

Beginning January 1, 2002:

- For a principal or superintendent to immediately suspend, pursuant to section 48911, a pupil who possesses an explosive at school or at a school activity off school grounds. (§ 48915 (c) & (d), Stats. 2001, ch. 116.) The section 48911 suspension procedures are part of this activity.

The parameters and guidelines include the reasonable reimbursement methodology (RRM) adopted by the Commission in the *Pupil Suspensions, Pupil Expulsions, and Pupil Expulsion Appeals* parameters and guidelines (CSM-4456, 4455, 4463) for the reimbursement of the direct and indirect expulsion hearing costs incurred by a school district.



### Uniform Cost Allowances and Formula for Reimbursable Activities

The RRM consists of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D.3 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) Hearing Preparation	\$115.72
IV.D.3 (b). Hearing	\$144.58
IV.D.3 (c) Written Expulsion Recommendation to the Governing Board	\$171.00
IV.D.3 (d) Hearing Record	\$1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator. The State Controller's Office will provide the correct uniform cost allowance for each fiscal year with each year's claiming instructions.

2. Formula

Reimbursement of Activities IV.D.3 (a) – (d) is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing.

Eligible claimants may additionally claim and be reimbursed for increased costs of performing the reimbursable activities approved in the parameters and guidelines, which are not included in the RRM. These activities are described more fully in the parameters and guidelines.<sup>5</sup>

### **Statewide Cost Estimate**

Staff reviewed the claims data for the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs submitted by 305 school districts and compiled by the SCO. The actual claims data showed that 1541 claims were filed for 16 fiscal years (1995-1996 through 2010-2011) for a total of \$11,189,686.<sup>6</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

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<sup>5</sup> Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

<sup>6</sup> Claims data reported as of November 1, 2012.

## Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 1047 K-12 school districts in California. Of those, 305 school districts filed initial reimbursement claims for this program for fiscal years 1995-1996 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims filed on the initial claiming period of July 1, 1995 through June 30, 2011 may be filed until October 17, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

- *The number of reimbursement claims filed will vary from year to year.*

This program is based on activities involving pupil expulsions and suspensions, rehabilitations, readmissions, and expulsion appeals, as well as county office of education plans for educational services to expelled pupils for various offenses and related activities. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the actual number and type of offense for pupil expulsions and suspensions filed in each school district in a particular year.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

- *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*
  - Districts could not reach the \$1,000 threshold for filing reimbursement claims.
  - Districts did not have supporting documentation to file a reimbursement claim.

## Methodology

### *Fiscal Years 1995-1996 through 2010-2011*

The statewide cost estimate for fiscal years 1995-1996 through 2010-2011 was developed by totaling the 1541 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes 16 fiscal years for a total of \$11,189,686. However, in fiscal year 2002-2003, additional reimbursable activities were added pursuant to Education Code section 48915, Statutes 2001, chapter 116. Therefore, the average annual costs could be viewed more accurately divided into two parts. The first seven fiscal years, 1995-1996 through 2001-2002, average to \$360,895 in annual statewide costs. The next nine fiscal years, 2002-2003 through 2010-2011, average to \$962,602 in annual statewide costs. Over the most recent three fiscal years for which there is claiming data, statewide costs appear to have stabilized to an average of \$1,249,825 per year.

Following is the total cost per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
1995-1996	34	\$244,211
1996-1997	40	\$348,296
1997-1998	42	\$356,772
1998-1999	44	\$384,776
1999-2000	45	\$394,091
2000-2001	41	\$357,331
2001-2002	47	\$440,790
2002-2003	137	\$704,822
2003-2004	136	\$848,075
2004-2005	122	\$723,489
2005-2006	118	\$757,982
2006-2007	124	\$866,916
2007-2008	129	\$1,012,660
2008-2009	156	\$1,241,790
2009-2010	155	\$1,257,846
2010-2011	171	\$1,249,839
<b>TOTAL</b>	<b>1541</b>	<b>\$11,189,686</b>

Beginning July 1, 2012, the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs are consolidated with the pre-existing *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs. Historical claiming data for the pre-existing mandate for the *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs indicates that the average annual claim submitted to the SCO beginning with fiscal year 1993-1994 through 2010-2011 is approximately \$4.2 million.<sup>7</sup> Therefore, future reimbursement claims beginning fiscal year 2012-2013 and forward for the pre-existing program combined with the averaged \$1.2 million from the newly approved and consolidated program would likely be \$5.4 million per year.

#### **Draft Staff Analysis and Proposed Statewide Cost Estimate**

On December 17, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.<sup>8</sup> On December 27, 2012, the claimant notified the Commission that they have no comments on the draft staff analysis. No other comments were received.

<sup>7</sup> This figure is based on the averaged claims for fiscal years 1993-1994 through 2010-2011 in the *State Mandated Program Cost Report of Audit Findings for April 1, 2011 through March 31, 2012 for program 176, Pupil Suspensions, Expulsion, and Expulsion Appeals* found on the SCO's website at <http://sco.ca.gov/Files-ARD-Local/LocRep/budgetactitem0804yr2012.pdf>.

<sup>8</sup> Exhibit B.

**Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$11,189,686** for costs incurred in complying with the *Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils* program.

Adopted: October 27, 2011

**PARAMETERS AND GUIDELINES**

**CONSOLIDATED SUSPENSIONS, EXPULSIONS, and EXPULSION APPEALS**

***PUPIL EXPULSIONS II (96-358-03, 03A, 98-TC-22, 01-TC-18)***

***PUPIL SUSPENSIONS II (98-TC-23)***

***EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)***

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,  
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;  
Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;  
Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;  
Statutes 2001, Chapter 116

Consolidated With

**PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)**

Education Code Section 48911, Subdivisions (b) and (e)

Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;  
Statutes 1983, Chapter 489; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

**PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)**

Education Code Sections 48915, Subdivisions (a) and (b),  
48915.1, 48915.2, 48916 and 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes  
1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622; Statutes 1987,  
Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters  
1255, 1256, and 1257; Statutes 1994, Chapter 146

**PUPIL EXPULSION APPEALS (CSM-4463)**

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965,; Statutes 1978, Chapter 668;  
Statutes 1983, Chapter 498

**Period of Reimbursement: From July 1, 2012 Forward**

**I. SUMMARY OF THE MANDATE**

These parameters and guidelines are the sixth in a set of six on the *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* test claims identified in the caption above. For costs incurred beginning July 1, 2012, these parameters and guidelines are consolidated with the parameters and guidelines for *Pupil Suspensions from School* (CSM 4456), *Pupil Expulsions from School* (CSM 4455), and *Pupil Expulsion Appeals* (4463). The costs incurred under *Pupil Suspensions*, *Pupil Expulsions*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) until June 30, 2012 remain reimbursable under their existing parameters and guidelines and State Controller’s Claiming Instructions for Programs 176 to 271.

The suspension and expulsion procedures and post-expulsion requirements were originally found to impose reimbursable state-mandated costs for possession of a firearm in decisions on *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) which address the program required by statutes enacted from 1975 - 1994. The test claims on *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* address new statutory requirements added to the Education Code from 1995 to 2002. A summary of the Commission’s decisions on all of these test claims is provided below following the table.

The six sets of parameters and guidelines that have been adopted for *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* are summarized in the table below:

<u>Parameters and Guidelines</u>	<u>Period of Reimbursement</u>	<u>Statutes Approved</u>
Set 1	July 1, 1995 - June 30, 1996	§ 48915, as amended by Statutes 1995, chapter 972, and activities triggered by the new offenses added to section 48915.
Set 2	July 1, 1996 - June 30, 1997	§§ 48915.2, 48916, 48916.1, 48918, 48918.5, 48926, as amended by Statutes 1995, chapter 874, Statutes 1996, chapters 915, 937, 1052.
Set 3 –	July 1, 1997 – June 30, 1999	§§ 48900.8, 48918, as amended by Statutes 1997, chapter 637, Statutes 1998, chapter 498.
Set 4	July 1, 1999 – June 30, 2001	§§ 48918, 48923, as amended by Statutes 1999, chapter 332, Statutes 2000, chapter 147.

Set 5	July 1, 2001 – June 30, 2012	§ 48915, Statutes 2001, chapter 116.
Set 6– current document	July 1, 2012 –	All statutes, consolidated with <i>Pupil Suspension from School, Pupil Expulsion from School, and Pupil Expulsion Appeals</i> (CSM-4456, 4455, 4463).

**A. *Pupil Suspensions from School (CSM 4456)***

On December 19, 1996, the Commission on State Mandates (Commission) adopted its statement of decision determining that certain provisions of Education Code section 48911,<sup>1</sup> subdivisions (b) and (e), impose a new program or higher level of service within the meaning of section 6 of article XIII B of the California Constitution and costs mandated by the state pursuant to Government Code section 17514. The mandate is limited to the following reimbursable activities for suspensions based upon (1) possession of a firearm (October 11, 1993 to present), and (2) possession of a knife or explosive (October 11, 1993 to December 31, 1993):

- The attendance of the referring school employee in the pre-suspension conference between the principal (or designee or superintendent) and the pupil, whenever practicable (§ 48911 (b)); and
- A report of the cause of each school suspension to the district board. (§ 48911 (e).)

**B. *Pupil Expulsions from School (CSM-4455)***

On May 26, 1997, the Commission adopted its statement of decision, and on May 26, 2005, adopted its amended statement of decision pursuant to the California Supreme Court decision in *San Diego Unified School District. v. Commission on State Mandates* (2004) 33 Cal.4th 859, finding that certain provisions of the Education Code impose a new program or higher level of service for school districts within the meaning of section 6 of article XIII B of the California Constitution and costs mandated by the state pursuant to Government Code section 17514:

To suspend a pupil for possessing a firearm,<sup>2</sup> and recommend expulsion of a pupil for:

- (a) Causing serious physical injury to another person, except in self defense;
- (b) Possession of any firearm, knife, explosive, or other dangerous device of no reasonable use to the pupil at school or at a school activity off school grounds;

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<sup>1</sup> All statutory references are to the Education Code unless otherwise indicated.

<sup>2</sup> The statement of decision also lists: From October 11, 1993 to December 31, 1993, suspending a pupil for possession of a firearm, knife of no reasonable use to the pupil, or possession of an explosive.

(c) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis;

(d) Robbery or extortion. (§ 48915 (a), Stats. 1983, ch. 498 Stats. 1993, ch. 1255 and ch. 1256; § 48915 (b), Stats. 1993, ch. 1255 and ch. 1256.)

When a pupil is expelled for any of the following:

(a) Causing serious physical injury to another person, except in self defense;

(b) Possession of any firearm, knife, explosive, or other dangerous device of no reasonable use to the pupil at school or at a school activity off school grounds;

(c) Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis;

(d) Robbery or extortion.

Then it is reimbursable to include specified provisions in the notice of hearing to the pupil, and on request, allow a pupil or pupil's parent or guardian to inspect and obtain copies of documents to be used at the expulsion hearing, as specified. (§ 48915 (a), Stats. 1983, ch. 498, Stats. 1983, ch. 1255 and ch. 1256; § 48915 (b), Stats. 1993, ch. 1255 and ch. 1256.)

If the pupil is expelled for the following:

From October 11, 1993, to December 31, 1993, for possession of a firearm, knife of no reasonable use to the pupil, or explosive. (§ 48915 (b), Stats. 1993, ch. 1255.)

From January 1, 1994 to the present, for possession of a firearm. (§ 48915 (b), Stats. 1993, ch. 1256.)

Then it is reimbursable to (1) send written notice of specified provisions (§ 48918 (i)); (2) Maintain a record of each expulsion, including the cause thereof (§ 48918 (j).); and (3) Record expulsion orders and the causes thereof as specified, and, on request, forward the record to any school in which the pupil subsequently enrolls. (§ 48918 (j).)

For a pupil expelled for possessing a firearm, the following is reimbursable: (1) Set a date when the pupil may apply for readmission to a district school; (2) Make available to the same pupil and his or her parent or guardian a description of the procedure for readmission; and (3) Adopt rules and regulations to establish a procedure for the filing and processing of requests for readmission. (§ 48916.)

The following were also found to be reimbursable for school districts that do not have an interdistrict transfer agreement with another school district: (1) Determine whether a pupil expelled by another school district, would pose a potential danger to the pupils and employees of the receiving district and whether to admit, deny admission, or conditionally admit the applicant



during or after the period of expulsion (§ 48915.1 (d)); (2) Respond to a receiving district's request for recommendation (§ 48915.1) if the pupil is expelled for the following offenses: (a) from October 11, 1993 to December 31, 1993, for possession of a firearm, knife of no reasonable use to the pupil, or explosive; (§ 48915 (b), Stats. 1993, ch. 1255); (b) from January 1, 1994 to the present, for possession of a firearm (§ 48915 (b), Stats. 1993, ch. 1256); (3) include in the notice of hearing specified information (§§ 48915.1, 48915.2, and 48918 (b)); (4) Allow a pupil or pupil's parent or guardian to inspect and obtain copies of documents to be used at the admission hearing upon request, as specified (§§ 48915.1, 48915.2, and 48918 (b)); (5) Maintain records as specified (§§ 48915.1, 48915.2, and 48918 (j)); and (6) Notify the applicant and parent/guardian of the governing board's determination, as specified. (§§ 48915.1 (a), 48915.2 & 48918 (i).)

### **C. Pupil Expulsion Appeals (CSM-4463)**

On March 27, 1997, the Commission adopted its statement of decision finding that certain provisions of Education Code sections 48919 and 48921 through 48924 impose a new program or higher level of service within the meaning of section 6 of article XIII B of the California Constitution for school districts and county boards of education to hear and decide pupil expulsion appeals.

The Commission determined that the following provisions applicable to all pupil expulsion appeals establish costs mandated by the state pursuant to Government Code section 17514 for county boards of education to:

- Adopt rules and regulations establishing procedures for expulsion appeals;
- Notify persons appealing a school district expulsion of the procedures for the conduct of the appeal, as part of the county board's notice to the pupil regarding the appeal;
- Review the appeal and the record of the expulsion hearing conducted by the governing board (including the written transcript of the hearing and supporting documents);
- Conduct the initial hearing on the appeal, if the county board of education decides in such hearing to grant a hearing de novo;
- By either personal service or certified mail, notify the pupil and the school district of the final and binding order of the county board of education; and
- Preserve the record of appeal.

The Commission determined that, limited to those expulsions which were based upon Education Code section 48915, subdivision (b) (as amended by Stats. 1993, chs. 1255 & 1256), the following provisions establish costs mandated by the state pursuant to Government Code section 17514 for school districts to:

- Provide copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil or the pupil's parent or guardian, as follows:

1. If the requesting party is a pupil less than 18 years of age or the parent or guardian of a pupil who is 18 years of age or older, all documents; or
2. If the requesting party is the parent or guardian of a pupil under the age of 18, only those documents which are not “education records” as defined in 20 U.S.C. section 1232g(a)(4).<sup>3</sup>
3. Participate in the initial appeal hearing at the county board of education, if the county board decides in such hearing to grant a trial de novo.
4. If the county board of education remands the matter to the school district, send notice of hearing, conduct the hearing and render a decision in the remand hearing.
5. If ordered by the county board of education, expunge the district’s and the pupil’s records of the expulsion.

***D. Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils***

The statement of decision on *Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils* was adopted on August 1, 2008, and was issued in May 2011. The Commission found that the test claim statutes impose a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1996:

- a. For the principal or superintendent to immediately suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for:
  1. A pupil who brandishes a knife at another person (§ 48915 (c)(2), Stats. 1995, ch. 972);
  2. A pupil who sells or furnishes a firearm unless the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal (§ 48915 (c)(1) and (d), Stats. 1995, ch. 972);
  3. A pupil’s first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995 ch. 972).

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<sup>3</sup>The Federal Education Rights and Privacy Act of 1974 (“FERPA”) defines “education records” as those records, files, documents and other materials which (i) contain information directly related to a student, and (ii) are maintained by the school district or a person acting for the school district. 20 U.S.C. Section 1232g(a)(4)(B)) provides certain exceptions to the general definition (for example, records maintained by a law enforcement unit of a school district that were created by that law enforcement unit for the purpose of law enforcement).

- b. For the principal or superintendent to immediately suspend, pursuant to section 48911, and for the governing board to order expulsion, for a pupil who sells a controlled substance, as defined (§ 48915 (c)(3), Stats. 1995 ch. 972).
- c. For the school to perform the following suspension procedures<sup>4</sup> for the offenses listed in (a) and (b) above:
  - 1. Precede the suspension with an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and give the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)
  - 2. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever the pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. (§ 48911 (d).)
  - 3. A school employee shall report the suspension of the pupil including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)
- d. For the principal or superintendent of schools to recommend expelling a pupil for possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972). The section 48918 expulsion hearing procedures are part of this activity.
- e. For the governing board to refer a pupil expelled for any of the most serious offenses (in § 48915 (c)) to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension (§ 48915 (d), Stats. 1995, ch. 972).

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning July 1, 1996:

- a. For the superintendent of schools (or designee) to provide notice to a pupil expelled for any of the most serious offenses (in § 48915 (c)), of the education alternative placement

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<sup>4</sup> These offenses also trigger the expulsion procedures identified in the *Pupil Expulsions from School* (CSM-4455) test claim.

to the pupil's parent or guardian at the time of the expulsion order. (§ 48918 (j), Stats. 1995, ch. 974.)

- b. For the governing board to amend its expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918. This is a one-time activity. (§ 48918 (i), Stats. 1995, ch. 974, §§ 7.5 & 10.)
- c. If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)
- d. Ensure that an educational program is provided to the pupil expelled for any of the most serious offenses in subdivision (c) of section 48915. The program must conform to the specifications in section 48916.1. (§ 48916.1, Stats. 1995, ch. 974.)
- e. Recommend a rehabilitation plan to a pupil at the time of the expulsion order (§ 48916 (b), Stats. 1995, ch. 974) when a pupil is expelled for any of the most serious offenses listed in subdivision (c) of section 48915.
- f. For the one-time activity of adopting rules and regulations to establish the process for the required review of all expelled pupils for readmission. (§ 48916 (c), Stats. 1995, ch. 974.)
- g. Perform the following activities when the governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses (in § 48915 (c)). (§ 48916, Stats. 1995, ch. 974.):
  1. Review the pupil for readmission. (§ 48916 (a).)
  2. Order the expelled pupil's readmission or make a finding to deny readmission if "the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district." (§ 48916 (c).)
  3. If readmission is denied, for the governing board to make the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
  4. If readmission is denied, the governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the education program for the expelled pupil. (§ 48916 (e).)
- h. Before allowing the expelled pupil to enroll in a school district that did not expel the pupil, for the receiving district's governing board to determine, pursuant to a hearing under Section 48918, whether an individual expelled from another school district for the offenses listed below poses a danger to either the pupils or employees of the school

district. (§ 48915.2 (b), Stats. 1995, ch. 974.) This activity is only reimbursable for determinations of applicants who have been expelled by a district that has not entered into a voluntary interdistrict transfer agreement with the receiving district:

1. Unlawful possession of any controlled substance [as specified] ... including the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (§ 48915 (a)(3).)
2. Possessing, selling, or otherwise furnishing a firearm ... [without permission as specified]. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. (§ 48915 (c)(1).)
3. Brandishing a knife at another person. (§ 48915 (c)(2).)
4. Committing or attempting to commit a sexual assault, as defined, or committing a sexual battery, as defined. (§ 48900 (n) & 48915 (c)(4) & (d), Stats. 1996, chs. 915 and 1052, operative Jan. 1, 1997.)

From July 1, 1996 until September 25, 1996, for school districts to maintain outcome data, as specified, for pupils expelled for the most serious offenses in subdivision (c) of section 48915. (§ 48916.1, Stats. 1995, ch. 974.)

Beginning September 26, 1996, for the school district to maintain data on the following and report it to the California Department of Education (CDE) for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) Whether the expulsion order was suspended; (2) The type of referral made after the expulsion; and (3) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

Beginning September 26, 1996 until January 7, 2002, for school districts to maintain data on the following and report it to CDE for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) The number of pupils recommended for expulsion; (2) The grounds for each recommended expulsion; (3) Whether the pupil was subsequently expelled; (4) Whether the expulsion order was suspended; (5) The type of referral made after the expulsion; and (6) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1997:

- a. Amend the school district's rules and regulations, as specified, to include procedures that apply when there is a recommendation to expel a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918 (b) & 48918.5, Stats. 1996, ch. 915, one-time costs.)
- b. For the principal or superintendent to suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for pupils who commit or attempt to commit a sexual assault or sexual battery as defined. (§ 48915

(c)(4), Stats. 1996, ch. 1052.) The section 48911 suspension procedures and section 48918 expulsion hearing procedures are part of this activity.

- c. For the principal or superintendent to recommend expelling a pupil for assault or battery on any school employee. (§ 48915 (a)(5), Stats. 1996, chs. 915 & 1052.) The expulsion hearing procedures in section 48918 are part of this activity.
- d. For school districts to follow specified procedures when a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n). (§ 48918 and 48918.5, Stats. 1996, ch. 915.)

Beginning January 1, 1998, for school districts to identify by offense, in all appropriate official records of a pupil, each suspension of that pupil for any of the most serious mandatory offenses in section 48915, subdivision (c). (§ 48900.8, Stats. 1997, ch. 637.)

Beginning January 1, 1999, for the school district to amend its expulsion rules and regulations as follows:

If compliance by the governing board with the time requirements for the conduct of an expulsion hearing under subdivision (a) of section 48918 is impracticable due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48915, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held no later than 20 calendar days prior to the first day of school for the school year. (§ 48918 (a), Stats. 1998, ch. 489.)

Beginning January 1, 2000:

For school districts to perform the following one-time activities: (1) updating the school district rules and regulations on notification to the pupil regarding the opportunity to be represented by legal counsel or a nonattorney adviser, and (2) revising the pupil notification to include the right to be represented by legal counsel or a nonattorney adviser. (§ 48918 (b)(5), Stats. 1999, ch. 332). These activities are reimbursable when the pupil commits any of the offenses specified in subdivisions (a) or (c) of section 48915.

Beginning January 1, 2001:

For a county board of education to remand an expulsion matter to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subdivision (b), Stats. 2000, ch. 147.) This activity is reimbursable for an expulsion for any reason.

For a school district, when adopting the required findings on remand from the county board of education, to: (1) take final action on the expulsion in a public session (not hold another hearing) and; (2) provide notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion (§ 48918 (j)); and (3) maintain a record of each expulsion and the cause therefor. (§ 48918 (k)). (§ 48923 (b), Stats. 2000, ch. 147.) This activity is only reimbursable when the district governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses. (listed in § 48915(c).)

Beginning January 1, 2002:

For a principal or superintendent to immediately suspend, pursuant to section 48911, a pupil who possesses an explosive at school or at a school activity off school grounds. (§ 48915 (c) & (d), Stats. 2001, ch. 116.) The section 48911 suspension procedures are part of this activity.

For purposes of consistency, these parameters and guidelines continue to include the reasonable reimbursement methodology (RRM) adopted by the Commission in the *Pupil Suspensions, Pupil Expulsions*, and *Pupil Expulsion Appeals* parameters and guidelines (CSM-4456, 4455, 4463) for the reimbursement of the direct and indirect expulsion hearing costs incurred by a school district.

## **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. This includes county offices of education. Charter schools are not eligible claimants.

## **III. PERIOD OF REIMBURSEMENT**

These consolidated parameters and guidelines are for the period of reimbursement beginning July 1, 2012. Reimbursement for state-mandated costs may be claimed as follows:

1. Costs for one fiscal year shall be included in each claim.
2. 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. (Gov. Code, § 17560.)
3. In the event revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (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).)
4. 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, subdivision (a).

5. 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 for all reimbursable activities listed below except for the expulsion hearing procedures identified in Section IV.D.3. Costs incurred for the expulsion hearing procedures in Section IV.D.3 may be claimed by using the reasonable reimbursement methodology (RRM) described in Section VI of these parameters and guidelines.

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, agendas, training packets, 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 may claim and be reimbursed for only the increased costs of performing the following reimbursable activities:

##### **A. ONE-TIME ACTIVITIES TO ADOPT POLICIES, PROCEDURES AND REVISE NOTIFICATION**

**The following one-time activities are reimbursable only to the extent they have not been claimed in a prior fiscal year under one of the five sets of parameters and guidelines adopted for the *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* programs.**

1. School Districts and County Boards of Education
  - (a) Adopt and revise rules and regulations establishing procedures pertaining to pupil expulsions to conform to amendments of section 48915 by Statutes 1995, chapters 972 and 974; Statutes 1996, chapters 915 and 1052; Statutes 1998, chapter 489; and Statutes 1999, chapter 332.
  - (b) Adopt rules and regulations establishing the procedure for the filing and processing of requests for readmission pursuant to Education Code section 48916, and revise those rules and regulations to conform to the amendments of Statutes 1995, chapter 974.



- (c) Amend expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918 (Stats. 1995, ch. 974, §§ 7.5 & 10).
  - (d) Adopt rules and regulations establishing the procedures for expelling a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§§ 48918 (b) & 48918.5, Stats 1996, ch. 915 and ch. 1052.)
  - (e) Adopt rules and regulations establishing the procedures for suspending a pupil who possesses an explosive at school or at a school activity off school grounds. (Stats. 2001, ch. 116.)
  - (f) Print and disseminate rules and procedures to each school site.
  - (g) Revise the pupil notification to include the right to be represented by legal counsel or a nonattorney advisor in an expulsion hearing. (§ 48918, (b)(5), Stats. 1999, ch. 332.)
2. County Boards of Education - Expulsion Appeals
- (a) Adopt rules and procedures pertaining to pupil expulsions appeals and revise those rules and procedures to conform to amendments approved in this test claim of the statutory requirements.
  - (b) Print and disseminate rules and procedures to each school district in the county.
3. Education Services Plan for Expelled Pupils
- If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)

**THE REMAINING ACTIVITIES (listed in B through L) ARE ON-GOING ACTIVITIES**

**B. PUPIL SUSPENSIONS**

1. If the suspension is for possession of a firearm, then the following suspension activities pursuant to sections 48911 and 48900.8 are reimbursable:
- (a) Attendance at Informal Conference  
The attendance of the teacher, supervisor, or other school district employee who referred the pupil to the principal for suspension in the pre-suspension conference between the principal (or principal's designee) or superintendent and the pupil. (§ 48911 (b).)
  - (b) Reporting to the District Office  
Reporting the cause of the suspension to the school district's superintendent or governing board in accordance with the regulations of the school district's governing board. Such report may be oral or written. (§ 48911 (e).)

(c) Pupil Records

Identifying by offense, in all appropriate official records of a pupil, each suspension of that pupil. (§ 48900.8, Stats. 1997, ch. 637.)

***(Reimbursement is not required to make reasonable efforts to contact the pupil's parent or guardian or to provide written notice of the suspension to the parent or guardian when the offense is possession of a firearm.)***

2. If the immediate suspension is for any of the following offenses:

- Brandishing a knife at another person (§ 48915 (c)(2), Stats. 1995, ch. 972);
- Selling a controlled substance, including the first offense for selling not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, as defined (§ 48915, (c)(3), Stats. 1995 ch. 972);
- Selling or furnishing a firearm (§ 48915 (c)(1), Stats. 1995, ch. 972);
- Committing or attempting to commit a sexual assault or sexual battery as defined (§ 48915 (c)(4), Stats. 1996, chs. 915 & 1052);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915 (c)(5), Stats. 2001, ch. 116);

Then the following suspension activities pursuant to sections 48911 and 48900.8 are reimbursable:

(a) Parent Contact

Make a reasonable effort to contact the pupil's parent or guardian in person or by telephone at the time of suspension. (§ 48911 (d).)

(b) Attendance at Informal Conference

Conduct an informal conference (by the principal or the principal's designee or the superintendent of schools) between the pupil<sup>5</sup> and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and giving the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)

(c) Written Notice

Notify the parent or guardian in writing of the suspension whenever the pupil is suspended from school. (§ 48911 (d).)

(d) Reporting to the District Office

Report the suspension of the pupil including the cause therefor, to the governing board of

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<sup>5</sup> Pupil is defined to include "a pupil's parent or guardian or legal counsel." (§ 48925 (e).)

the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)

(e) Pupil Records

Identify by offense, in all appropriate official records of a pupil, each suspension of that pupil. (§ 48900.8, Stats. 1997, ch. 637.)

**C. RECOMMENDATION FOR EXPULSION**

The preparation of the principal's or superintendent's recommendation to expel a pupil for the following offenses:

- Brandishing a knife at another person (§ 48915 (c)(2), Stats. 1995, ch. 972);
- Possessing, selling or furnishing a firearm (§ 48915 (c)(1), Stats. 1995, ch. 972);
- Unlawful possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972);
- Committing or attempting to commit a sexual assault or sexual battery as defined in section 48900 (§ 48915 (c)(4), Stats. 1996, chs. 915 & 1052);
- Assault or battery on any school employee (§ 48915 (a)(5) Stats. 1996, chs. 915 & 1052);
- Causing serious physical injury to another person, except in self defense (§ 48915 (a)(1));
- Possession of any knife or other dangerous object of no reasonable use to the pupil (§ 48915 (a)(2));
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code (§ 48915 (c)(3)), including the first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995, ch. 972);
- Robbery or extortion. (§ 48915 (a)(4).)

**D. EXPULSION HEARING PROCEDURES**

If the expulsion hearing is for any of the following offenses:

- Brandishing a knife at another person (§ 48915 (c)(2), Stats. 1995, ch. 972);
- Possessing, selling or furnishing a firearm (§ 48915 (c)(1), Stats. 1995, ch. 972);
- Unlawful possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972);

- Committing or attempting to commit a sexual assault or sexual battery as defined in section 48900 (§ 48915 (c)(4), Stats. 1996, chs. 915 & 1052);
- Assault or battery on any school employee (§ 48915 (a)(5) Stats. 1996, chs. 915 & 1052,);
- Causing serious physical injury to another person, except in self defense (§ 48915 (a)(1));
- Possession of any knife or other dangerous object of no reasonable use to the pupil (§ 48915 (a)(2));
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, including the first offense of a sale of not more than one avoirdupois ounce of marijuana (§ 48915 (c)(3), Stats. 1995, ch. 972 );
- Robbery or extortion; (§ 48915 (a)(4));

Then the following activities pursuant to section 48918 are reimbursable:

1. Hearing Notice

Include in the notice of hearing to the pupil:

- (a) A copy of the disciplinary rules of the district that relate to the alleged violation;
- (b) A notice of the parent's, guardian's, or pupil's obligation, pursuant to Education Code section 48915.1 (b), to notify a new school district, upon enrollment, of the pupil's expulsion;
- (c) Notice of the opportunity for the pupil or the pupil's parent or guardian to inspect and obtain copies of all documents to be used at the hearing (§ 48918 (b)); and
- (d) Notice of the opportunity for the pupil or the pupil's parent or guardian to be represented by counsel or by a non-attorney adviser. (§ 48918 (b)(5), Stats. 1999, ch. 332.)

2. Document Inspection

Allow a pupil or pupil's parent or guardian to inspect and obtain copies of documents to be used at the expulsion hearing, as follows:

- (a) If the requesting party is a pupil less than 18 years of age or the parent or guardian of a pupil who is 18 years of age or older, all documents; or

- (b) If the requesting party is the parent or guardian of a pupil under the age of 18, only those documents which are not “education records” as defined in 20 U.S.C. section 1232g(a)(4).<sup>6</sup> (§ 48918 (b).)

### 3. Expulsion Hearings

The following activities (3a-3d) are reimbursed based on a uniform cost allowance reasonable reimbursement methodology.

#### (a) Hearing Preparation

Prepare and review documents to be used during the expulsion hearing. Arrange hearing dates and assigning panel members and translators as needed. (§ 48918 (c).)

#### (b) Expulsion Hearing

The attendance of the review panel and other district employees required to attend the expulsion hearing. (§ 48918 (c).)

#### (c) Recommendation to the Governing Board

Preparation and submission of the hearing officer or panel’s findings of fact based solely on the evidence adduced at the hearing to recommend the expulsion of a pupil to the governing board. (§ 48918. (d) & (f).)

#### (d) Hearing Record

Maintain a record of the hearing by any means which would allow for a reasonably accurate and complete written transcript of the proceedings to be made. (§ 48918 (g).)

## **E. EXPULSION HEARING PROCEDURES FOR SEXUAL ASSAULT OR SEXUAL BATTERY ALLEGATIONS**

When a pupil is recommended for an expulsion involving allegations of committed or attempted sexual assault or sexual battery as defined in section 48900, subdivision (n), the following activities pursuant to sections 48918 and 48918.5 are reimbursable:

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<sup>6</sup> The Federal Education Rights and Privacy Act of 1974 (“FERPA”) defines “education records” as those records, files, documents, and other materials which (i) contain information directly related to a student, and (ii) are maintained by the school district or a person acting for the school district. 20 U.S.C. Section 1232g(a)(4)(B) provides certain exceptions to the general definition (for example, records maintained by a law enforcement unit of a school district that were created by that law enforcement unit for the purpose of law enforcement).

1. Advise Against Party Contact

Immediately advise the complaining witnesses and accused pupils to refrain from personal or telephonic contact with each other during the pendency of any expulsion process. (§ 48918.5 (d), Stats. 1996, ch. 915.)

2. Notice to Complaining Witness

(a) Provide the complaining witness with a copy of the applicable disciplinary rules and advise the witness of his or her right to: (1) receive five days' notice of the complaining witness' scheduled testimony at the hearing; (2) have up to two adult support persons of his or her choosing present in the hearing at the time he or she testifies; and (3) have the hearing closed during the time he or she testifies pursuant to subdivision (c) of section 48918. (§ 48918.5 (a), Stats. 1996, ch. 915.)

(b) Give the complaining witness five days' notice prior to being called to testify. (§ 48918 (b), Stats. 1996, ch. 915.)

3. Complaining Witness Accommodations

(a) If the hearing is conducted at a public meeting, hear the witness' testimony in a session closed to the public if testifying would threaten serious psychological harm and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television. (§ 48918 (c), Stats. 1996, ch. 915.)

(b) Provide a nonthreatening environment for a complaining witness in order to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. (§ 48918.5 (c), Stats. 1996, ch. 915.)

(c) Provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. (§ 48918.5 (c), Stats. 1996, ch. 915.)

4. Protocol for Support Persons

(a) Before the complaining witness' testimony, admonish the witness' support person(s) that the hearing is confidential. (§ 48918 (b), Stats. 1996, ch. 915.)

(b) Follow the provisions of section 868.5 of the Penal Code at the hearing if the complaining witness has one or more support persons, and one or more of the support persons is also a witness. (§ 48918 (b), Stats. 1996, ch. 915.)<sup>7</sup>

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<sup>7</sup> The section 868.5 procedures include:

## F. POST-EXPULSION HEARING PROCEDURES

If the expulsion hearing is for any of the following offenses:

- Possessing, selling, or otherwise furnishing a firearm (§ 48915 (c)(1));
- Brandishing a knife at another person (§ 48915 (c)(2));
- Unlawfully selling any controlled substance (§ 48915 (c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery (§48915 (c)(4), Stats. 1996, ch. 1052);

Then the following activities pursuant to sections 48915 and 48918 are reimbursable:

1. Expulsion Order

Issue the expulsion order. (§ 48915 (d).)

2. Parent Notice

Send written notice to the pupil or the pupil's parent or guardian of: (a) any decision by the governing board to expel or suspend the enforcement of an expulsion order during a period of probation; (b) the right to appeal the expulsion to the county board of education; (c) the education alternative placement at the time of the expulsion order; and

- 
- (1) Only one support person may accompany the witness to the witness stand, although the other may remain in the room during the witness' testimony;
  - (2) For the prosecution to present evidence that the support person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness;
  - (3) For the governing board, on the prosecution's showing in (2), to grant the request for the support person unless information presented by the defendant or noticed by the district establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony;
  - (4) The governing board shall inform the support person or persons that the proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings;
  - (5) For the governing board to admonish the support person or persons to not prompt, sway, or influence the witness in any way;
  - (6) For the testimony of the support person or persons who are also witnesses to be presented before the testimony of the prosecuting witnesses and excluding the prosecuting witnesses from the courtroom during the support person's testimony; and (7) When the evidence given by the support person would be subject to exclusion because it has been given before the corpus delicti (the basic element or fact of a crime) has been established, for the evidence to be admitted subject to the governing board or defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

(d) the obligation of the pupil, parent or guardian under Education Code section 48915.1 to notify a new school district, upon enrollment, of the pupil's expulsion. Costs of postage for mailing the notice is reimbursable under this activity. (§ 48918 (j).)

3. Pupil Records

- (a) Maintain a record of the expulsion, including the cause of the expulsion. (§ 48918 (k).)
- (b) Record the expulsion order and the cause of the expulsion in the pupil's mandatory interim record. (§ 48918 (k).)
- (c) Forward the pupil's mandatory interim record to any school in which the pupil subsequently enrolls upon the request of such school. (§ 48918 (k).)

**G. REFER EXPELLED PUPIL TO DIFFERENT SCHOOLSITE, REHABILITATION PLAN, AND ALTERNATIVE EDUCATIONAL PROGRAM**

When the pupil is expelled for one of the following offenses:

- Possessing, selling, or otherwise furnishing a firearm (§ 48915 (c)(1));
- Brandishing a knife at another person (§ 48915 (c)(2));
- Unlawfully selling any controlled substance (§ 48915 (c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§48915 (c)(4), Stats. 1996, ch. 1052);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915 (c)(5), Stats., ch. 116);

Then the following activities pursuant to sections 48915, 48916, and 48916.1 are reimbursable:

1. Refer to Alternative Education Program During Period of Expulsion

Refer the expelled pupil to a program of study that meets the following criteria:  
(1) is appropriately prepared to accommodate pupils who exhibit discipline problems;  
(2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension. (§ 48915 (d), Stats. 1995, ch. 972.)

2. Rehabilitation Plan

Recommend a rehabilitation plan for the pupil at the time of the expulsion order. (§ 48916 (b), Stats. 1995, ch. 974.)

3. Ensure that Alternative Educational Program is Provided for Period of Expulsion

Ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. The educational program may be operated by the school district, the county superintendent of schools, or a consortium of



districts or in joint agreement with the county superintendent of schools. The educational program may not be situated within or on the grounds of the school from which the pupil was expelled (§ 48916.1, Stats. 1995, ch. 974.) State attendance-based funding or other state or federal sources of funding for these programs are identified as an offset in Section VIII of these parameters and guidelines to the reimbursable costs of ensuring that an alternative educational program is provided.

## **H. READMISSION TO THE DISTRICT**

If the governing board expels a pupil for any of the following offenses:

- Possessing, selling or otherwise furnishing a firearm (§ 48915 (c)(1));
- Brandishing a knife at another person (§ 48915 (c)(2));
- Unlawfully selling any controlled substance (§ 48915 (c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§ 48915 (c)(4), Stats. 1996, ch. 1052);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915 (c)(5), Stats., ch. 116);

Then the following activities pursuant to section 48916 are reimbursable:

1. Set a date when the pupil shall be reviewed for readmission to a school maintained by the district. (§48916(a).)
2. Provide a description of the procedure for readmission to the pupil and the pupil's parent or guardian. (§ 48916.)
3. Review the pupil for readmission.
  - (a) Order the expelled pupil's readmission or make a finding to deny readmission if the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. (§ 48916 (c), Stats. 1995, ch. 974.)
  - (b) If readmission is denied, the governing board does the following:
    - (1) Makes the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
    - (2) Provides written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the alternative education program for the expelled pupil. (§ 48916 (e).)

## **I. EXPELLED PUPIL'S REQUEST TO ATTEND A NEW DISTRICT**

RECEIVING DISTRICT ACTIVITIES pursuant to sections 48915.1 and 48915.2:

If a pupil (applicant) who was expelled for *any offense* requests to attend a school district that did not expel the pupil (the receiving district), and the receiving school district does not have a voluntary interdistrict transfer agreement with the expelling district, then the following activities associated with the receiving district's hearing on the request are reimbursable:

1. Notice of Hearing  
Include in the notice of hearing to the applicant: (a) a copy of the hearing procedure rules of the receiving district; and (b) notice of the opportunity for the applicant or the applicant's parent or guardian to inspect and obtain copies of all documents to be used at the hearing.
2. Document Inspection  
Allow an applicant or applicant's parent or guardian to inspect and obtain copies of documents to be used at the admission hearing, as follows:
  - (a) if the requesting party is an applicant less than 18 years of age, or the parent or guardian of an applicant who is 18 years of age or older, all documents; or
  - (b) if the requesting party is the parent or guardian of an applicant under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).
3. Admission Determination
  - (a) Determination by the governing board, whether an applicant would pose a danger to the pupils and employees of the receiving district and whether to admit, deny admission, or conditionally admit the applicant during or after the period of expulsion. (§ 48915.2 (b), Stats. 1995, ch. 974.)
  - (b) Maintain a record of each admission denial, including the cause of the denial.
  - (c) Notify the applicant and the applicant's parent or guardian of the governing board's determination of whether the applicant poses a potential danger to the pupils or employees of the receiving district and whether to admit, deny admission, or conditionally admit the applicant during or after the period of expulsion. (§§ 48915.1 & 48915.2)

## **J. EXPULSION APPEAL HEARINGS**

County Boards of Education (for expulsion appeals for *all offenses*)

1. Provide Notice to the Parties
  - (a) Notify the pupil and the pupil's parent(s) or guardian(s) of the procedures for the appeal. (§ 48919.)

(b) Notify the school district and pupil in writing of the final order of the county board of education, either by personal service or certified mail. (§ 48924.)

2. Review of District Hearing Record

Review the filed appeal and the transcript and record of the hearing conducted by the school district governing board. (§§ 48921-48922.)

3. Conduct De Novo Hearings

Conduct the initial appeal hearing and rendering a decision. Reimbursement for this component is limited to appeals for which the county board of education decides to grant a hearing de novo. (§§ 48919 & 48923.)

4. Remand to District

Remand an expulsion decision to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923 (b), Stats. 2000, ch. 147, eff. Jan. 1, 2001.)

4. Preserve Records

Preserve the record of appeal. (§ 48919.)

School Districts

If the governing board expelled a pupil for any of the following:

- Possessing, selling or otherwise furnishing a firearm (§ 48915(c)(1));
- Brandishing a knife at another person (§ 48915(c)(2));
- Unlawfully selling any controlled substance (§ 48915(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§48915 (c)(4), Stats. 1996, ch. 1052);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915 (c)(5), Stats., ch. 116);

Then the following activities are reimbursable:

1. Provide Copies of Documents

(a) Provide copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is less than 18 years of age. (§ 48919.)

(b) Provide copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is 18 years of age or older, or to the parent or guardian of a pupil who is less than 18 years of age, if the documents or

records are not “education records” as defined in 20 U.S.C. section 1232g(a)(4). (§ 48919.)

2. Participation in Hearings

Participation by a school district in the county board of education’s hearing on appeal if the county board of education grants a hearing de novo. (§ 48919.)

3. Remand Hearing

If the county board of education remanded the expulsion to the school district’s governing board following an appeal, send notice of the hearing, conducting a hearing on remand, and rendering a decision in the remand hearing. (§ 48923.)

If following an appeal, the county board of education remanded the expulsion to the governing board, then:

- (a) Provide notice to the pupil or the pupil’s parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil’s expulsion; and maintain a record of each expulsion and the cause therefor.
- (b) Adopt the required findings on remand from the county board of education in a public session. (Holding a hearing is not reimbursable.) (§ 48923 (b), Stats. 2000, ch. 147.)

4. Expunge Records

Expunge the school district’s and pupil’s records concerning the expulsion, when ordered by the county board of education. (§ 48923.)

**K. SCHOOL DISTRICT DATA COLLECTION AND REPORTING**

If the governing board expelled a pupil for any of the following offenses:

- Selling or otherwise furnishing a firearm (§ 48915 (c)(1));
- Brandishing a knife at another person (§ 48915 (c)(2));
- Unlawfully selling any controlled substance (§ 48915 (c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery (§48915 (c)(4), Stats. 1996, ch. 1052);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915 (c)(5), Stats., ch. 116);

Maintain and report to the California Department of Education the following:

- Whether the expulsion order was suspended;
- The type of referral made after the expulsion; and
- The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e),.)

## **L. TRAINING**

Training school district personnel (one-time per employee) about the mandated suspension, expulsion, and expulsion appeal activities. This reimbursable component includes the labor time of administrators and other school district personnel involved with preparation of training sessions and the labor time of administrators and other school district personnel who conduct or attend training sessions. Labor time for teachers is not reimbursable. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

## **V. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### **A. Direct Cost Reporting**

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

#### **1. Salaries and Benefits**

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

#### **2. Materials and Supplies**

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

#### **3. Contracted Services**

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

#### **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 point, 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 the cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

#### 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

### **B. Indirect Cost Rates**

Indirect costs are costs that have been incurred for a common or joint purpose. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective. 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.

Indirect costs 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 and county offices of education must use the California Department of Education approved indirect cost rate for the year that funds are expended.

### **VI. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY**

The Commission has adopted a *reasonable reimbursement methodology* to reimburse school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), *in lieu of payment of total actual costs incurred for the reimbursable activities specified in Section IV.D.3 above.*

**A. Reasonable Reimbursement Methodology**

The definition of reasonable reimbursement methodology is in Government Code section 17518.5, as follows:

- (a) *Reasonable reimbursement methodology* means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:
  - (1) the total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
  - (2) for 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.
- (b) Whenever possible, a *reasonable reimbursement methodology* shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- (c) A reasonable reimbursement methodology may be developed by any of the following:
  - (1) The Department of Finance.
  - (2) The Controller.
  - (3) An affected state agency.
  - (4) A claimant.
  - (5) An interested party,

**B. Uniform Cost Allowances and Formula for Reimbursable Activities**

The *reasonable reimbursement methodology* shall consist of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D.3 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) Hearing Preparation	\$115.72

IV.D.3 (b). Hearing	\$144.58
IV.D.3 (c) Written Expulsion Recommendation to the Governing Board	\$171.00
IV.D.3 (d) Hearing Record	\$1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator. The State Controller’s Office will provide the correct uniform cost allowance for each fiscal year with each year’s claiming instructions.

2. Formula

Reimbursement of Activities IV.D.3 (a) – (d) is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing, based on the uniform cost allowance.

**VII. RECORD RETENTION**

**A. Actual Costs and Reasonable Reimbursement Methodology**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter<sup>8</sup> is subject to the initiation of an audit by the State 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 documentation used to support the reimbursable activities, as described in Section V, 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.

**VIII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsetting revenues 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, state attendance-based funding or other state or federal sources of funding for the costs of ensuring that an alternative educational program is provided to an expelled pupil, as described in

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<sup>8</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.



Section IV(G)(3) of these parameters and guidelines; and other state and federal funds for the costs of the remaining activities identified in Section IV of these parameters and guidelines, shall be identified and deducted from this claim

#### **IX. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement no later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute, regulations, or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

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

#### **X. REMEDIES BEFORE THE COMMISSION**

Upon request of a 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, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

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

The following statements of decision:

- *Pupil Suspensions from School and Pupil Expulsion Appeals*;
- *Pupil Expulsions from School*, as modified pursuant to the California Supreme Court decision in *San Diego Unified School District. v. Commission on State Mandates* (2004) 33 Cal.4th 859, and adopted on May 26, 2005; and
- *Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan*;

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 for the test claims. The administrative record, including the statement of decision, is on file with the Commission.

**COMMISSION ON STATE MANDATES**

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December 19, 2012

Mr. Keith Petersen  
SixTen and Associates  
P.O. Box 340430  
Sacramento, CA 95834-0430

*And Interested Parties and Affected State Agencies (See Mailing List)*

**RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Notice of Hearing**  
*Pupil Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils, 96-358-03 et al.*  
San Juan Unified School District and Kern County Office of Education, Claimants

Dear Mr. Petersen:

The draft staff analysis and proposed statewide cost estimate for this matter are enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis and proposed statewide cost estimate by **December 31, 2012**. If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations (California Code of Regulations, title 2).

**Hearing**

If no party objects, this matter is set for hearing on **Friday, January 25, 2013** at 10:00 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about January 11, 2013. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-3562 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

**ITEM \_\_\_\_\_**

**DRAFT STAFF ANALYSIS  
PROPOSED STATEWIDE COST ESTIMATE  
\$11,189,686**

***CONSOLIDATED SUSPENSIONS, EXPULSIONS, and EXPULSION  
APPEALS***

*Formerly known as*

*PUPIL EXPULSIONS II (96-358-03, 03A, 98-TC-22, 01-TC-18)*

*PUPIL SUSPENSIONS II (98-TC-23)*

*EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)*

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,  
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;

Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;

Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;  
Statutes 2001, Chapter 116

By San Juan Unified School District, Kern County Superintendent of Schools, Claimants

Beginning Fiscal Year 2012-2013 Consolidated with

*PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)*

Education Code Section 48911, Subdivisions (b) and (e)

Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;

Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

*PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)*

Education Code Sections 48915, Subdivisions (a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes

1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622; Statutes 1987,  
Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters  
1255, 1256, and 1257; Statutes 1994, Chapter 146

*PUPIL EXPULSION APPEALS (CSM-4463)*

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;

Statutes 1983, Chapter 498

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

The test claim statutes of the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs require school districts to perform various activities related to suspending and expelling pupils from school who have committed specified offenses. The

Commission on State Mandates (Commission) found that the costs incurred to perform new activities mandated by the test claim statutes (enacted from 1995 to 2002) and new offenses added by these statutes that trigger existing mandatory suspension and expulsion procedures and post-expulsion requirements constitute a reimbursable state-mandated program beginning in fiscal year 1995-1996.

The suspension and expulsion procedures and post-expulsion requirements enacted by the Legislature between 1975 and 1994 were originally found to impose reimbursable state-mandated costs for possession of a firearm in decisions on the following test claims: *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463).

The *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* test claims were consolidated for hearing. The Commission found that the test claim statutes impose a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

On October 27, 2011, the Commission adopted six sets of parameters and guidelines which include activities that correspond to the statutes with operative dates between 1995 and 2002.<sup>1</sup> Each set covers one or more fiscal years, and was intended to make reimbursement claims easier for school districts to submit and for the State Controller's Office to evaluate and pay. The sixth, and last, set of parameters and guidelines consolidates the Commission's decision in *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* with *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) beginning in fiscal year 2012-2013.<sup>2</sup>

Eligible claimants were required to file initial reimbursement claims for fiscal years 1995-1996 through 2010-2011 with the State Controller's Office (SCO) by October 17, 2012. Claims for fiscal year 2011-2012 must be filed by February 15, 2013. Claims filed more than one year after the applicable deadline will not be accepted.

#### Eligible Claimants, Period of Reimbursement, and Reimbursable Activities

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. This includes county offices of education. Charter schools are not eligible claimants.

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<sup>1</sup> Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

<sup>2</sup> Exhibit A.

The six sets of parameters and guidelines for *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* are summarized in the table below:

<u>Parameters and Guidelines</u>	<u>Period of Reimbursement</u>	<u>Statutes Approved</u>
Set 1	July 1, 1995 - June 30, 1996	§ 48915, as amended by Statutes 1995, chapter 972, and activities triggered by the new offenses added to section 48915.
Set 2	July 1, 1996 - June 30, 1997	§§ 48915.2, 48916, 48916.1, 48918, 48918.5, 48926, as amended by Statutes 1995, chapter 874, Statutes 1996, chapters 915, 937, 1052.
Set 3	July 1, 1997 – June 30, 1999	§§ 48900.8, 48918, as amended by Statutes 1997, chapter 637, Statutes 1998, chapter 498.
Set 4	July 1, 1999 – June 30, 2001	§§ 48918, 48923, as amended by Statutes 1999, chapter 332, Statutes 2000, chapter 147.
Set 5	July 1, 2001 – June 30, 2012	§ 48915, Statutes 2001, chapter 116.
Set 6	Beginning July 1, 2012	All statutes, consolidated with <i>Pupil Suspension from School</i> , <i>Pupil Expulsion from School</i> , and <i>Pupil Expulsion Appeals</i> (CSM-4456, 4455, 4463).

The Commission approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1996:

- a. For the principal or superintendent to immediately suspend, pursuant to section 48911,<sup>3</sup> and recommend expulsion, and for the governing board to order expulsion for:
  1. A pupil who brandishes a knife at another person (§ 48915 (c)(2), Stats. 1995 ch. 972);
  2. A pupil who sells or furnishes a firearm unless the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal (§ 48915 (c)(1) and (d), Stats. 1995, ch. 972);
  3. A pupil’s first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995 ch. 972).

<sup>3</sup> All statutory references are to the Education Code unless otherwise indicated.

For the principal or superintendent to immediately suspend, pursuant to section 48911, and for the governing board to order expulsion, for a pupil who sells a controlled substance, as defined (§ 48915 (c)(3), Stats. 1995 ch. 972).

- b. For the school to perform the following suspension procedures<sup>4</sup> for the offenses listed in (a) and (b) above:
  1. Precede the suspension with an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and give the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)
  2. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever the pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. (§ 48911 (d).)
  3. A school employee shall report the suspension of the pupil including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)
- c. For the principal or superintendent of schools to recommend expelling a pupil for possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972). The section 48918 expulsion hearing procedures are part of this activity.
- d. For the governing board to refer a pupil expelled for any of the most serious offenses (in § 48915 (c)) to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension (§ 48915 (d), Stats. 1995, ch. 972).

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning July 1, 1996:

- a. For the superintendent of schools (or designee) to provide notice to a pupil expelled for any of the most serious offenses (in § 48915 (c)), of the education alternative placement to the pupil's parent or guardian at the time of the expulsion order. (§ 48918 (j), Stats. 1995, ch. 974.)
- b. For the governing board to amend its expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918. This is a one-time activity. (§ 48918 (i), Stats. 1995, ch. 974, §§ 7.5 & 10.)

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<sup>4</sup> These offenses also trigger the expulsion procedures identified in the *Pupil Expulsions from School* (CSM-4455) test claim.

- c. If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)
- d. Ensure that an educational program is provided to the pupil expelled for any of the most serious offenses in subdivision (c) of section 48915. The program must conform to the specifications in section 48916.1. (§ 48916.1, Stats. 1995, ch. 974.)
- e. Recommend a rehabilitation plan to a pupil at the time of the expulsion order (§ 48916 (b), Stats. 1995, ch. 974) when a pupil is expelled for any of the most serious offenses listed in subdivision (c) of section 48915.
- f. For the one-time activity of adopting rules and regulations to establish the process for the required review of all expelled pupils for readmission. (§ 48916 (c), Stats. 1995, ch. 974.)
- g. Perform the following activities when the governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses (in § 48915 (c)). (§ 48916, Stats. 1995, ch. 974.):
  - 1. Review the pupil for readmission. (§ 48916 (a).)
  - 2. Order the expelled pupil's readmission or make a finding to deny readmission if "the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district." (§ 48916 (c).)
  - 3. If readmission is denied, for the governing board to make the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
  - 4. If readmission is denied, the governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the education program for the expelled pupil. (§ 48916 (e).)
- h. Before allowing the expelled pupil to enroll in a school district that did not expel the pupil, for the receiving district's governing board to determine, pursuant to a hearing under Section 48918, whether an individual expelled from another school district for the offenses listed below poses a danger to either the pupils or employees of the school district. (§ 48915.2 (b), Stats. 1995, ch. 974.) This activity is only reimbursable for determinations of applicants who have been expelled by a district that has not entered into a voluntary interdistrict transfer agreement with the receiving district:
  - 1. Unlawful possession of any controlled substance [as specified] ... including the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (§ 48915 (a)(3).)
  - 2. Possessing, selling, or otherwise furnishing a firearm ... [without permission as specified]. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. (§ 48915 (c)(1).)
  - 3. Brandishing a knife at another person. (§ 48915 (c)(2).)

4. Committing or attempting to commit a sexual assault, as defined, or committing a sexual battery, as defined. (§ 48900 (n) & 48915 (c)(4) & (d), Stats. 1996, chs. 915 and 1052, operative Jan. 1, 1997.)

From July 1, 1996 until September 25, 1996, for school districts to maintain outcome data, as specified, for pupils expelled for the most serious offenses in subdivision (c) of section 48915. (§ 48916.1, Stats. 1995, ch. 974.)

Beginning September 26, 1996, for the school district to maintain data on the following and report it to the California Department of Education (CDE) for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) Whether the expulsion order was suspended; (2) The type of referral made after the expulsion; and (3) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

Beginning September 26, 1996 until January 7, 2002, for school districts to maintain data on the following and report it to CDE for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) The number of pupils recommended for expulsion; (2) The grounds for each recommended expulsion; (3) Whether the pupil was subsequently expelled; (4) Whether the expulsion order was suspended; (5) The type of referral made after the expulsion; and (6) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1997:

- a. Amend the school district's rules and regulations, as specified, to include procedures that apply when there is a recommendation to expel a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918 (b) & 48918.5, Stats. 1996, ch. 915, one-time costs.)
- b. For the principal or superintendent to suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for pupils who commit or attempt to commit a sexual assault or sexual battery as defined. (§ 48915 (c)(4), Stats. 1996, ch. 1052.) The section 48911 suspension procedures and section 48918 expulsion hearing procedures are part of this activity.
- c. For the principal or superintendent to recommend expelling a pupil for assault or battery on any school employee. (§ 48915 (a)(5), Stats. 1996, chs. 915 & 1052.) The expulsion hearing procedures in section 48918 are part of this activity.
- d. For school districts to follow specified procedures when a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n). (§ 48918 and 48918.5, Stats. 1996, ch. 915.)

Beginning January 1, 1998, for school districts to identify by offense, in all appropriate official records of a pupil, each suspension of that pupil for any of the most serious mandatory offenses in section 48915, subdivision (c). (§ 48900.8, Stats. 1997, ch. 637.)

Beginning January 1, 1999, for the school district to amend its expulsion rules and regulations as follows:

If compliance by the governing board with the time requirements for the conduct of an expulsion hearing under subdivision (a) of section 48918 is impracticable due to a



summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48915, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held no later than 20 calendar days prior to the first day of school for the school year. (§ 48918 (a), Stats. 1998, ch. 489.)

Beginning January 1, 2000:

For school districts to perform the following one-time activities: (1) updating the school district rules and regulations on notification to the pupil regarding the opportunity to be represented by legal counsel or a nonattorney adviser, and (2) revising the pupil notification to include the right to be represented by legal counsel or a nonattorney advisor. (§ 48918 (b)(5), Stats. 1999, ch. 332). These activities are reimbursable when the pupil commits any of the offenses specified in subdivisions (a) or (c) of section 48915.

Beginning January 1, 2001:

For a county board of education to remand an expulsion matter to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subdivision (b), Stats. 2000, ch. 147.) This activity is reimbursable for an expulsion for any reason.

For a school district, when adopting the required findings on remand from the county board of education, to: (1) take final action on the expulsion in a public session (not hold another hearing) and; (2) provide notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion (§ 48918 (j)); and (3) maintain a record of each expulsion and the cause therefor. (§ 48918 (k)). (§ 48923 (b), Stats. 2000, ch. 147.) This activity is only reimbursable when the district governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses. (listed in § 48915 (c).)

Beginning January 1, 2002:

- For a principal or superintendent to immediately suspend, pursuant to section 48911, a pupil who possesses an explosive at school or at a school activity off school grounds. (§ 48915 (c) & (d), Stats. 2001, ch. 116.) The section 48911 suspension procedures are part of this activity.

The parameters and guidelines include the reasonable reimbursement methodology (RRM) adopted by the Commission in the *Pupil Suspensions, Pupil Expulsions, and Pupil Expulsion Appeals* parameters and guidelines (CSM-4456, 4455, 4463) for the reimbursement of the direct and indirect expulsion hearing costs incurred by a school district.

## Uniform Cost Allowances and Formula for Reimbursable Activities

The RRM consists of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D.3 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) Hearing Preparation	\$115.72
IV.D.3 (b). Hearing	\$144.58
IV.D.3 (c) Written Expulsion Recommendation to the Governing Board	\$171.00
IV.D.3 (d) Hearing Record	\$1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator. The State Controller's Office will provide the correct uniform cost allowance for each fiscal year with each year's claiming instructions.

2. Formula

Reimbursement of Activities IV.D.3 (a) – (d) is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing.

Eligible claimants may claim and be reimbursed for increased costs of performing the reimbursable activities approved in the parameters and guidelines. These activities are described more fully in the parameters and guidelines.<sup>5</sup>

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by 305 school districts and compiled by the SCO. The actual claims data showed that 1541 claims were filed for 16 fiscal years (1995-1996 through 2010-2011) for a total of \$11,189,686.<sup>6</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

#### Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 1047 K-12 school districts in California. Of those, 305 school districts filed initial reimbursement claims for this program for fiscal years 1995-1996 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims filed on the initial claiming period of July 1, 1995 through June 30, 2011 may be filed until October 17, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

<sup>5</sup> Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

<sup>6</sup> Claims data reported as of November 1, 2012.

- *The number of reimbursement claims filed will vary from year to year.*  
 This program is based activities involving pupil expulsions and suspensions, rehabilitations, readmissions, and expulsion appeals, as well as county office of education plans for educational services to expelled pupils for various offenses and related activities. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the actual number of pupil expulsions and suspensions filed in each school district.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*  
 The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.
- *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*
  - Districts could not reach the \$1,000 threshold for filing reimbursement claims.
  - Districts did not have supporting documentation to file a reimbursement claim.

### Methodology

#### *Fiscal Years 1995-1996 through 2010-2011*

The statewide cost estimate for fiscal years 1995-1996 through 2010-2011 was developed by totaling the 1541 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes 16 fiscal years for a total of \$11,189,686. However, in fiscal year 2002-2003, additional reimbursable activities were added pursuant to Education Code section 48915, Statutes 2001, chapter 116. Therefore, the average annual costs could be viewed more accurately divided into two parts. The first seven fiscal years, 1995-1996 through 2001-2002, average to \$360,895 in annual statewide costs. The next nine fiscal years, 2002-2003 through 2010-2011, average to \$962,602 in annual statewide costs. Over the most recent three fiscal years for which there is claiming data, statewide costs appear to have stabilized to an average of \$1,249,825 per year.

Following is the total cost per fiscal year:

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
1995-1996	34	\$244,211
1996-1997	40	\$348,296
1997-1998	42	\$356,772
1998-1999	44	\$384,776
1999-2000	45	\$394,091
2000-2001	41	\$357,331
2001-2002	47	\$440,790
2002-2003	137	\$704,822
2003-2004	136	\$848,075
2004-2005	122	\$723,489
2005-2006	118	\$757,982
2006-2007	124	\$866,916
2007-2008	129	\$1,012,660
2008-2009	156	\$1,241,790
2009-2010	155	\$1,257,846
2010-2011	171	\$1,249,839
<b>TOTAL</b>	<b>1541</b>	<b>\$11,189,686</b>

**Staff Recommendation**

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$11,189,686** for costs incurred in complying with the *Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils* program.

## Commission on State Mandates

Original List Date: 12/10/2001  
Last Updated: 12/19/2012  
List Print Date: 12/19/2012  
Claim Number: 96-358-03  
Issue: Pupil Suspensions and Expulsions I & II

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

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Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916)322-9891 Email jkanemasu@sco.ca.gov Fax:

<p>Ms. Kathy Rios  State Controllers Office  Division of Accounting and Reporting  3301 C Street, Suite 700  Sacramento, CA 95816</p>	<p>Tel: (916)324-5919  Email: krios@sco.ca.gov  Fax: (916)323-4807</p>
<p>Ms. Evelyn Calderon-Yee  State Controller's Office (B-08)  Division of Accounting and Reporting  3301 C Street, Suite 700  Sacramento, CA 95816</p>	<p>Tel: (916)323-0706  Email: eyee@sco.ca.gov  Fax: (916)322-4404</p>
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<p>Mr. Mark Rewolinski  MAXIMUS  625 Coolidge Drive, Suite 100  Folsom, CA 95630</p>	<p>Tel: (916)471-5516  Email: markrewolinski@maximus.com  Fax: (916)366-4838</p>
<p>Mr. Paul Golaszewski  Legislative Analyst's Office (B-29)  925 L Street, Suite 1000  Sacramento, CA 95814</p>	<p>Tel: (916)319-8341  Email: Paul.Golaszewski@lao.ca.gov  Fax:</p>
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## Commission on State Mandates

Original List Date: 12/10/2001  
Last Updated: 12/19/2012  
List Print Date: 12/19/2012  
Claim Number: 96-358-03  
Issue: Pupil Suspensions and Expulsions I & II

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

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