

**ITEM 10**  
**ADOPTION OF PROPOSED REGULATORY ACTION**  
**GENERAL CLEANUP PROVISIONS**

PROPOSED AMENDMENTS TO  
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5  
REPEAL AND REPLACE ARTICLES 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, AND 10

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of  
Regulations, Title 2, Division 2, Chapter 2.5,  
Articles 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, and 10

No. 13-01

ADOPTION OF PROPOSED  
REGULATORY ACTION

*General Cleanup Provisions* (clarifying  
regulations, eliminating duplicative  
language, and improving readability by  
reorganizing and renumbering)

On March 28, 2014, at a duly noticed public hearing held in Room 447 of the State Capitol, Sacramento, California, the Commission on State Mandates (Commission) adopted the proposed regulatory action after close of the public comment period.

PROPOSED REGULATORY ACTION. The Commission proposes to repeal and replace Articles 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, and 10 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date of July 1, 2014.

AUTHORITY AND REFERENCE. Government Code section 17527(g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to clarify Commission regulations, eliminate duplicative language, and improve the overall navigation and readability of the Commission's regulations by reorganizing and renumbering articles and sections

By: \_\_\_\_\_

Heather Halsey, Executive Director

Dated: March 28, 2014

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9

1 CALIFORNIA CODE OF REGULATIONS  
2 TITLE 2. ADMINISTRATION  
3 DIVISION 2. FINANCIAL OPERATIONS  
4 CHAPTER 2.5. COMMISSION ON STATE MANDATES

5 REPEAL AND REPLACE ARTICLES 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, AND 10  
6 REGARDING GENERAL CLEANUP PROVISIONS  
7 TEXT

8 Text proposed to be added is displayed in underlined type.  
9 Text proposed to be deleted is displayed in ~~strikeout~~ type.

10 **Article 1. General**

11 ~~§ 1181. Delegation of Certain Functions; Executive Director Appeals.~~

12 ~~(a) Whenever it is stated in these rules that the "commission" may or shall exercise or discharge~~  
13 ~~any power, duty, purpose, function, or jurisdiction, the Commission on State Mandates~~  
14 ~~specifically has reserved the same for its own exclusive action.~~

15 ~~(b) Whenever it is stated the "executive director" may or shall exercise or discharge any power,~~  
16 ~~duty, purpose, function, or jurisdiction, or it is not expressly stated that the commission itself~~  
17 ~~shall so act, the executive director of the commission has the authority to act thereon.~~

18 ~~(c) Any party in interest may appeal to the commission for review of the actions and decisions of~~  
19 ~~the executive director.~~

20 ~~(1) The appellant shall submit the appeal in writing within ten (10) days of first being served~~  
21 ~~written notice of the executive director's action or decision.~~

22 ~~(2) The appellant shall file and serve the appeal in accordance with section 1181.2 of these~~  
23 ~~regulations.~~

24 ~~(3) The appeal shall explain the basis for the appeal, state the action being requested of the~~  
25 ~~commission, and include all facts and materials the applicant believes are relevant to the appeal.~~

26 ~~(4) The executive director shall schedule the appeal for hearing and vote by the commission as~~  
27 ~~soon as practicable following receipt of the appeal.~~

28 ~~(5) Other parties may submit comments to the commission on the appeal.~~

29 ~~(6) The commission shall determine whether to uphold the executive director's decision by a~~  
30 ~~majority vote of the members present. The decision shall be final and not subject to~~  
31 ~~reconsideration.~~

32 ~~(7) The executive director shall notify the appellant in writing within ten (10) days of the~~  
33 ~~commission's decision.~~

34 ~~(d) Nothing herein prohibits the executive director from delegating to his/her subordinates as~~  
35 ~~provided in Government Code section 18572.~~

36 Note: Authority cited: Sections 17530 and 17531, Government Code. Reference: Section 17530,  
37 Government Code.

1 **§ 1181.1. Definitions.**

2 Unless otherwise indicated, the definitions in this chapter and those found in Government Code  
3 sections 17510 through 17524 apply to Articles 1, 2, 3, 4.5, 5, 6, 7, 8, and 8.5 of this chapter:  
4

5 (a) "~~Affected state agency~~" means a state department or agency that is responsible, in whole or in  
6 part, for implementation, enforcement, or administration of any statute(s) or executive order(s)  
7 that is the subject of a claim.  
8

9 (b) "~~Amendment~~" of a test claim means the addition of new allegations based on new statutes or  
10 executive orders to an existing test claim. The addition or substitution of parties and supporting  
11 declarations based on the original statutes or executive orders alleged in an existing test claim is  
12 not an "amendment."  
13

14 (c) "~~Claim~~" means test claim or incorrect reduction claim.  
15

16 (d) "~~Claimant~~" means the local agency or school district filing a test claim or incorrect reduction  
17 claim.  
18

19 (e) "~~Commission staff~~" means the executive director, legal counsel, or other commission  
20 employee authorized by the commission or the executive director to represent the commission on  
21 a specific claim or request, or to receive filings at the commission office.  
22

23 (f) "~~Completed~~" means that all requirements for filing a claim, proposed parameters and  
24 guidelines, request to amend parameters and guidelines, request for reconsideration, or request to  
25 review claiming instructions have been satisfied by the claimant or requester.  
26

27 (g) "~~Filing date~~" means the date of delivery to the commission's office during normal business  
28 hours. For purposes of meeting the filing deadlines required by statute, the filing is timely if:  
29

30 (1) the filing was submitted via the e filing link on the commission's web site or via  
31 facsimile during normal business hours no later than the time for its filing has expired, or  
32

33 (2) the filing was mailed by first class mail no later than the expiration of the time for filing,  
34 or  
35

36 (3) the filing was mailed by certified or express mail or a common carrier promising  
37 overnight delivery no later than the expiration of the time for filing, or  
38

39 (4) the filing was hand delivered to commission staff during normal business hours no later  
40 than the expiration of the time for filing.  
41

42 (h) "~~Good cause~~" may include, but is not limited to, the following factors: (1) the number and  
43 complexity of the issues raised; (2) a party is new to the case, or other counsel is needed; (3) the  
44 individual responsible for preparing the document has other time limited commitments during  
45 the affected period; (4) the individual responsible for appearing at the hearing has other time-  
46 limited commitments; (5) illness of a party; (6) a personal emergency; (7) a planned vacation that

1 cannot reasonably be rearranged; (8) a pending public records request; and (9) any other factor,  
2 which in the context of a particular claim constitutes good cause. Good cause may be established  
3 by a specific showing of other obligations involving deadlines that as a practical matter preclude  
4 filing the document by the due date without impairing quality.

5  
6 (i) ~~"Incorrect reduction claim" means a claim alleging that the Office of State Controller~~  
7 ~~incorrectly reduced the reimbursement claim of a local agency or school district.~~

8  
9 (j) ~~"Informational proceeding" means any hearing designed to gather and assess information to~~  
10 ~~assist the commission in formulating policies, informing the public of commission actions, or~~  
11 ~~obtaining public comment and opinion.~~

12  
13 (k) ~~"Interested party" means a local agency or school district; an organization or association~~  
14 ~~representing local agencies or school districts; or a person authorized to represent a local agency~~  
15 ~~or school district, having an interest in a specific claim or request other than the claimant.~~

16  
17 (l) ~~"Interested person" means any individual, local agency, school district, state agency,~~  
18 ~~corporation, partnership, association, or other type of entity, having an interest in the activities of~~  
19 ~~the commission.~~

20  
21 (m) ~~"Party" means the test claimant, the Department of Finance, Office of State Controller, or~~  
22 ~~affected state agency.~~

23  
24 (n) ~~"Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule,~~  
25 ~~regulation, or standard of general application that implements, interprets, or makes specific any~~  
26 ~~provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any~~  
27 ~~other statute enforced or administered by the commission.~~

28  
29 (o) ~~"Statewide cost estimate" means the approximate sum of money that local agencies or school~~  
30 ~~districts may have incurred to implement a state-mandated program or any increased level of~~  
31 ~~service of an existing mandated program. A statewide cost estimate submitted by a test claimant~~  
32 ~~shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes~~  
33 ~~and executive orders alleged in a test claim, except as provided in Government Code section~~  
34 ~~17557.1, subdivision (a). A statewide cost estimate adopted by the commission shall be an~~  
35 ~~estimate based on the commission's determination of a test claim for the initial period of~~  
36 ~~reimbursement to be reported to the Legislature.~~

37  
38 (p) ~~"Statewide estimate of costs" is based on a reasonable reimbursement methodology proposed~~  
39 ~~by a test claimant and the Department of Finance, adopted by the commission, and reported to~~  
40 ~~the Legislature pursuant to Government Code section 17557.2.~~

41  
42 (q) ~~"Subsequent change in law" means a change in law that requires a finding that an incurred~~  
43 ~~cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a~~  
44 ~~cost mandated by the state pursuant to Government Code section 17556, or a change in mandates~~  
45 ~~law. Amendments to Article XIII B, section 6 of the California Constitution that were approved~~  
46 ~~by the voters on November 2, 2004 and changes in the statutes or executive orders that impose~~

1 new state-mandated activities and require a finding pursuant to Government Code section 17551,  
2 subdivision (a) are not a “subsequent change in law.”

3  
4 ~~(r) "Teleconference" means a conference of individuals in different locations, connected by  
5 electronic means, through audio, video, or both.~~

6  
7 ~~(s) "Written material" shall include, but is not limited to, requests and correspondence on  
8 substantive and procedural matters, e.g., informal conferences, opposition, prehearing  
9 conferences, postponements of hearings, extensions of due dates for submission of opposition,  
10 recommendations, comments, reasonable reimbursement methodologies, responses, statewide  
11 estimates of costs, supplemental declarations, supporting documentation, stipulations,  
12 applications for subpoenas and subpoenas duces tecum, witness lists, etc. Test claims, proposed  
13 parameters and guidelines, incorrect reduction claims, requests to review claiming instructions,  
14 State Mandates Apportionment System requests, or amendments thereto, are not considered  
15 written material.~~

16  
17 Note: Authority cited: Sections 17527(g), 17553(a), 17570 (d), Government Code. Reference:  
18 Sections 11123, 17516 17521, 17527(c), 17529, 17530, 17531, 17532, 17551, 17553, 17557,  
19 17557.1, 17557.2, 17570, 17571, 17600, 17615.1, 17615.4, 17615.7, 17615.8, and 17615.9,  
20 Government Code.

21 **§ 1181.2. Filing and Service of Written Materials.**

22 ~~(a) For each completed claim or other filing, commission staff shall promulgate and make  
23 available a mailing list of the names, addresses, phone numbers, facsimile phone numbers, and e-  
24 mail addresses of the parties, interested parties, and interested persons who have requested  
25 inclusion on the mailing list for a specific claim. This mailing list shall be provided by  
26 commission staff to the parties and interested parties to the claim and to any person who requests  
27 a copy.~~

28  
29 ~~(b) Unless otherwise provided in this chapter, when a party or interested party files with  
30 commission staff any written material concerning a claim, it may do so electronically or by hard  
31 copy as described in subdivision (c) of this section and shall simultaneously serve a copy of the  
32 written material on the other parties, interested parties, and interested persons identified on the  
33 mailing list provided by commission staff. A proof of service shall be included with any written  
34 material filed with commission staff. Proof of personal service requires a declaration of the  
35 messenger of the time and place that that the document was served.~~

36  
37 ~~(c) Filing and service of any written material may be effected by delivering or simultaneously  
38 mailing the document by any of the following methods:~~

- 39  
40 ~~(1) By Electronic Mail (e-mail). Submit the original document to commission staff by  
41 saving the signed original in a PDF file and submitting it via the commission's e file  
42 system, available on the commission's web site. The filing party is responsible for  
43 maintaining the paper document with original signature(s) for the duration of the test  
44 claim process, including any period of appeal. Following successful transmission or  
45 notification, commission staff shall notify all parties and interested parties that written~~

1 material may be viewed on the commission's website. Notwithstanding any other  
2 provision in these regulations, if a document is e-filed, no additional copies shall be  
3 submitted to commission staff. The following shall apply to e-filing:  
4

5 ~~A. By providing an electronic mail (e-mail) address for the mailing list for a matter, a  
6 person consents to e-mail service of documents for that matter.~~

7  
8 ~~B. Documents e-filed with the commission must be in readable, downloadable, printable,  
9 and searchable formats. The subject line of the e-mail message must include in the  
10 following order (1) the case number for the matter, (2) a brief title for the matter, and  
11 (3) a brief identification of the document to be served, including the name of the  
12 serving person. The text of the e-mail message must identify whether the e-mail  
13 message is one of multiple e-mail messages transmitting the documents to be served  
14 and, if so, how many e-mails, and the name, telephone number, e-mail address, and  
15 facsimile transmission number of the person to whom problems with receipt of the  
16 document to be served should be directed.~~

17  
18 ~~C. An automated notice that the document was successfully sent is immediately  
19 available to the person tendering the document to the commission's e-filing system.  
20 Commission staff shall reply by e-mail confirming actual receipt of the document by  
21 the commission within two business days of receipt. In the absence of a confirmation  
22 e-mail from commission staff, it is the responsibility of the person tendering the  
23 document to obtain confirmation that the commission actually received it. E-mail  
24 service is complete upon successful transmission to the commission.~~

25  
26 ~~D. By using e-filing, the filing person agrees, in the event of failure of e-filing service, to  
27 re-file the document, no later than the business day after the business day on which  
28 notice of the failure of e-mail service is received by the filing party, by any means  
29 authorized by these rules. "Failure of e-filing" occurs when the filing person receives  
30 notification, in any manner, of non-receipt of an e-mail message, or of the receiving  
31 person's inability to open or download an attached document, or of any other inability  
32 of commission staff to access the document to be served. The filing person and  
33 commission staff may agree to any form for re-filing allowed by these rules.~~

34  
35 ~~E. Documents e-filed with the commission need not be otherwise served on persons that  
36 have provided an e-mail address for the mailing list. Nothing in this regulation  
37 excuses persons from serving hard copies of documents on persons who appear on the  
38 mailing list and have not provided an e-mail address for the mailing list.~~

39  
40 ~~F. The commission may serve any document by e-mail service, and/or by making it  
41 available at a particular URL, unless doing so would be contrary to state or federal  
42 law.~~

43  
44 ~~G. The Executive Director may issue any order consistent with these rules to govern e-  
45 mail service for a particular matter.~~  
46

1 ~~(2) By first class mail. Submit the original to commission staff and a copy to everyone~~  
2 ~~whose name is on the commission's mailing list by first class mail. Service by mail is~~  
3 ~~complete when the sealed envelope is deposited with the United States Postal Service~~  
4 ~~with the postage fully prepaid mailed by first class mail.~~

5  
6 ~~(3) By overnight delivery. Submit the original to commission staff and a copy to everyone~~  
7 ~~whose name is on the commission's mailing list by overnight delivery. Service by~~  
8 ~~overnight delivery is complete when the documents are enclosed in an envelope or~~  
9 ~~package provided by an overnight delivery carrier and the envelope or package is~~  
10 ~~deposited for collection and overnight delivery at an office or a regularly utilized drop~~  
11 ~~box of the overnight delivery carrier.~~

12  
13 ~~(4) By personal service. Hand the original to commission staff and a copy to each person~~  
14 ~~whose name is on the commission's mailing list or leave it in a place where the addressee~~  
15 ~~may reasonably be expected to obtain actual and timely receipt. Service by personal~~  
16 ~~service is complete when the document is placed in an envelope and personally served or~~  
17 ~~provided to a professional messenger service for service. (A declaration by the messenger~~  
18 ~~must accompany the Proof of Service required pursuant to subdivision (b) of this~~  
19 ~~regulation.)~~

20  
21 ~~(5) By facsimile. Submit the original to commission staff and a copy to everyone whose~~  
22 ~~name is on the commission's mailing list by facsimile. Service by facsimile is complete~~  
23 ~~upon the printing of verification of successful transmission. By using facsimile service,~~  
24 ~~the serving person agrees, in the event of failure of facsimile transmission for any reason,~~  
25 ~~to re-serve the document, no later than the business day after the business day on which~~  
26 ~~notice of the failure of facsimile service is received by the serving party, by any means~~  
27 ~~authorized by these rules, provided that facsimile service may be used for re-service only~~  
28 ~~if (1) the receiving person consents to the use of facsimile service, or (2) the serving~~  
29 ~~person determines that the cause of the failure of facsimile service has been rectified.~~  
30 ~~"Failure of facsimile service" occurs when the serving person receives notification, in any~~  
31 ~~manner, of non-receipt of a facsimile, or of the receiving person's inability to read the~~  
32 ~~facsimiled document, or of any other inability of the receiving person to access the~~  
33 ~~document to be served. The serving person and receiving person may agree to any form~~  
34 ~~for re-service allowed by these rules.~~

35  
36 ~~The executive director may require more expeditious service or a particular form of service in~~  
37 ~~appropriate circumstances.~~

38  
39 ~~(d) For the following new filings received by the commission, the executive director shall issue~~  
40 ~~sequential case numbers, by fiscal year, as follows:~~

41  
42 ~~(1) Test Claim (TC)~~

43  
44 ~~(2) Incorrect Reduction Claim (I)~~

45  
46 ~~(3) Request to Amend Parameters and Guidelines (PGA)~~



1  
2 (4) ~~Joint Request for Reasonable Reimbursement Methodology (RRM)~~

3  
4 (5) ~~Request for Review of Claiming Instructions (CI)~~

5  
6 (6) ~~Request for Removal or Inclusion in State Mandates Apportionment System (SMAS)~~

7  
8 (7) ~~Joint Request for Legislatively Determined Mandate (LDM)~~

9  
10 (8) ~~Request to Adopt a New Test Claim Decision to Supersede an Existing Test Claim~~  
11 ~~Decision (NTCD)~~

12  
13 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.  
14 Reference: Sections 17530, 17551, 17553, 17554, 17557, 17557.1, 17557.2, 17570, 17571,  
15 17573(b), 17573(g), 17574(c) and 17615.1, Government Code.

16  
17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
18 17530, 17553(a), 17557 and 17557.2, Government Code.

19 **~~§ 1181.3. Submissions of Written Materials in Other Media. [Repealed]~~**

20 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
21 17530, 17553, 17554, 17557, 17557.1 and 17557.2, Government Code.

22 **~~§ 1181.4. Designees and Officers.~~**

23 (a) ~~If a commission member, as defined by Government Code section 17525, with statutory~~  
24 ~~authority to designate a deputy to represent him or her makes such a designation, that designee~~  
25 ~~may continue to serve on the commission until the designation is revoked by the current~~  
26 ~~commission member.~~

27 (b) ~~Commission members as defined by Government Code section 17525 shall be officers.~~  
28 ~~Duties of Officers:~~

29 (1) ~~Duties of Chairperson. The chairperson shall preside over all meetings of the commission at~~  
30 ~~which he or she is present. He or she has all the rights and responsibilities of the other members.~~  
31 ~~He or she has the right to introduce motions or proposals and to speak and vote on them while he~~  
32 ~~or she is presiding. The chairperson has the power to appoint one or more members of the~~  
33 ~~commission as a subcommittee to investigate and report to the commission on any matter within~~  
34 ~~the scope of the purposes of the commission or to form advisory groups to assist the commission~~  
35 ~~or its subcommittees in fulfilling their purposes.~~

36 (2) ~~Duties of Vice Chairperson. The vice chairperson shall preside over all meetings of the~~  
37 ~~commission at which the chairperson is not present. He or she has all the rights and~~  
38 ~~responsibilities of the other members. He or she has the right to introduce motions or proposals~~  
39 ~~and to speak and vote on them while he or she is presiding.~~

40 (c) ~~Time of Election. The commission shall elect a chairperson and vice chairperson at the~~  
41 ~~January meeting of each year. In the calendar year following the statewide election of~~  
42 ~~constitutional officers, the commission may postpone its election. The commission may~~  
43 ~~authorize the executive director to conduct the election portion of its meeting.~~

1 ~~(d) Vacancy. If an office (chairperson or vice chairperson) held by a public member or local~~  
2 ~~elected official becomes vacant, an election shall be conducted as soon as practicable to fill the~~  
3 ~~vacant office.~~

4 ~~(e) When Election Takes Effect. An election shall take effect immediately.~~

5 ~~Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections 7.5,~~  
6 ~~7.6, 7.9, 17525, 17528 and 17530, Government Code.~~

## 7 **Article 2. Commission Meetings**

### 8 **§ 1182. Quorum and Voting Requirements.**

9 ~~(a) A majority of the existing membership of the commission shall constitute a quorum.~~

10 ~~(b) All actions of the commission, with the exception of Requests to Reconsider and to Amend a~~  
11 ~~Prior Final Decision as provided in sections 1188.4 and 1188.5, shall require the affirmative vote~~  
12 ~~of at least a majority of the existing membership of the commission.~~

13 ~~(c) In the case of a tie vote, the commission may:~~

14 ~~(1) Re-hear the claim when the membership of the commission changes or when an abstaining~~  
15 ~~member completes review of the administrative record;~~

16 ~~(2) Assign the claim to a hearing panel or to a hearing officer, pursuant to section 1187.2 et seq.,~~  
17 ~~for hearing and preparation of a proposed statement of decision for consideration by the~~  
18 ~~commission. If the commission assigns the claim to a hearing panel, the selection of the hearing~~  
19 ~~panel shall be by lot, or other means of random and impartial selection; or~~

20 ~~(3) Direct staff to prepare a proposed statement of decision based on the final staff analysis and~~  
21 ~~evidentiary hearing for consideration by the commission.~~

22 ~~(d) A majority of the votes cast by those members on a hearing panel assigned pursuant to~~  
23 ~~sections 1187.2 and 1186.62 is required for the approval of a preliminary decision on claims and~~  
24 ~~applications for a finding of significant financial distress.~~

25 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17525,~~  
26 ~~17527(e) and 17532, Government Code; and Section 17000.6, Welfare and Institutions Code.~~

#### 27 **§ 1182.1. Notice and Agenda.**

28 ~~(a) Time and distribution. Notices and agendas of meetings shall be given to all members, to all~~  
29 ~~parties and interested parties to proceedings on the agenda, and to all persons who request in~~  
30 ~~writing such notice. Such notice shall be provided no less than 10 days prior to the scheduled~~  
31 ~~meeting.~~

32 ~~(b) Agenda. The meeting agenda shall be prepared by the executive director and shall include~~  
33 ~~any item proposed by any member, or the executive director.~~

34 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11125,~~  
35 ~~11125.1, 17527(b) and (c) and 17530, Government Code.~~

#### 36 **§ 1182.2. Meetings.**

37 ~~(a) Presiding Member. The chairperson shall preside over all meetings of the commission at~~  
38 ~~which he/she is present. In his or her absence, the vice chairperson shall preside. If neither the~~

1 chairperson nor the vice chairperson is in attendance, the member present who has the greatest  
2 seniority on the commission shall preside. The presiding member may yield the chair.

3 ~~(b) Public Comments.~~

4 ~~(1) Comments in Writing. Any person may submit comments in writing on any agenda item.  
5 Any person submitting such comments shall, if possible, provide the commission with ten (10)  
6 copies of such comments in advance of the meeting at which they are to be considered.~~

7 ~~(A) Comments received at least 15 days in advance of the meeting shall be included in the  
8 commission's meeting binders.~~

9 ~~(B) Comments received less than 15 days in advance of the meeting shall be included in the  
10 commission's meeting binders, if possible, or shall be provided to the commission when the item  
11 is called, unless otherwise agreed to by the commission or the executive director.~~

12 ~~(C) Comments received on the day of the meeting before the item is taken up by the commission;  
13 shall be provided to the commission when the item is called.~~

14 ~~(2) Oral Comments. Any person present and so desiring shall be given an opportunity to make  
15 oral comments on any agenda item, provided, however, that the presiding member may limit or  
16 preclude such comments as necessary for the orderly conduct of business.~~

17 ~~(3) This subsection does not apply to submission of the following:~~

18 ~~(A) State agency responses, opposition, and recommendations on a test claim;~~

19 ~~(B) Test claimant and interested party rebuttals to state agency responses, opposition, and  
20 recommendations on a test claim.~~

21 ~~(C) Comments by parties and interested parties on the draft of the staff analysis of a test claim.~~

22 ~~Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
23 11125.7 and 17526-17528, Government Code.~~

24 **§ 1182.3. Permanent Record.**

25 ~~(a) The commission shall keep minutes of its meetings. Minutes shall be approved by the  
26 commission and, upon approval, shall be signed by the chairperson or other person designated by  
27 the chairperson. Signed minutes shall be the original evidence of actions taken at any meeting,  
28 including the text of any resolutions adopted.~~

29 ~~(b) Commission public meetings shall be recorded by stenographic reporter or electronic  
30 recording or both. The transcript or recordings shall be kept for the period of time required by  
31 applicable law governing the retention of records of state agency public proceedings, or until  
32 conclusion of administrative or judicial proceedings, whichever is later.~~

33 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17530,  
34 Government Code.~~

35 **§ 1182.4. Default Rules.**

36 ~~In all cases not provided for by Government Code Section 17500 et seq., the Bagley-Keene Open  
37 Meetings Act (Government Code Section 11120 et seq.) and the commission's rules and  
38 regulations, the authority shall be Robert's Rules of Order (revised), unless otherwise designated  
39 by the commission at the annual election meeting.~~

1 Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections  
2 11120 et seq. and 17526, Government Code.

3 **§ 1182.5. Teleconference.**

4 The commission may hold an open or closed meeting by teleconference if it is difficult or  
5 impossible for the commission to achieve a quorum. A meeting held by teleconference shall be  
6 held subject to all of the following:

7 (a) A meeting held by teleconference shall comply with the Bagley Keene Open Meetings Act.

8 (b) Each teleconference location shall be identified in the notice of the meeting and shall be  
9 accessible to the public.

10 (c) The portion of the teleconference meeting that is required to be open to the public shall be  
11 audible to the public at the location specified in the notice of the meeting.

12 (d) All votes taken during a teleconference meeting shall be by rollcall.

13 (e) The portion of the teleconferenced meeting that is closed to the public may not include the  
14 consideration of any agenda item pursuant to Section 11125.5 of the Government Code.

15 (f) At least one member of the commission shall be physically present at the location specified in  
16 the notice of the meeting.

17 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11123,  
18 17527(b) and (c), Government Code.

19 **Article 3. Test Claims**

20 **§ 1183. Test Claim Filing.**

21 (a) A local agency or school district shall file a test claim with the commission to obtain a  
22 mandate determination.

23 (b) Any test claim filed with the commission must allege increased costs as a result of the statute  
24 or executive order that exceed the amount set in Government Code section 17564.

25 (c) Except as provided in Government Code sections 17573 and 17574, any test claim or  
26 amendment filed with the commission must be filed not later than 12 months following the  
27 effective date of a statute or executive order, or within 12 months of incurring increased costs as  
28 a result of a statute or executive order, whichever is later. For purposes of this subsection,  
29 "within 12 months" means by June 30 of the fiscal year following the fiscal year in which  
30 increased costs were first incurred by the test claimant.

31 (d) All test claims, or amendments thereto, shall be filed on a form developed by the executive  
32 director and shall contain all of the elements and supplemental documents required by the form  
33 and statute. When an omnibus bill is pled, claimant shall file only the relevant pages of the  
34 statute, including the Legislative Counsel's Digest and the specific statutory changes at issue.

35 (e) The claimant shall file one original test claim, or amendment thereto, and accompanying  
36 documents with the commission. An "original" is either a signed hard copy or an Adobe PDF  
37 electronic copy thereof submitted through the e-filing system on the commission's web site. If  
38 the document is e-filed with the commission, the claimant is responsible for maintaining the  
39 paper document with original signature(s) for the duration of the test claim process, including

1 any period of appeal. If a hard copy is submitted the original shall be unbound and single-sided,  
2 without tabs, and include a table of contents. If the original is filed in Adobe PDF format, the  
3 accompanying documents shall also be filed in Adobe PDF format.

4 (f) The claimant shall also file seven (7) copies of the test claim, or amendment thereto, and  
5 accompanying documents with the commission, if the original is filed in hard copy. The copies  
6 shall be double-sided and shall not include tabs. If the test claim, or amendment thereto is e-filed,  
7 no copies shall be filed.

8 (g) Within ten (10) days of receipt of a test claim, or amendment thereto, commission staff shall  
9 notify the claimant if the test claim is complete or incomplete and send a copy of these  
10 regulations unless a correct copy was previously provided. Test claims will be considered  
11 incomplete if any of the elements required in subsections (d), (e), or (f) of this section are  
12 illegible or are not included. If a complete test claim is not received within thirty (30) calendar  
13 days from the date the incomplete test claim was returned, the executive director may disallow  
14 the original test claim filing date. A new test claim(s) may be accepted on the same statute or  
15 executive order alleged to impose a mandate.

16 (h) Test claims may be prepared as a joint effort between two or more claimants and filed with  
17 the commission if the claimants attest to all of the following in the test claim filing:

18 (1) The claimants allege state-mandated costs result from the same statute or executive order;

19 (2) The claimants agree on all issues of the test claim; and,

20 (3) The claimants have designated one contact person to act as the resource for information  
21 regarding the test claim.

22 (i) Any test claim, or portion of a test claim, that the commission lacks jurisdiction to hear for  
23 any reason may be dismissed by the executive director with a written notice stating the reason for  
24 dismissal.

25 (j) Any party may appeal to the commission for review of the actions and decisions of the  
26 executive director under this section pursuant to section 1181 of these regulations.

27 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
28 17521, 17530, 17551, 17553, 17557(e), 17564, 17573 and 17574, Government Code.

29 **§ 1183.01. Timelines.**

30 (a) In computing any period of time prescribed by these regulations and applicable statutes,  
31 including the filing date as defined by section 1181.1, subdivision (g) of these regulations, the  
32 following rules shall apply:

33 (1) The day of the act, event, or default from which the designated period of time begins to run  
34 shall not be included. The last day of the period so computed shall be included, unless it is a  
35 Saturday, Sunday, or state holiday.

36 (2) Days representing extensions of time and postponements of hearings granted to the parties  
37 shall be tolled and may not be counted toward the date on which a statewide cost estimate must  
38 be adopted by the commission.

39 (3) Days following a test claimant's submission of incomplete information to the commission,  
40 from the date on which commission staff returns the incomplete information to the claimant up

1 to the date on which the commission receives complete information from the test claimant, shall  
2 be tolled and may not be counted toward the date on which a statewide cost estimate must be  
3 adopted by the commission.

4 (4) If a party or interested party to a test claim notifies commission staff that a reasonable  
5 reimbursement methodology may be developed for inclusion in pending parameters and  
6 guidelines, the days following the date of the notification up to the date on which a reasonable  
7 reimbursement methodology is developed, shall be tolled and may not be counted toward the  
8 date on which a statewide cost estimate must be adopted by the commission. The days tolled  
9 shall not exceed sixty (60) days from the date of the notification.

10 (5) If the test claimant and the Department of Finance notify the commission staff in writing of  
11 their intent to develop a reasonable reimbursement methodology and statewide estimate of costs  
12 for the initial claiming period and budget year for reimbursement pursuant to Government Code  
13 section 17557.1, the days following the date of the notification up to the date on which a draft  
14 reasonable reimbursement methodology and proposed statewide estimate of costs are developed  
15 and submitted to the commission, shall be tolled and may not be counted toward the date on  
16 which a statewide cost estimate must be adopted by the commission. The days tolled shall not  
17 exceed 180 days from the date of the notification.

18 (6) Three (3) days shall be added to any prescribed period in which a party or interested party is  
19 required or permitted to do an act after service of a document upon that party or interested party  
20 by mail. The three (3) days added for mail service shall be tolled and may not be counted toward  
21 the date on which a statewide cost estimate must be adopted.

22 (7) Solely for the purpose of determining when a statewide cost estimate shall be adopted, test  
23 claims that are amended, severed, or consolidated shall be deemed received on the effective date  
24 of the last amendment, severance, or consolidation, unless otherwise stipulated by the parties and  
25 approved by the executive director.

26 (8) Days between the effective date of the parameters and guidelines and the date the initial  
27 reimbursement claims are due to the Office of the State Controller shall be tolled and may not be  
28 counted toward the date on which a statewide cost estimate must be adopted by the commission.

29 (b) The following timelines shall be used by commission staff as a reference for the timely  
30 processing of test claims, adoption of statewide cost estimates or statewide estimates of costs:

31 (1) Timeline for a Test Claim, Parameters and Guidelines, and Statewide Cost Estimate (12  
32 Months)

| <i>PARTY/ACTIVITIES</i>   | <i>DAY NUMBER</i> |
|---|-------------------|
| _____ TEST CLAIM _____  |                   |
| CLAIMANT files test claim with the commission.                    | 0                 |
| COMMISSION staff begins counting days on the _____                |                   |
| first day after receipt.  | 1                 |
| COMMISSION staff reviews test claim to determine if _____         |                   |
| complete  | by 10             |
| COMMISSION staff sends test claim to state agencies for review.   | by 10             |
| COMMISSION staff convenes informal conference with parties, _____ |                   |
| if necessary.   | by 30             |

|    |   |                   |
|----|---|-------------------|
| 1  | STATE AGENCIES file comments on test claim.   | by 40             |
| 2  | CLAIMANT submits rebuttal.  | by 70             |
| 3  | COMMISSION staff completes draft analysis of test claim and                                       |                   |
| 4  | serves on parties.  | by 100            |
| 5  | PARTIES submit comments on staff's draft analysis of test claim.                                  | by 130            |
| 6  | COMMISSION staff completes analysis and issues Proposed   |                   |
| 7  | Statement of Decision.  | by 160            |
| 8  | COMMISSION hears test claim and adopts Proposed Statement   |                   |
| 9  | of Decision.  | by 180            |
| 10 | COMMISSION staff issues Statement of Decision and serves  |                   |
| 11 | on parties.   | by 190            |
| 12 | COMMISSION staff notifies Legislature of Statement  |                   |
| 13 | of Decision   | by 210            |
| 14 | <b>PARAMETERS AND GUIDELINES</b>  |                   |
| 15 | CLAIMANT submits proposed Parameters and Guidelines.  | by 220            |
| 16 | STATE AGENCIES AND PARTIES may file comments.   | by 235            |
| 17 | CLAIMANT rebuts comments.   | by 250            |
| 18 | COMMISSION staff completes draft Parameters and Guidelines  |                   |
| 19 | and serves on parties.  | by 265            |
| 20 | PARTIES submit comments on staff's draft Parameters and   |                   |
| 21 | Guidelines.   | by 275            |
| 22 | COMMISSION staff completes Parameters and Guidelines  |                   |
| 23 | and serves on parties.  | by 279            |
| 24 | COMMISSION conducts hearing and adopts Parameters and   |                   |
| 25 | Guidelines  | by 293            |
| 26 | COMMISSION staff issues adopted Parameters and Guidelines.  | by 303            |
| 27 | <b>STATEWIDE COST ESTIMATE</b>  |                   |
| 28 | COMMISSION staff develops Statewide Cost Estimate.  | by 335            |
| 29 | ALL PARTIES comment on Statewide Cost Estimate.   | by 345            |
| 30 | COMMISSION staff revises Statewide Cost Estimate.   | by 350            |
| 31 | COMMISSION conducts hearing and adopts Statewide  |                   |
| 32 | Cost Estimate.  | by 365            |
| 33 | COMMISSION staff reports Statewide Cost Estimate  |                   |
| 34 | to the Legislature  | by 395            |
| 35 | <b>2. Timeline for a Test Claim, Reasonable Reimbursement Methodology, and Statewide Estimate</b> |                   |
| 36 | <b>of Costs</b>   |                   |
| 37 | <i>PARTY/ACTIVITIES</i>   | <i>DAY NUMBER</i> |
| 38 | <b>TEST CLAIM</b>   |                   |
| 39 | <i>PARTY/ACTIVITIES</i>   | <i>DAY NUMBER</i> |
| 40 | CLAIMANT files test claim with the commission   | 0                 |
| 41 | COMMISSION staff begins counting days on the first day after                                      |                   |
| 42 | receipt.  | 1                 |
| 43 | COMMISSION staff reviews test claim to determine if complete.                                     | by 10             |
| 44 | COMMISSION staff sends test claim to state agencies for review.                                   | by 10             |
| 45 | COMMISSION staff convenes informal conference with parties, if                                    |                   |
| 46 | necessary.  | by 30             |

1 STATE AGENCIES file comments on test claim. by 40  
2 CLAIMANT submits rebuttal. by 70  
3 COMMISSION staff completes draft analysis of test claim and  
4 serves on parties. by 100  
5 PARTIES submit comments on staff's draft analysis of test claim. by 130  
6 COMMISSION staff completes analysis and issues Proposed  
7 Statement of Decision. by 160  
8 COMMISSION hears test claim and adopts Proposed Statement of  
9 Decision. by 180  
10 COMMISSION staff issues Statement of Decision and serves on  
11 parties. by 190  
12 COMMISSION staff notifies Legislature of Statement of Decision. by 220  
13 REASONABLE REIMBURSEMENT METHODOLOGY (RRM)  
14 AND STATEWIDE ESTIMATE OF COSTS (SEC)  
15 CLAIMANT AND DOF notify Commission in writing of their  
16 intent to follow the process in 17557.1 to develop a RRM  
17 and SEC for the initial claiming period and budget year  
18 (30 days after SOD). by 220  
19 CLAIMANT AND DOF submit plan no later than 6 months  
20 after the date of letter of intent and sixty (60) days  
21 before hearing. by 400  
22 COMMISSION staff notifies parties of comment period. by 410  
23 PARTIES submit comments on the draft RRM and SEC. by 425  
24 CLAIMANT AND DOF submit written rebuttal. by 432  
25 COMMISSION staff issues review comments and  
26 recommendation. by 450  
27 COMMISSION conducts hearing, approves the draft  
28 RRM, and adopts the proposed SEC for the initial  
29 claiming period and budget year. by 460  
30 COMMISSION staff submits RRM to the CONTROLLER. by 470  
31 COMMISSION staff reports SEC to the Legislature. by 490  
32 -

33 (e) Extensions of Time and Postponements of Hearings

34 (1) Any party or interested party may request an extension of time by filing a request with the  
35 executive director before the date set for filing of responses, opposition, recommendations,  
36 rebuttals, plan, informational update, or comments with commission staff. Such request shall  
37 fully explain the reason(s) for the extension, propose a new date for filing, and be simultaneously  
38 served in accordance with section 1181.2 of these regulations. Any request for extension of time  
39 to file comments that would necessitate rescheduling a hearing shall also include a request for  
40 postponement of the hearing, pursuant to section 1183.01(e)(2). Within forty eight (48) hours of  
41 receipt of the request, the executive director shall make a determination and shall notify all  
42 parties and interested parties who are on the mailing list of the determination.

43 (A) A request filed by stipulation of the parties, including the claimant, shall be approved by the  
44 executive director for good cause.



1 ~~(B) A request filed by the claimant, a state agency or interested party may be approved by the~~  
2 ~~executive director for good cause.~~

3 ~~(2) Any party may request the postponement of a hearing on a test claim, parameters and~~  
4 ~~guidelines, or statewide cost estimate, until the next regularly scheduled hearing, or other date if~~  
5 ~~specified. Such request shall fully explain the reason(s) for the postponement, and be filed and~~  
6 ~~served in accordance with section 1181.2 of these regulations. Within forty-eight (48) hours of~~  
7 ~~receipt of such a request, the executive director shall make a determination and shall notify all~~  
8 ~~parties and interested parties who are on the mailing list of the determination.~~

9 ~~(A) A request filed by the claimant at least fifteen (15) days before the hearing shall be approved~~  
10 ~~by the executive director for good cause.~~

11 ~~(B) A request filed by stipulation of the parties, including the claimant, shall be approved by the~~  
12 ~~executive director for good cause.~~

13 ~~(C) A request filed by the claimant less than fifteen (15) days before the hearing may be~~  
14 ~~approved by the executive director for good cause.~~

15 ~~(D) A request filed by a state agency may be approved by the executive director for good cause.~~  
16 ~~If a state agency makes such a request before filing a response, opposition, or recommendation~~  
17 ~~on the test claim, such request shall be accompanied by a notice of intent to oppose the test claim~~  
18 ~~in whole or in part.~~

19 ~~(3) The executive director may postpone a hearing on a test claim, parameters and guidelines,~~  
20 ~~and a statewide cost estimate for good cause and shall notify all parties and interested parties~~  
21 ~~who are on the mailing list.~~

22 ~~Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections~~  
23 ~~17530, 17553, 17557 and 17557.1, Government Code.~~

24 **~~§ 1183.02. Review of Test Claim.~~**

25 ~~(a) Within ten (10) days of receipt of a completed test claim, or amendment thereto, commission~~  
26 ~~staff shall send a copy of the test claim or amendment to the Department of Finance, Office of~~  
27 ~~the State Controller, any affected state agency, and any known interested parties, and shall post it~~  
28 ~~on the commission's web site.~~

29 ~~(b) The executive director shall notify the Department of Finance, Office of the State Controller,~~  
30 ~~and any affected state agency that they shall have the opportunity to review and provide written~~  
31 ~~response, opposition, or recommendations concerning the test claim within thirty (30) days and~~  
32 ~~to present evidence at the hearing on the test claim.~~

33 ~~(c) Content and Form. Written responses, opposition, or recommendations on the test claim shall~~  
34 ~~contain the following documentary evidence, if applicable:~~

35 ~~(1) If assertions or representations of fact are made, they must be supported by documentary~~  
36 ~~evidence which shall be submitted with the state agency's response, opposition, or~~  
37 ~~recommendations. All documentary evidence shall be authenticated by declarations under~~  
38 ~~penalty of perjury signed by persons who are authorized and competent to do so and must be~~  
39 ~~based on the declarant's personal knowledge or information or belief.~~

40 ~~(2) Include a copy of relevant portions of state constitutional provisions, federal statutes, and~~  
41 ~~executive orders, and a copy of administrative decisions and court decisions that may impact the~~

1 ~~alleged mandate, unless such authorities are also cited in the test claim. The specific chapters,~~  
2 ~~articles, sections, or page numbers must be identified. Published court decisions arising from~~  
3 ~~state mandate determinations by the Board of Control and the Commission on State Mandates,~~  
4 ~~article XIII B, section 6 of the California Constitution, and Government Code sections 17500 and~~  
5 ~~following are exempt from the requirements of this subsection.~~

6 ~~(d) The written response, opposition, or recommendations and supporting documentation shall be~~  
7 ~~signed at the end of the document, under penalty of perjury by an authorized representative of~~  
8 ~~the state agency, with the declaration that it is true and complete to the best of the~~  
9 ~~representative's personal knowledge or information or belief. The date of signing, the~~  
10 ~~representative's title, address, and telephone number shall be included. If the authorized~~  
11 ~~representative can be reached via facsimile machine or e-mail, the facsimile number and e-mail~~  
12 ~~address shall also be included.~~

13 ~~(e) Filing. An original and two (2) copies of a written response, opposition, or recommendations~~  
14 ~~and supporting documentation concerning a test claim shall be filed with commission staff and~~  
15 ~~served in accordance with section 1181.2 of these regulations. Proof of service shall be included~~  
16 ~~with the response, opposition, or recommendations filed with commission staff.~~

17 ~~(f) If a hard copy is submitted the original document shall be unbound and single-sided.~~

18 ~~Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections~~  
19 ~~17530, 17553(a) and 17557(e), Government Code.~~

20 **§ 1183.03. Claimant's Rebuttal.**

21 ~~(a) Test claimants and interested parties shall be given an opportunity to respond to state~~  
22 ~~agencies' written responses, opposition, or recommendations concerning a test claim and to file~~  
23 ~~written rebuttals within thirty (30) days of service of the responses, opposition, or~~  
24 ~~recommendations.~~

25 ~~(b) Content and Form. A written rebuttal shall contain the following documentary evidence, if~~  
26 ~~applicable:~~

27 ~~(1) If new assertions or representations of fact are made, they must be supported by documentary~~  
28 ~~evidence which shall be submitted with the rebuttal. All documentary evidence must be~~  
29 ~~authenticated by declarations under penalty of perjury signed by persons who are authorized and~~  
30 ~~competent to do so and must be based upon the declarant's personal knowledge or information or~~  
31 ~~belief.~~

32 ~~(2) Include a copy of relevant portions of state constitutional provisions, federal statutes, and~~  
33 ~~executive orders, and a copy of administrative decisions and court decisions that are cited in the~~  
34 ~~rebuttal, unless such authorities are also cited in the test claim and/or any opposition thereto. The~~  
35 ~~specific chapters, articles, sections, or page numbers shall be identified. Published court~~  
36 ~~decisions arising from state mandate determinations by the Board of Control and the~~  
37 ~~Commission on State Mandates, article XIII B, section 6 of the California Constitution, and~~  
38 ~~Government Code sections 17500 and following are exempt from the requirements of this~~  
39 ~~subsection.~~

40 ~~(c) The original written rebuttal to state agencies' responses, opposition, or recommendations~~  
41 ~~concerning a test claim shall be filed with commission staff in accordance with section 1181.2 of~~  
42 ~~these regulations.~~

1 ~~(d) The rebuttal shall be signed at the end of the document, under penalty of perjury by the~~  
2 ~~claimant or its authorized representative, with the declaration that the rebuttal is true and~~  
3 ~~complete to the best of the declarant's personal knowledge or information or belief. The date of~~  
4 ~~signing, the declarant's title, address, and telephone number shall be included. If the declarant~~  
5 ~~can be reached by facsimile machine or e-mail, the declarant's facsimile number and e-mail~~  
6 ~~address shall also be included.~~

7 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
8 ~~17530 and 17553(a), Government Code.~~

9 **~~§ 1183.04. Informal Conference.~~**

10 ~~(a) The executive director may schedule an informal conference with the test claimant, the~~  
11 ~~Department of Finance, Office of the State Controller, other affected state agencies and~~  
12 ~~interested parties upon request. With the consent of the parties, the informal conference may be a~~  
13 ~~teleconference.~~

14 ~~(b) The purpose of an informal conference may be to~~

15 ~~(1) Set dates for receiving state agency responses, opposition, recommendations, or claimant~~  
16 ~~rebuttal; completing the staff analysis; and hearing the test claim.~~

17 ~~(2) Give the test claimant the opportunity to present the test claim and to respond to questions~~  
18 ~~from commission staff and other state agency staff or representatives for the purpose of resolving~~  
19 ~~or clarifying issues of fact or law.~~

20 ~~(3) Consider whether a reasonable reimbursement methodology may be developed and included~~  
21 ~~in the parameters and guidelines.~~

22 ~~(4) Review a draft reasonable reimbursement methodology and proposed statewide estimate of~~  
23 ~~costs that are jointly prepared by the test claimant and the Department of Finance pursuant to~~  
24 ~~Government Code section 17557.1.~~

25 ~~(c) Any party may notify the executive director of any interested parties who should be invited to~~  
26 ~~attend an informal conference.~~

27 ~~(d) Unless waived by the parties, commission staff shall provide at least ten (10) days notice of~~  
28 ~~the informal conference by mail, facsimile transmission, e-mail, or by other electronic media.~~

29 ~~(e) Anything said, any document disclosed, and any new assertions and representations of fact~~  
30 ~~made during an informal conference shall not be made part of the administrative record of a test~~  
31 ~~claim unless properly admitted into the record through the submission of an amendment to a test~~  
32 ~~claim, a written response, opposition, recommendations, comments, rebuttal, and/or public~~  
33 ~~testimony.~~

34 ~~Note: Authority cited: Sections 17527(g), 17553(a), Government Code. Reference: Sections~~  
35 ~~17518.5, 17530, 17553(a) and 17557.1, Government Code.~~

36 **~~§ 1183.05. Claimant's Motion to Consolidate or Sever Test Claims.~~**

37 ~~Within thirty (30) days of filing a completed test claim, a claimant may file a motion with the~~  
38 ~~executive director to consolidate part or all of any test claim with another test claim, or to sever~~  
39 ~~any part of any test claim, if necessary to ensure the complete, fair, or timely consideration of~~  
40 ~~any test claim.~~

1 ~~(a) Any motion to consolidate or to sever shall be simultaneously served on all the parties and~~  
2 ~~interested parties with the supporting documentation and proof of service.~~

3 ~~(b) Within thirty (30) days after receipt of a motion to consolidate, the executive director may~~  
4 ~~consolidate any test claims if they were submitted by two or more claimants and if the following~~  
5 ~~exist in the filings: the test claimants allege state mandated costs resulting from the same statute~~  
6 ~~or executive order, and the claimants have designated one contact person to act as the resource~~  
7 ~~for information regarding the test claim.~~

8 ~~(c) Within thirty (30) days after receipt of a motion to sever, the executive director may sever~~  
9 ~~part of any test claim.~~

10 ~~(d) Any party may appeal to the commission for review of the actions and decisions of the~~  
11 ~~executive director under this Section pursuant to Section 1181 of these regulations.~~

12 ~~Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Sections~~  
13 ~~17530, 17553, Government Code.~~

14 ~~**§ 1183.06. Executive Director's Authority to Consolidate Test Claims.**~~

15 ~~(a) The executive director may consolidate part or all of any test claim with another test claim, if~~  
16 ~~necessary to ensure the complete, fair, or timely consideration of any test claim.~~

17 ~~(b) At least ten (10) days before the action is taken, the executive director shall simultaneously~~  
18 ~~serve on the parties and interested parties on the mailing list described in section 1181.2 of these~~  
19 ~~regulations, and post on the commission's web site, a notice of any proposed action to~~  
20 ~~consolidate.~~

21 ~~(c) Any party may appeal to the commission for review of the actions and decisions of the~~  
22 ~~executive director under this section pursuant to section 1181 of these regulations.~~

23 ~~Note: Authority cited: Section 17527(g) and 17553, Government Code. Reference: Sections~~  
24 ~~17530, 17553 and 17554, Government Code.~~

25 ~~**§ 1183.07. Review of Completed Test Claim and Preparation of Staff Analysis.**~~

26 ~~(a) Before the hearing on the test claim, commission staff shall prepare a final written analysis of~~  
27 ~~the test claim, which shall include but not be limited to a review of the written responses,~~  
28 ~~opposition, recommendations, and comments filed by other state agencies, interested parties, and~~  
29 ~~the claimant. The final staff analysis shall describe and analyze the test claim to assist the~~  
30 ~~commission in determining whether the alleged statutes or executive orders contain a~~  
31 ~~reimbursable state mandated program under Article XIII B, section 6 of the California~~  
32 ~~Constitution.~~

33 ~~(b) At least eight (8) weeks before the hearing, or at such other time as required by the executive~~  
34 ~~director or stipulated to by the parties, commission staff shall prepare a draft staff analysis and~~  
35 ~~distribute it to the parties, interested parties, and any person who requests a copy, and shall post~~  
36 ~~it on the commission's web site.~~

37 ~~(c) Any party or interested party may file written comments concerning the draft staff analysis~~  
38 ~~with commission staff. Written comments shall be filed and served as described in section~~  
39 ~~1181.2 of these regulations, by the date determined and publicized by the executive director. A~~  
40 ~~three (3) week period for comments shall be given, subject to the executive director's authority to~~  
41 ~~expedite all matters pursuant to Government Code section 17530. All written comments timely~~

1 filed shall be reviewed by commission staff and may be incorporated into the final written  
2 analysis of the test claim.

3 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
4 17514, 17530, 17551 and 17553, Government Code.

5 **§ 1183.08. Withdrawal of Test Claims.**

6 A test claim, or any portion of a test claim, may be withdrawn by the claimant(s) upon written  
7 application to the executive director any time before a decision is adopted or after enactment of a  
8 legislatively determined mandate on the same statute or executive order pursuant to Government  
9 Code section 17574. The claimant(s) shall file and serve the written application in accordance  
10 with section 1181.2 of these regulations. Commission staff shall post a copy of the notice on the  
11 commission's web site for sixty (60) days prior to dismissal of the test claim. Except as provided  
12 in Government Code section 17574, if no other local agency or school district takes over a claim  
13 by substitution of parties within sixty (60) days of service and posting of the application to  
14 withdraw, the Executive Director shall issue a letter to everyone on the mailing list described in  
15 section 1181.2 of these regulations dismissing the claim.

16 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
17 17530, 17553(a) and 17574, Government Code.

18 **§ 1183.081. Local Agency or School District "Abandonment" of Test Claim.**

19 (a) The executive director may deem a test claim "abandoned" if any of the following events  
20 occurs:

21 1. The test claimant does not respond, within thirty (30) days of service, to a written notification  
22 sent to the superintendent of the school district or chief administrative officer of the local agency  
23 from the executive director that the test claim will be deemed "abandoned".

24 2. The local agency or school district provides written notification to the commission of their  
25 withdrawal as the test claimant from the test claim.

26 (b) If the executive director deems a test claim "abandoned" pursuant to subdivision (a), the  
27 executive director shall serve a copy of a written notice that a test claim has been "abandoned"  
28 on the original test claimant and any persons designated as their representative for the test claim,  
29 all parties, interested parties, and interested persons on the mailing list described in section  
30 1181.2 of these regulations, and associations representing local agencies and school districts.  
31 Commission staff shall post a copy of the notice on the commission's web site for sixty (60) days  
32 prior to dismissal of the test claim. The first local agency or school district that requests in  
33 writing to the executive director to substitute for the original test claimant, within sixty (60) days  
34 of service and posting of the written notice of abandonment, shall be the test claimant for  
35 purposes of the test claim proceedings. Other local agencies or school districts which submit  
36 subsequent timely written requests will be included as co-claimants.

37 (c) The original test claimant may appeal to the commission for review of the actions and  
38 decisions of the executive director under this section pursuant to section 1181 of these  
39 regulations.

40 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
41 17530 and 17553(a), Government Code.

1 **§ 1183.09. Dismissal of Test Claims.**

2 (a) ~~A test claim which has been postponed or placed on inactive status by the claimant for a~~  
3 ~~period of more than one year may be dismissed by the commission on its own motion or by a~~  
4 ~~motion of a party after notice and an opportunity to be heard has been made to the claimant,~~  
5 ~~parties and interested parties to take over the claim by substitution of parties.~~

6 (b) ~~Before scheduling a hearing for dismissal of a test claim which has been postponed or placed~~  
7 ~~on inactive status by the claimant, the commission shall first notify the claimant, in writing, of its~~  
8 ~~intention to initiate dismissal of the test claim. The claimant shall have 60 days from the date of~~  
9 ~~the notice to either reactivate the test claim or to withdraw the claim in accordance with section~~  
10 ~~1183.08 of these regulations.~~

11 (c) ~~If the claimant does not respond within 60 days after receipt of the notice, the test claim will~~  
12 ~~be deemed to have been withdrawn in accordance with section 1183.08 of these regulations and~~  
13 ~~the commission shall serve written notice to initiate dismissal of the claim to all parties,~~  
14 ~~organizations or associations representing local agencies or school districts, and all potential~~  
15 ~~claimants. A copy of the notice shall also be posted electronically. If no other local agency or~~  
16 ~~school district takes over the claim by substitution of parties within 60 days of the issuance of the~~  
17 ~~notice, the commission shall schedule a hearing for dismissal of the test claim.~~

18 (d) ~~The hearing on a dismissal of a test claim shall be conducted in accordance with Article 7 of~~  
19 ~~these regulations.~~

20 (e) ~~Notice of a hearing to dismiss a test claim shall be made within 30 days of the date scheduled~~  
21 ~~for hearing. The notice of hearing shall advise the claimant, parties, and interested parties that~~  
22 ~~they shall have the opportunity to provide written comments on the motion to dismiss a test~~  
23 ~~claim. The claimant, parties, and interested parties shall file and serve their written comments in~~  
24 ~~accordance with section 1181.2 of these regulations.~~

25 (f) ~~Delays or postponements under the following circumstances will not be considered for~~  
26 ~~purposes of computing whether a test claim has been postponed or placed on inactive status by~~  
27 ~~the claimant for more than one year:~~

28 1. ~~Delays or postponements made at the request of the commission or other state agency or~~  
29 ~~department;~~

30 2. ~~Delays or postponements, made at the request of the claimant, pending the resolution of a~~  
31 ~~matter currently before the commission of an issue similar to or related to the postponed test~~  
32 ~~claim; and~~

33 3. ~~Delays or postponements, made at the request of the claimant, pending the resolution of~~  
34 ~~litigation of an issue similar to or related to the postponed test claim.~~

35 (g) ~~The provisions of this regulation shall only apply to claims filed on or after the operative date~~  
36 ~~of this regulation.~~

37 Note: Authority cited: Sections 17527(c) and (g) and 17532, Government Code. Reference:  
38 Sections 17525, 17527(c) and 17532, Government Code.

39 **§ 1183.1. Content of Parameters and Guidelines.**

40 (a) ~~The parameters and guidelines shall describe the claimable reimbursable costs and contain~~  
41 ~~the following information:~~

- 1 ~~(1) Summary of the Mandate. A summary of the mandate identifying the statute(s) or executive~~  
2 ~~order(s) that contain the mandate and/or the increased level of service and the activities found to~~  
3 ~~be required under those statute(s) or executive order(s).~~
- 4 ~~(2) Eligible Claimants. A description of the types and/or level(s) of local governmental entities~~  
5 ~~that are eligible to file for reimbursement.~~
- 6 ~~(3) Period of Reimbursement. A description of the period of reimbursement specifying the first~~  
7 ~~and subsequent fiscal years that can be reimbursed.~~
- 8 ~~(4) Reimbursable Activities. A description of the specific costs and types of costs that are~~  
9 ~~reimbursable, including one time costs and on going costs, and a description of the most~~  
10 ~~reasonable methods of complying with the mandate. "The most reasonable methods of~~  
11 ~~complying with the mandate" are those methods not specified in statute or executive order that~~  
12 ~~are necessary to carry out the mandated program.~~
- 13 ~~(5) Claim Preparation. Instruction on claim preparation, including instructions for direct and~~  
14 ~~indirect cost reporting, or application of a reasonable reimbursement methodology.~~
- 15 ~~(6) Record Retention. Notice of the Office of the State Controller's authority to audit claims and~~  
16 ~~the amount of time supporting documents must be retained during the period subject to audit.~~
- 17 ~~(7) Offsetting Revenues and Reimbursements (if applicable).~~
- 18 ~~Identification of:~~
- 19 ~~i. Dedicated state and federal funds appropriated for this program.~~
- 20 ~~ii. Non-local agency funds dedicated for this program.~~
- 21 ~~iii. Local agency's general purpose funds for this program.~~
- 22 ~~iv. Fee authority to offset partial costs of this program.~~
- 23 ~~(8) Offsetting Savings (if applicable). Identification of any offsetting savings in the same~~  
24 ~~program experienced because of the same statute(s) or executive order(s) found to contain a~~  
25 ~~mandate.~~
- 26 ~~(9) Claiming Instructions. Notice of the Office of the State Controller's duty to issue claiming~~  
27 ~~instructions, which constitutes notice of the right of local agencies and school districts to file~~  
28 ~~reimbursement claims, based upon the statement of decision and parameters and guidelines~~  
29 ~~adopted by the commission.~~
- 30 ~~(10) Remedies Before the Commission. Instructions for filing requests to review claiming~~  
31 ~~instructions and requests to amend parameters and guidelines with the commission.~~
- 32 ~~(11) Legal and Factual Basis. Notice that the legal and factual basis for the parameters and~~  
33 ~~guidelines are found in the administrative record for the test claim, which is on file with the~~  
34 ~~commission.~~
- 35 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
36 ~~17518.5, 17530, 17553, 17556(e) and 17557, Government Code.~~

1 **§ 1183.11. Submission and Review of Proposed Parameters and Guidelines; Submission of**  
2 **Comments.**

3 (a) ~~Within thirty (30) days of adoption of the statement of decision on a test claim, or the early~~  
4 ~~termination or expiration of a reasonable reimbursement methodology, the successful test~~  
5 ~~claimant shall submit to commission staff an original and seven (7) copies of proposed~~  
6 ~~parameters and guidelines, pursuant to Government Code section 17557, subdivision (a).~~

7 (b) ~~If any of the elements described in section 1183.1 are missing or are not adequately~~  
8 ~~addressed, commission staff shall, within ten (10) days of receipt, deem the proposed parameters~~  
9 ~~and guidelines incomplete and shall return the proposal to the claimants with a description of the~~  
10 ~~subjects that are to be redrafted or supplemented.~~

11 (c) ~~Within ten (10) days of receipt of completed proposed parameters and guidelines,~~  
12 ~~commission staff shall send a copy to the Department of Finance, Office of the State Controller,~~  
13 ~~affected state agencies, and interested parties who are on the mailing list described in section~~  
14 ~~1181.2 of these regulations, and shall post it on the commission's web site.~~

15 (d) ~~Commission staff shall notify all recipients that they shall have the opportunity to review and~~  
16 ~~provide written comments or recommendations concerning the proposed parameters and~~  
17 ~~guidelines within fifteen (15) days of service.~~

18 (e) ~~State agencies and interested parties shall file and serve written response in accordance with~~  
19 ~~section 1181.2 of these regulations.~~

20 (f) ~~Within fifteen (15) days of service of the comments and recommendations prepared by state~~  
21 ~~agencies and interested parties, the claimant and other interested parties may submit a written~~  
22 ~~rebuttal to commission staff, and shall file and serve their rebuttals in accordance with section~~  
23 ~~1181.2 of these regulations.~~

24 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
25 17530, 17553(a), 17557 and 17557.2, Government Code.

26 **§ 1183.12. Alternate Process for Proposed Parameters and Guidelines.**

27 (a) ~~Within ten (10) days after adoption of a statement of decision on a test claim, commission~~  
28 ~~staff may expedite the parameters and guidelines process by drafting proposed parameters and~~  
29 ~~guidelines to assist the claimant. The draft proposed parameters and guidelines shall be served to~~  
30 ~~everyone on the mailing list described in section 1181.2 of these regulations, and shall be posted~~  
31 ~~on the commission's web site.~~

32 (b) ~~In lieu of filing an original proposal pursuant to Government Code section 17557,~~  
33 ~~subdivision (a), the successful test claimant may file modifications and/or comments on staff's~~  
34 ~~draft proposal with commission staff. The claimant shall review all sections and if necessary~~  
35 ~~may:~~

36 (1) ~~Clarify the reimbursable activities identified by commission staff, and provide an explanation~~  
37 ~~of why the clarification is necessary.~~

38 (2) ~~Include additional descriptions of the most reasonable methods of complying with the~~  
39 ~~mandate. "The most reasonable methods of complying with the mandate" are those methods not~~  
40 ~~specified in statute or executive order that are necessary to carry out the mandated program. For~~



1 ~~each additional method proposed, the test claimant shall provide an explanation of why it is~~  
2 ~~reasonably necessary.~~

3 ~~(3) Indicate whether the commission should consider a reasonable reimbursement methodology~~  
4 ~~for this program, and the basis for the recommendation.~~

5 ~~(4) Identify offsetting revenues and reimbursements (if applicable), including:~~

6 ~~i. Dedicated state and federal funds appropriated for this program.~~

7 ~~ii. Non-local agency funds dedicated for this program.~~

8 ~~iii. Local agency's general purpose funds for this program.~~

9 ~~iv. Fee authority to offset partial costs of this program.~~

10 ~~(5) Identify offsetting savings (if applicable), including any offsetting savings in the same~~  
11 ~~program experienced because of the same statute(s) or executive order(s) found to contain a~~  
12 ~~mandate.~~

13 ~~(c) The successful test claimant shall file its proposed modifications and/or comments within~~  
14 ~~twenty (20) days of receipt of commission staff's draft proposal.~~

15 ~~(d) The opportunity for state agencies and interested parties to comment on staff's draft proposal~~  
16 ~~and the claimant's modifications and/or comments, and the claimant and interested parties'~~  
17 ~~opportunity for rebuttal will be conducted according to the timelines under section 1181.11 of~~  
18 ~~these regulations.~~

19 ~~Note: Authority cited: Sections 17527(g), 17530 and 17553(a), Government Code. Reference:~~  
20 ~~Sections 17553(a), 17556(e), 17557 and 17564, Government Code.~~

21 **~~§ 1183.13. Reasonable Reimbursement Methodology.~~**

22 ~~(a) Government Code section 17518.5 defines a "reasonable reimbursement methodology" as a~~  
23 ~~formula for reimbursing local agencies and school districts for costs mandated by the state, as~~  
24 ~~defined in Section 17514.~~

25 ~~(b) For purposes of developing a reasonable reimbursement methodology pursuant to~~  
26 ~~Government Code sections 17557 or 17557.1, the following definitions apply:~~

27 ~~(1) "Costs to implement the mandate in a cost efficient manner" include only those costs for the~~  
28 ~~activities that were determined to be reimbursable by the commission in the Statement of~~  
29 ~~Decision, and the costs for the most reasonable methods of complying with the mandate pursuant~~  
30 ~~to Section 1183.1, subdivision (a)(4), of these regulations.~~

31 ~~(2) An interested party may submit cost information or other cost projections that can be the~~  
32 ~~basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable~~  
33 ~~reimbursement methodology submitted pursuant to Government Code section 17557.1.~~

34 ~~(3) When surveying or otherwise gathering cost data to develop a formula, "representative~~  
35 ~~sample of claimants" does not include eligible claimants that do not respond to surveys or~~  
36 ~~otherwise participate in submitting cost data.~~

37 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
38 ~~17518.5, 17557 and 17557.1, Government Code.~~

1 **§ 1183.131. Reasonable Reimbursement Methodology, Included in Parameters and**  
2 **Guidelines.**

3 (a) If the claimant indicates in the proposed parameters and guidelines or comments that a  
4 reasonable reimbursable methodology, as defined in Government Code section 17518.5, should  
5 be considered for inclusion in the parameters and guidelines; or if the Department of Finance,  
6 Office of the State Controller, any affected state agency, claimant, or interested party proposes  
7 consideration of a reasonable reimbursement methodology, commission staff may schedule an  
8 informal conference to discuss the methodology and plan for submittal of a reasonable  
9 reimbursement methodology.

10 (b) Proposed reasonable reimbursement methodology, as described in Government Code section  
11 17518.5, shall include any documentation or assumption relied upon to develop the proposed  
12 methodology. Proposals shall be submitted to the commission within sixty (60) days following  
13 the informal conference described in this section.

14 (c) Claimants, state agencies, and interested parties shall file and serve a proposed reasonable  
15 reimbursement methodology in accordance with section 1181.2 of these regulations.

16 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and  
17 provide written comments or recommendations concerning the proposed reasonable  
18 reimbursement methodology within fifteen (15) days of service.

19 (e) Claimants, state agencies, and interested parties shall file and serve written responses in  
20 accordance with section 1181.2 of these regulations.

21 (f) Within fifteen (15) days of service of the written comments prepared by other parties and  
22 interested parties, the party that proposed the reasonable reimbursement methodology may  
23 submit a written rebuttal to commission staff, and shall file and serve the rebuttal in accordance  
24 with section 1181.2 of these regulations.

25 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
26 17518.5, 17557 and 17557.1, Government Code.

27 **§ 1183.14. Adoption of Parameters and Guidelines.**

28 (a) After review of the proposed parameters and guidelines, written comments,  
29 recommendations, and rebuttals submitted by state agencies and interested parties, commission  
30 staff shall prepare a staff analysis and recommend the adoption of the claimant's proposed  
31 parameters and guidelines or adoption of an amended, modified, or supplemented version of the  
32 claimant's proposed parameters and guidelines. Commission staff's recommendation may include  
33 a reasonable reimbursement methodology developed by a party pursuant to Government Code  
34 section 17518.5.

35 (b) A draft of commission staff's recommendation may be presented to the parties and interested  
36 parties at a prehearing or informal conference before presentation to the commission.

37 (c) The commission shall conduct a hearing in accordance with article 7 of these regulations  
38 before adoption of the parameters and guidelines.

39 (d) Within ten (10) days of the adoption of parameters and guidelines, the executive director  
40 shall send copies to the Office of the State Controller and to everyone on the mailing list

1 described in section 1181.2 of these regulations, and shall post a copy on the commission's web  
2 site.

3 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference cited:  
4 Sections 17518.5, 17530, 17553(a) and 17557, Government Code.

5 **§ 1183.2. Amendments to Parameters and Guidelines.**

6 (a) All requests pursuant to Government Code section 17557 to amend, modify, or supplement  
7 parameters and guidelines shall include the proposed language for the specific sections of the  
8 existing parameters and guidelines that are to be changed, and include a narrative explaining why  
9 the amendment is required.

10 A request to amend parameters and guidelines may be filed to make any of the following  
11 changes to the parameters and guidelines:

12 (1) Delete any reimbursable activity that is repealed by statute or executive order after the  
13 adoption of the original or last amended parameters and guidelines.

14 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do  
15 not require a new legal finding that there are "no costs mandated by the state" under Government  
16 Code section 17556, subdivision (e).

17 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable  
18 activities.

19 (4) Clarify reimbursable activities consistent with the original statement of decision.

20 (5) Add new reimbursable activities that are reasonably necessary for the performance of the  
21 original state mandated program pursuant to section 1183.1, subdivision (a)(4) of these  
22 regulations.

23 (6) Define what is not reimbursable consistent with the original statement of decision.

24 (7) Consolidate the parameters and guidelines for two or more programs.

25 (8) Amend the "boilerplate" language.

26 (b) For purposes of this section, "boilerplate" language is defined as the language in the  
27 parameters and guidelines that is not unique to the state mandated program that is the subject of  
28 the parameters and guidelines.

29 (c) The addition or substitution of requestors and supporting declarations based on the original  
30 facts alleged in an existing parameters and guidelines amendment request is not an  
31 "amendment." However, new proposals for amendments must be submitted as a new parameters  
32 and guidelines amendment request.

33 (d) Number of copies. A claimant or state agency requesting an amendment to existing  
34 parameters and guidelines shall submit an original and seven (7) copies of proposed amendments  
35 to commission staff.

36 (e) Within ten (10) days of receipt of a request to amend, modify, or supplement parameters and  
37 guidelines, commission staff shall send a copy to the Department of Finance, Office of the State  
38 Controller, affected state agencies, and interested parties who are on the mailing list described in  
39 section 1181.2 of these regulations, and shall post the letter on the commission's web site.

1 ~~(f) Commission staff shall notify all recipients that they shall have the opportunity to review and~~  
2 ~~provide written comments or recommendations concerning the proposed amendment of the~~  
3 ~~parameters and guidelines within thirty (30) days of service.~~

4 ~~(g) Parties and interested parties shall file and serve written responses in accordance with section~~  
5 ~~1181.2 of these regulations.~~

6 ~~(h) The requesting party and other interested parties may submit written rebuttals within thirty~~  
7 ~~(30) days of service of the comments and recommendations prepared by parties and interested~~  
8 ~~parties. Written rebuttals shall be filed and served in accordance with section 1181.2 of these~~  
9 ~~regulations.~~

10 ~~(i) An amendment shall be made only after the commission has conducted a hearing in~~  
11 ~~accordance with article 7 of these regulations.~~

12 ~~(j) A request to amend parameters and guidelines may be withdrawn by written application to the~~  
13 ~~executive director any time before a decision is adopted, or by oral application at the time of~~  
14 ~~hearing. The requestor(s) shall file and serve the written application in accordance with section~~  
15 ~~1181.2 of these regulations. Commission staff shall post a copy of the notice on the commission's~~  
16 ~~web site for sixty (60) days prior to dismissal of request to amend parameters and guidelines. If~~  
17 ~~no other claimant or state agency takes over the request to amend parameters and guidelines by~~  
18 ~~substitution of parties within sixty (60) days of service and posting of the application to~~  
19 ~~withdraw, the Executive Director shall issue a letter to everyone on the mailing list described in~~  
20 ~~section 1181.2 of these regulations dismissing the request to amend parameters and guidelines~~  
21 ~~and shall post the letter on the commission's web site.~~

22 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
23 ~~17530, 17553, 17557 and 17560, Government Code.~~

24 **~~§ 1183.21. Dismissal of Requests for Amendments to Parameters and Guidelines.~~**

25 ~~(a) Requests to amend parameters and guidelines that have been postponed or placed on inactive~~  
26 ~~status by the requesting party for a period of more than one (1) year may be dismissed by the~~  
27 ~~commission on its own motion, or by a motion of a party after notice and an opportunity to be~~  
28 ~~heard has been made to the parties and interested parties.~~

29 ~~(b) The hearing on a dismissal of a request to amend parameters and guidelines shall be~~  
30 ~~conducted in accordance with Article 7 of these regulations.~~

31 ~~(c) Notice of a hearing to dismiss a request to amend parameters and guidelines shall be made~~  
32 ~~within sixty (60) days of the date scheduled for hearing. A copy of the notice shall also be posted~~  
33 ~~on the commission's web site. Commission staff shall notify the parties and interested parties that~~  
34 ~~they shall have the opportunity to provide written comments on the motion to dismiss a request~~  
35 ~~to amend parameters and guidelines within forty five (45) days of receipt of the notice of the~~  
36 ~~hearing. Parties and interested parties shall file and serve their written comments in accordance~~  
37 ~~with section 1181.2 of these regulations.~~

38 ~~(d) Delays or postponements under the following circumstances will not be considered for~~  
39 ~~purposes of computing whether a request for amendments to parameters and guidelines has been~~  
40 ~~postponed or placed on inactive status by the claimant for more than (1) one year:~~

41 ~~1. Delays or postponements made at the request of the commission or other state agency or~~  
42 ~~department;~~

1 ~~2. Delays or postponements made at the request of the requesting party, because the resolution of~~  
2 ~~a matter currently before the commission of an issue similar to or related to the proposed~~  
3 ~~amendments to the parameters and guidelines is pending; and~~

4 ~~3. Delays or postponements made at the request of the requesting party, because the resolution of~~  
5 ~~litigation of an issue similar to or related to the proposed amendments to the parameters and~~  
6 ~~guidelines is pending.~~

7 ~~Note: Authority cited: Sections 17527(c) and (g) and 17532, Government Code. Reference:~~  
8 ~~Sections 17525, 17527(c), 17532 and 17557, Government Code.~~

9 ~~**§ 1183.25. Statewide Cost Estimate.**~~

10 ~~(a) If the commission determines that there are state mandated costs pursuant to Government~~  
11 ~~Code sections 17514 and 17556, it shall adopt a statewide cost estimate of the amount within~~  
12 ~~twelve (12) months after receipt of a completed test claim unless extended to eighteen (18)~~  
13 ~~months by the commission or executive director. As provided in Section 1183.01, certain days~~  
14 ~~may be tolled and may not be counted toward the date a statewide cost estimate must be adopted~~  
15 ~~by the commission.~~

16 ~~(b) Commission staff may develop the statewide cost estimate based on initial reimbursement~~  
17 ~~claims filed with the Office of the State Controller, application of a reasonable reimbursement~~  
18 ~~methodology, or use a different methodology based on recommendations from the test claimant,~~  
19 ~~the Department of Finance, or other interested parties.~~

20 ~~(c) Before presenting a statewide cost estimate to the commission for adoption, commission staff~~  
21 ~~shall disclose to the parties and interested parties the methodology, basis for any assumptions~~  
22 ~~made, and sources of any data used to develop the estimate. This information may be disclosed~~  
23 ~~to the parties and interested parties to the test claim during an informal conference or prehearing~~  
24 ~~conference.~~

25 ~~(d) Before adopting the statewide cost estimate, the commission shall hold at least one (1)~~  
26 ~~informational hearing.~~

27 ~~(e) Upon adoption of the statewide cost estimate by the commission, a summary of the~~  
28 ~~parameters and guidelines and the statewide cost estimate shall be included in the commission's~~  
29 ~~report to the Legislature required by Government Code section 17600.~~

30 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
31 ~~17518.5, 17553 and 17557(a), Government Code.~~

32 ~~**§ 1183.3. Statewide Cost Estimate. [Renumbered]**~~

33 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
34 ~~17518.5, 17553 and 17557(a), Government Code.~~

35 ~~**§ 1183.30. Reasonable Reimbursement Methodology and Statewide Estimate of Costs**~~  
36 ~~**Developed by the Test Claimant and Department of Finance.**~~

37 ~~(a) Notwithstanding Government Code section 17557, within thirty (30) days of the adoption of~~  
38 ~~a statement of decision on a test claim, the successful test claimant and the Department of~~  
39 ~~Finance may notify the executive director in writing of their intent to follow the process~~

1 described in Government Code sections 17557.1-17557.2 to develop a reasonable reimbursement  
2 methodology and statewide estimate of costs.

3 (b) The written notification shall provide all information and filing dates, as specified in  
4 Government Code section 17557.1, subdivision (a).

5 (c) At the request of the test claimant and the Department of Finance, the executive director may  
6 provide for up to four extensions of the 180-day period for submittal of the draft reasonable  
7 reimbursement methodology and proposed statewide estimate of costs for the initial claiming  
8 period and budget year. Any request must be based on good cause as defined in section 1181.1  
9 and also include an update of all information and filing dates provided in the original written  
10 notification submitted pursuant to Government Code section 17557.1, subdivision (a). If no  
11 submittal of a draft and no request for an extension has been made by the filing date specified in  
12 the notice of intent to develop a reasonable reimbursement methodology, or if all extensions  
13 have been exhausted, the Executive Director shall issue a letter notifying the test claimant of the  
14 duty to submit proposed parameters and guidelines within 30 days under Government Code  
15 section 17557, subdivision (a).

16 (d) The test claimant and Department of Finance shall file and serve any filings made pursuant to  
17 Government Code section 17557.1 in accordance with section 1181.2 of these regulations.

18 (e) Commission staff shall notify all recipients that they shall have the opportunity to review and  
19 provide written comments or recommendations concerning the draft reasonable reimbursement  
20 methodology and proposed statewide estimate of costs within fifteen (15) days of service.

21 (f) Claimants, state agencies, and interested parties shall file and serve written responses in  
22 accordance with section 1181.2 of these regulations.

23 (g) Within seven (7) days of service of the written comments prepared by other parties and  
24 interested parties, the test claimant and Department of Finance may submit written rebuttals  
25 which shall be filed and served in accordance with section 1181.2 of these regulations.

26 (h) At least ten (10) days prior to the next hearing, commission staff shall issue review comments  
27 and a staff recommendation on whether the commission should approve the draft reasonable  
28 reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to  
29 Government Code section 17557.2.

30 Note: Authority cited: Sections 17527(c), 17527(g) and 17532, Government Code. Reference:  
31 Sections 17557.1 and 17557.2, Government Code.

32 **§ 1183.31. Joint Request for Early Termination of Reasonable Reimbursement**  
33 **Methodology.**

34 (a) The test claimant and the Department of Finance may file a joint request for early termination  
35 of a reasonable reimbursement methodology with the commission by submitting a request made  
36 pursuant to Government Code section 17557.2, subdivision (e) which shall be filed and served in  
37 accordance with section 1181.2 of these regulations.

38 (b) Commission staff shall notify all recipients that they shall have the opportunity to review and  
39 provide written comments or recommendations on the joint request for early termination of a  
40 reasonable reimbursement methodology within fifteen (15) days of service.

1 ~~(c) Claimants, state agencies, and interested parties shall file and serve written responses in~~  
2 ~~accordance with section 1181.2 of these regulations.~~

3 ~~(d) Within seven (7) days of service of the written comments prepared by other parties and~~  
4 ~~interested parties, the test claimant and Department of Finance may submit written rebuttals~~  
5 ~~which shall be filed and served in accordance with section 1181.2 of these regulations.~~

6 ~~(e) At least ten (10) days prior to the next hearing, commission staff shall issue review comments~~  
7 ~~and a staff recommendation on whether the commission should approve the joint request for~~  
8 ~~early termination of a reasonable reimbursement methodology pursuant to Government Code~~  
9 ~~section 17557.2, subdivision (e).~~

10 ~~(f) If the commission approves a joint request for early termination, the commission shall notify~~  
11 ~~the test claimant of the duty to submit proposed parameters and guidelines to the commission~~  
12 ~~pursuant to subdivision (a) of Government Code section 17557, and section 1183.11 of these~~  
13 ~~regulations.~~

14 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
15 ~~17553(a), 17557 and 17557.2, Government Code.~~

16 **§ 1183.32. Expiration of Reasonable Reimbursement Methodology.**

17 ~~(a) At least one year before the expiration of a reasonable reimbursement methodology,~~  
18 ~~commission staff shall notify the test claimant and the Department of Finance, that they may do~~  
19 ~~one of the following:~~

20 ~~1. Jointly propose amendments to the reasonable reimbursement methodology by submitting: (A)~~  
21 ~~the draft reasonable reimbursement methodology, (B) A description of the steps the test claimant~~  
22 ~~and the Department of Finance undertook to determine the level of support by local agencies or~~  
23 ~~school districts for the draft reasonable reimbursement methodology, (C) an agreement that the~~  
24 ~~reasonable reimbursement methodology developed and approved under Government Code~~  
25 ~~section 17557.2 shall be in effect for a period of five years unless a different term is approved by~~  
26 ~~the commission, and (D) an estimate of the mandate's annual cost for the subsequent budget year.~~

27 ~~2. Jointly propose that the reasonable reimbursement methodology remain in effect.~~

28 ~~3. Allow the reasonable reimbursement methodology to expire and notify the commission that~~  
29 ~~the test claimant will submit proposed parameters and guidelines to the commission pursuant to~~  
30 ~~subdivision (a) of Government Code section 17557 and section 1183.11 of these regulations to~~  
31 ~~replace the reasonable reimbursement methodology.~~

32 ~~(b) Copies of the notice provided under subdivision (a) shall be filed and served in accordance~~  
33 ~~with section 1181.2 of these regulations.~~

34 ~~(c) The test claimant and the Department of Finance may jointly propose amendments to the~~  
35 ~~reasonable reimbursement methodology or the continuation of a reasonable reimbursement~~  
36 ~~methodology by submitting a request made pursuant to Government Code section 17557.2,~~  
37 ~~subdivision (f), which shall be filed and served in accordance with section 1181.2 of these~~  
38 ~~regulations.~~

39 ~~(d) Commission staff shall notify all recipients that they shall have the opportunity to review and~~  
40 ~~provide written comments or recommendations on the jointly proposed amendments or request~~  
41 ~~for continuation of the reasonable reimbursement methodology within thirty (30) days of service.~~

1 ~~(e) Claimants, state agencies, and interested parties shall file and serve written responses in~~  
2 ~~accordance with section 1181.2 of these regulations.~~

3 ~~(f) Within fifteen (15) days of service of the written comments prepared by other parties and~~  
4 ~~interested parties, the test claimant and Department of Finance may submit written rebuttals~~  
5 ~~which shall be filed and served in in accordance with section 1181.2 of these regulations.~~

6 ~~(g) At least ten (10) days prior to the next hearing, commission staff shall issue review comments~~  
7 ~~and a staff recommendation on whether the commission should approve the jointly proposed~~  
8 ~~amendments or the continuation of a reasonable reimbursement methodology pursuant to~~  
9 ~~Government Code section 17557.2, subdivision (g).~~

10 ~~(h) Within ten (10) days of the adoption of the jointly proposed amendments or the continuation~~  
11 ~~of a reasonable reimbursement methodology, the executive director shall send copies to the~~  
12 ~~Office of the State Controller, and to parties and interested parties who are on the mailing list~~  
13 ~~described in section 1181.2 of these regulations.~~

14 ~~Note: Authority cited: Sections 17527(g) and 17553 (a), Government Code. Reference: Sections~~  
15 ~~17553(a), 17557, 17557.1 and 17557.2, Government Code.~~

## 16 **Article 4.5. State Mandates Apportionment System**

### 17 **§ 1184.5. Definitions: State Mandates Apportionment System.**

18 ~~(a) Request for Inclusion. A Request for Inclusion is a factual statement about a mandated cost~~  
19 ~~program and a petition for a review of the described program by the Commission on State~~  
20 ~~Mandates. Such review is intended to result in a decision whether or not to include the program~~  
21 ~~in the State Mandates Apportionment System.~~

22 ~~(b) Stable costs. Stable costs are those costs incurred by local agencies or school districts as a~~  
23 ~~result of implementing a mandated cost program which, when reviewed on a statewide basis over~~  
24 ~~a three year period, have not fluctuated significantly.~~

25 ~~(c) Request for Removal. A Request for Removal is a factual statement about significant~~  
26 ~~modifications or amendments to a program which is part of the State Mandates Apportionment~~  
27 ~~System. The statement is intended to result in the discontinuance of such program in the State~~  
28 ~~Mandates Apportionment System.~~

29 ~~Note: Authority and reference cited: Section 17615, Government Code.~~

### 30 **§ 1184.6. Request for Inclusion.**

31 ~~(a) Any local agency, school district, the Department of Finance or the State Controller's Office~~  
32 ~~may request that the commission review a mandated cost program(s) for possible inclusion in the~~  
33 ~~State Mandates Apportionment System in accordance with Section 17615.1 of the Government~~  
34 ~~Code.~~

35 ~~(b) In order to obtain a review and determination regarding inclusion in the system, a local~~  
36 ~~agency, school district or state agency must file a "Request for Inclusion" with the commission.~~

37 ~~(c) The request for inclusion must contain at least the following:~~

38 ~~(1) the chapter number of the law which established the mandated cost program(s).~~



1 ~~(2) a detailed narrative describing the mandated cost program with an explanation of the reasons~~  
2 ~~why the mandated cost program should be included in the State Mandates Apportionment~~  
3 ~~System.~~

4 ~~(3) any other pertinent information which will substantiate the request or which would have a~~  
5 ~~bearing on the decision of the commission in this matter.~~

6 ~~(d) The commission shall consider the recommendation submitted from the Controller for each~~  
7 ~~new mandate submitted for inclusion in the State Mandates Apportionment System in~~  
8 ~~accordance with Section 17615.4(c) of the Government Code.~~

9 ~~(e) Requests for inclusion will be considered incomplete if any of the preceding elements or~~  
10 ~~documents required in subsection (c) of this section are illegible or not included. Incomplete~~  
11 ~~requests for inclusion shall be returned to the requestor for completion.~~

12 ~~(f) Requests for inclusion filings and any state agency recommendations shall be subject to the~~  
13 ~~requirements of Article 7 of these regulations beginning at Section 1187.~~

14 ~~Note: Authority and reference cited: Sections 17615 and 17615.1, Government Code.~~

15 **~~§ 1184.7. Adoption of Finding for Request for Inclusion.~~**

16 ~~(a) The commission, after reviewing the request for inclusion and conducting at least one (1)~~  
17 ~~hearing in accordance with Article 7 of these regulations, shall adopt a finding that the mandated~~  
18 ~~program(s) will or will not be included in the State Mandates Apportionment System.~~

19 ~~(b) The primary criteria to be used by the commission in making such a determination will~~  
20 ~~include a review of the mandated program to determine if the program has a history of stable~~  
21 ~~costs for most claimants, if the mandated program has been recently modified and if inclusion~~  
22 ~~would accurately reflect the costs of the state mandated program.~~

23 ~~(c) Upon adoption of a finding that a mandated program should be included in the State~~  
24 ~~Mandates Apportionment System, the commission shall direct the Controller to include the~~  
25 ~~program in the system.~~

26 ~~Note: Authority and reference cited: Section 17615.1, Government Code.~~

27 **~~§ 1184.8. Request for Removal.~~**

28 ~~(a) Any local agency, school district or state agency may request that the commission review a~~  
29 ~~mandated program included in the State Mandates Apportionment System that has been modified~~  
30 ~~or amended by the Legislature or an executive order for possible removal of the program from~~  
31 ~~the system in accordance with Section 17615.7 of the Government Code.~~

32 ~~(b) In order to obtain a review and determination regarding removal of a program from the~~  
33 ~~system, a local agency, school district or state agency must file a "Request for Removal" with the~~  
34 ~~commission.~~

35 ~~(c) The request for removal must contain at least the following elements:~~

36 ~~(1) the chapter number or executive order of the law which established the mandated cost~~  
37 ~~program.~~

1 ~~(2) the chapter number of the law or the executive order which significantly modified or~~  
2 ~~amended the costs of the program or a detailed description of the circumstances or events which~~  
3 ~~have caused such changes.~~

4 ~~(3) a detailed narrative describing the mandated cost program with an explanation of the reasons~~  
5 ~~why the mandated program should no longer be included in the State Mandates Apportionment~~  
6 ~~System.~~

7 ~~(4) any other information which will substantiate the request or which would have a bearing on~~  
8 ~~the decision of the commission in this matter.~~

9 ~~(d) Requests for Removal will be considered incomplete if any of the preceding elements or~~  
10 ~~documents required in subsection (c) of this section are illegible or not included. Incomplete~~  
11 ~~Requests for Removal shall be returned to the requestor for completion.~~

12 ~~(e) Request for removal filings and any state agency recommendations shall be subject to the~~  
13 ~~requirements of Article 7 of these regulations beginning at Section 1187.~~

14 ~~Note: Authority and reference cited: Section 17615.7, Government Code.~~

15 **~~§ 1184.9. Adoption of Finding for Request for Removal.~~**

16 ~~(a) The commission, after reviewing the request for removal and conducting at least one (1)~~  
17 ~~hearing in accordance in Article 7 of these regulations, shall adopt a finding that the mandated~~  
18 ~~program(s) will or will not continue to be included in the State Mandates Apportionment System.~~

19 ~~(b) The primary criteria to be used by the commission in making such a determination will~~  
20 ~~include whether the mandated program was significantly modified or amended by the Legislature~~  
21 ~~or by executive order so as to affect the ongoing costs of the program in a way that the historical~~  
22 ~~costs of the program are no longer an accurate reflection of continuing costs.~~

23 ~~(c) Upon adoption of a finding that a mandated program should be removed from the system, the~~  
24 ~~commission shall direct the Controller to remove the program from the system. In that direction~~  
25 ~~to the Controller, the commission shall specify if the program will be removed temporarily or for~~  
26 ~~an indefinite period of time.~~

27 ~~Note: Authority and reference cited: Section 17615.5, Government Code.~~

28 **~~§ 1184.10. Reviewing an Apportionment or Base Year Entitlement.~~**

29 ~~(a) Upon request of a local agency, school district or state agency the commission shall review~~  
30 ~~the apportionment or base year entitlement pursuant to Section 17615.8(a) of the Government~~  
31 ~~Code.~~

32 ~~(b) In order to obtain a review of an apportionment or base year entitlement a "Request for~~  
33 ~~Review" shall be filed with the commission.~~

34 ~~(c) The request for review shall contain at least the following elements:~~

35 ~~(1) Identification of the mandated program(s) that is alleged to require review.~~

36 ~~(2) A detailed narrative describing the need to modify the apportionment or base year~~  
37 ~~entitlement.~~

1 ~~(3) A statement to the effect that the other mandated programs included in the local agency or~~  
2 ~~school district's apportionment are not overfunded in an amount sufficient to offset any~~  
3 ~~underfunding.~~

4 ~~(4) Cost information that outlines the amount of the funding for the total apportionment and the~~  
5 ~~calculations necessary to show that the program(s) needing modification either under or over~~  
6 ~~reimburse the local agency or school district's actual costs by 20 percent or by one thousand~~  
7 ~~dollars (\$1,000), whichever is less.~~

8 Note: Authority and reference cited: Section 17615.8, Government Code.

9 **§ 1184.11. Adjustment to Apportionment.**

10 ~~(a) The commission, after reviewing an apportionment or base year entitlement and conducting~~  
11 ~~at least one (1) hearing in accordance with Article 7 of these regulations, shall adopt a finding~~  
12 ~~that the apportionment or base year entitlement will or will not be adjusted.~~

13 ~~(b) If the commission determines that a local agency or school district's apportionment falls short~~  
14 ~~of reimbursing for all mandates upon which the apportionment or base year entitlement is based~~  
15 ~~by 20 percent or by one thousand dollars (\$1,000), whichever is less, then the commission shall~~  
16 ~~direct the Controller to adjust the apportionment accordingly.~~

17 ~~(c) If the commission determines that a local agency or school district's apportionment~~  
18 ~~adequately reflects the costs incurred by the local agency or school district for all mandates upon~~  
19 ~~which that apportionment is based, the commission may, in its discretion, direct the Controller to~~  
20 ~~withhold the costs of the commission's review from the next apportionment to the local agency~~  
21 ~~or school district. Such a determination will be made only when the commission determines that~~  
22 ~~the request to review an apportionment was frivolous and without merit.~~

23 Note: Authority and reference cited: Section 17615.9, Government Code.

24 **Article 5. Incorrect Reduction Claims**

25 **§ 1185. Incorrect Reduction Claim Filing.**

26 ~~(a) To obtain a determination that the Office of State Controller incorrectly reduced a~~  
27 ~~reimbursement claim, a claimant shall file an "incorrect reduction claim" with the commission.~~

28 ~~(b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,~~  
29 ~~it must notify the commission of its intent to do so at the time it files its incorrect reduction claim~~  
30 ~~and meet the requirements of section 1185.2 of these regulations.~~

31 ~~(c) All incorrect reduction claims shall be filed with the commission no later than three (3) years~~  
32 ~~following the date of the Office of State Controller's final state audit report, letter, remittance~~  
33 ~~advice, or other written notice of adjustment notifying the claimant of a reduction.~~

34 ~~(d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement~~  
35 ~~claim(s) filed by one claimant. The incorrect reduction claim may be for more than one fiscal~~  
36 ~~year.~~

37 ~~(e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by~~  
38 ~~the commission.~~

- 1 ~~(f) All incorrect reduction claims, or amendments thereto, shall contain at least the following~~  
2 ~~elements and documents:~~
- 3 ~~(1) A copy of the Office of State Controller's claiming instructions that were in effect during the~~  
4 ~~fiscal year(s) of the reimbursement claim(s).~~
- 5 ~~(2) A written detailed narrative that describes the alleged incorrect reduction(s). The narrative~~  
6 ~~shall include a comprehensive description of the reduced or disallowed area(s) of cost(s).~~
- 7 ~~(3) If the narrative describing the alleged incorrect reduction(s) involves more than discussion of~~  
8 ~~statutes or regulations or legal argument and utilizes assertions or representations of fact, such~~  
9 ~~assertions or representations shall be supported by testimonial or documentary evidence and shall~~  
10 ~~be submitted with the claim. All documentary evidence must be authenticated by declarations~~  
11 ~~under penalty of perjury signed by persons who are authorized and competent to do so and be~~  
12 ~~based upon the declarant's personal knowledge or information or belief.~~
- 13 ~~(4) A copy of any final state audit report, letter, remittance advice, or other written notice of~~  
14 ~~adjustment from the Office of State Controller that explains the reason(s) for the reduction or~~  
15 ~~disallowance.~~
- 16 ~~(5) A copy of the subject reimbursement claims the claimant submitted to the Office of State~~  
17 ~~Controller.~~
- 18 ~~(6) An incorrect reduction claim, or amendment thereto, shall be signed at the end of the~~  
19 ~~document, under penalty of perjury by the claimant or its authorized representative, with the~~  
20 ~~declaration that the incorrect reduction claim is true and complete to the best of the declarant's~~  
21 ~~personal knowledge or information or belief. The date signed, the declarant's title, address,~~  
22 ~~telephone number, and, if available, electronic mail address and facsimile number, shall~~  
23 ~~be included.~~
- 24 ~~(7) The claimant shall file one original incorrect reduction claim, or amendment thereto, and~~  
25 ~~accompanying documents with the commission. An "original" is either a signed hard copy or an~~  
26 ~~Adobe PDF electronic copy thereof submitted through the e-filing system on the commission's~~  
27 ~~web site. If the document is e-filed with the commission, the claimant is responsible for~~  
28 ~~maintaining the paper document with original signature(s) for the duration of the test claim~~  
29 ~~process, including any period of appeal. If a hard copy is submitted the original shall be unbound~~  
30 ~~and single-sided, without tabs, and include a table of contents. If the original is filed in Adobe~~  
31 ~~PDF format, the accompanying documents shall also be filed in Adobe PDF format.~~
- 32 ~~(8) The claimant shall also file two (2) copies of the incorrect reduction claim, or amendment~~  
33 ~~thereto, and accompanying documents with the commission, if the original is filed in hard copy.~~  
34 ~~The copies may be two-sided and shall not include tabs. If the incorrect reduction claim, or~~  
35 ~~amendment thereto is e-filed, no copies shall be filed.~~
- 36 ~~(g) Within ten (10) days of receipt of an incorrect reduction claim, commission staff shall notify~~  
37 ~~the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction~~  
38 ~~claims will be considered incomplete if any of the elements required in subsections (c) through~~  
39 ~~(e) of this section are illegible or not included. Incomplete incorrect reduction claims shall be~~  
40 ~~returned to the claimant. If a complete incorrect reduction claim is not received by the~~  
41 ~~commission within thirty (30) days from the date the incomplete claim was returned to the~~  
42 ~~claimant, the executive director shall deem the filing to be withdrawn.~~

1 ~~(h) Within ten (10) days of receipt of an incorrect reduction claim, commission staff shall send a~~  
2 ~~copy of the incorrect reduction claim to the Office of the State Controller, and shall post it on the~~  
3 ~~commission's web site.~~

4 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17530,~~  
5 ~~17551(d) and 17553(d), Government Code.~~

6 ~~**§ 1185.01. Review of Incorrect Reduction Claims. [Renumbered]**~~

7 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(b),~~  
8 ~~Government Code.~~

9 ~~**§ 1185.02. Review of Completed Incorrect Reduction Claims and Preparation of Staff**~~  
10 ~~**Analysis. [Renumbered]**~~

11 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(b),~~  
12 ~~Government Code.~~

13 ~~**§ 1185.03. Withdrawal of Incorrect Reduction Claims. [Renumbered]**~~

14 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(b),~~  
15 ~~Government Code.~~

16 ~~**§ 1185.1. Review of Incorrect Reduction Claims.**~~

17 ~~(a) Within ten (10) days of receipt of a complete incorrect reduction claim, commission staff~~  
18 ~~shall provide a copy of the claim to the Office of State Controller.~~

19 ~~(b) Commission staff shall notify the Office of State Controller that written oppositions or~~  
20 ~~recommendations and supporting documentation in connection with an incorrect reduction claim~~  
21 ~~shall be filed no more than ninety (90) days from the date the copy of the claim is provided to the~~  
22 ~~Office of State Controller. The Office of State Controller shall simultaneously serve a copy of~~  
23 ~~any opposition or recommendation regarding the claim on the claimant and their designated~~  
24 ~~representative or, if a mailing list is provided by the commission, a copy of any opposition or~~  
25 ~~recommendation on the claim, must be filed on all parties and interested parties on the mailing~~  
26 ~~list. Proof of service must be filed with the oppositions or recommendations and supporting~~  
27 ~~documentation pursuant to section 1181.2. If the oppositions or recommendations regarding an~~  
28 ~~incorrect reduction claim involve more than the discussion of statutes, regulations or legal~~  
29 ~~argument and utilizes assertions or representations of fact, such assertions or representations~~  
30 ~~shall be supported by documentary evidence and shall be submitted with the response. All~~  
31 ~~documentary evidence must be authenticated by declarations under penalty of perjury signed by~~  
32 ~~persons who are authorized and competent to do so and be based upon the declarant's personal~~  
33 ~~knowledge or information or belief.~~

34 ~~(c) The claimant and interested parties may submit written rebuttals to the Office of State~~  
35 ~~Controller's comments. Written rebuttals shall be filed with the commission within thirty (30)~~  
36 ~~days of service of the Office of State Controller's comments. The claimant shall simultaneously~~  
37 ~~serve a copy of the written rebuttal on the Office of State Controller or, if a mailing list is~~  
38 ~~provided by the commission, a copy of the rebuttal, must be served on all parties and interested~~  
39 ~~parties on the mailing list. Proof of service shall be filed with the written rebuttal and supporting~~  
40 ~~documentation pursuant to section 1181.2. If the written rebuttal involves more than discussion~~  
41 ~~of statutes, regulations or legal argument and utilizes assertions or representations of fact, such~~

1 assertions or representations shall be supported by documentary evidence and shall be submitted  
2 with the rebuttal. All documentary evidence must be authenticated by declarations under penalty  
3 of perjury signed by persons who are authorized and competent to do so and be based upon the  
4 declarant's personal knowledge or information or belief.

5 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17551(d) and  
6 17553(d), Government Code.

7 **§ 1185.2. Consolidation of Claims Initiated by an Individual Claimant.**

8 (a) On behalf of a class of claimants, an individual claimant may initiate the consolidation of  
9 claims alleging an incorrect reduction as described in Government Code section 17558.7, if all of  
10 the following apply:

11 (1) The method, act, or practice that the claimant alleges led to the reduction has led to similar  
12 reductions of other parties' claims, and all of the claims involve common questions of law or  
13 fact.

14 (2) The common questions of law or fact among the claims predominate over any matter  
15 affecting only an individual claim.

16 (3) The consolidation of similar claims by individual claimants would result in consistent  
17 decision making by the commission.

18 (4) The claimant filing the consolidated claim would fairly and adequately protect the interests of  
19 the other claimants.

20 (b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the  
21 commission of its intent at the time of filing on a form provided by the commission.

22 (c) Within ten (10) days of receipt of a consolidated incorrect reduction claim, commission staff  
23 shall notify the claimant if the consolidated incorrect reduction claim is complete or incomplete  
24 pursuant to section 1185, and request the Office of the State Controller to provide the  
25 commission, within thirty (30) days, a list of claimants for whom the Controller has reduced  
26 similar claims under the same mandate, and the date each claimant was notified of an  
27 adjustment.

28 (d) Upon receipt of the list from the Office of the State Controller, the commission shall notify  
29 the list of other claimants experiencing similar reductions by the Controller under the same  
30 mandate and other interested parties of the original claimant's intent to consolidate an incorrect  
31 reduction claim.

32 Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section  
33 17558.7, Government Code.

34 **§ 1185.21. Joining a Consolidated Incorrect Reduction Claim.**

35 (a) Within thirty (30) days of receipt of the commission's notice regarding the original claimant's  
36 notice of intent to consolidate an incorrect reduction claim, any other eligible claimant may, on a  
37 form provided by the commission, file a notice of intent to join the consolidated incorrect  
38 reduction claim.

39 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with  
40 section 1185(c) and contain at least the following elements and documents:

1 ~~(1) A copy of the final state audit report, letter, remittance advice, or other written notice of~~  
2 ~~adjustment from the Office of State Controller that explains the reason(s) for the reduction or~~  
3 ~~disallowance.~~

4 ~~(2) A copy of the subject reimbursement claims submitted to the Office of State Controller.~~

5 ~~(3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification~~  
6 ~~by the joining claimant authorizing the original claimant to act as its representative in the~~  
7 ~~consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing~~  
8 ~~is true and complete to the best of the declarant's personal knowledge or information or belief.~~  
9 ~~The date signed, the declarant's title, address, telephone number, and, if available, electronic mail~~  
10 ~~address and facsimile number shall be included.~~

11 ~~(4) The joining claimant shall file one original notice of intent to join and accompanying~~  
12 ~~documents with the commission. If a hard copy is submitted the original shall be unbound and~~  
13 ~~single sided, without tabs. An "original" is either a signed hard copy or an Adobe PDF electronic~~  
14 ~~copy thereof submitted through the e-filing system on the commission's web site. If the~~  
15 ~~document is e-filed with the commission, the claimant is responsible for maintaining the paper~~  
16 ~~document with original signature(s) for the duration of the test claim process, including any~~  
17 ~~period of appeal. If the original is filed in Adobe PDF format, the accompanying documents shall~~  
18 ~~also be filed in Adobe PDF format.~~

19 ~~(5) The joining claimant shall also file two (2) copies of the notice of intent to join and~~  
20 ~~accompanying documents with the commission, if the original is filed in hard copy. The copies~~  
21 ~~may be two-sided and shall not include tabs. If the notice of intent to join is e-filed, no copies~~  
22 ~~shall be filed.~~

23 ~~(c) Within ten (10) days of receipt of a notice of intent to join a consolidated incorrect reduction~~  
24 ~~claim, commission staff shall notify the joining claimant if the notice of intent to join is complete~~  
25 ~~or incomplete. Notices of intent to join a consolidated incorrect reduction claim will be~~  
26 ~~considered incomplete if any of the elements required in subdivision (b) of this section are~~  
27 ~~illegible or not included. Incomplete notices of intent shall be returned to the joining claimant. If~~  
28 ~~a complete notice of intent to join a consolidated incorrect reduction claim is not received by the~~  
29 ~~commission within thirty (30) days from the date the incomplete notice of intent was returned to~~  
30 ~~the joining claimant, the commission shall deem the filing to be withdrawn.~~

31 ~~Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section~~  
32 ~~17558.7, Government Code.~~

33 **~~§ 1185.3. Opting Out of a Consolidated Incorrect Reduction Claim.~~**

34 ~~Pursuant to Government Code section 17558.7(f), each claimant that files an intent to join a~~  
35 ~~consolidated incorrect reduction claim may opt out and not be bound by any determination made~~  
36 ~~on the consolidated claim.~~

37 ~~(a) To opt out of a consolidated incorrect reduction claim, claimants shall file a written notice~~  
38 ~~with the commission within fifteen (15) days of service of the Office of State Controller's~~  
39 ~~comments. A copy of the notice must be served in accordance with section 1181.2.~~

40 ~~(1) No later than one (1) year after opting out, or within the statute of limitations under section~~  
41 ~~1185(c), whichever is later, a claimant that opts out of a consolidated claim shall file an~~

1 individual incorrect reduction claim pursuant to commission requirements in order to preserve its  
2 right to challenge a reduction made by the Controller on that same mandate.

3 (2) If a claimant opts out of a consolidated incorrect reduction claim and an individual incorrect  
4 reduction claim for that entity is already on file with the commission, the individual filing is  
5 automatically reinstated.

6 Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section  
7 17558.7, Government Code.

8 **§ 1185.4. Executive Director's Authority to Consolidate Incorrect Reduction Claims.**

9 (a) The executive director may consolidate part or all of any incorrect reduction claim with  
10 another incorrect reduction claim, if necessary to ensure the complete, fair, or timely  
11 consideration of any incorrect reduction claim.

12 (1) At least thirty (30) days before the action is taken, the executive director shall simultaneously  
13 serve on the parties and interested parties on the mailing list described in section 1181.2 of these  
14 regulations a notice of any proposed action to consolidate and shall post the notice on the  
15 commission's web site.

16 (2) During the thirty (30) day notice period, a claimant may serve and file a written request that  
17 an individual incorrect reduction claim be severed from the proposed consolidation. Timely  
18 requests to sever shall be approved by the executive director.

19 (3) Late requests for severing an individual incorrect reduction claim shall be denied. Any party  
20 may appeal to the commission for review of the actions and decisions of the executive director  
21 under this section pursuant to section 1181 of these regulations.

22 Note: Authority cited: Sections 17527(g) and 17558.8(b), Government Code. Reference:  
23 Sections 17530, 17554 and 17558.8, Government Code.

24 **§ 1185.5. Review of Completed Incorrect Reduction Claims and Preparation of Staff**  
25 **Analysis.**

26 (a) Before hearing an individual or consolidated incorrect reduction claim, commission staff  
27 shall prepare a written analysis of the incorrect reduction claim that shall include, but not be  
28 limited to, a review of any statements filed by the Office of State Controller and the claimant's  
29 rebuttal. The analysis shall also include a staff recommendation on whether the claimant's  
30 reimbursement claim was incorrectly reduced.

31 (b) At least eight (8) weeks before the hearing or at such other time as required by the executive  
32 director or stipulated to by the claimant and the Office of State Controller, commission staff shall  
33 distribute a draft staff analysis to the Office of State Controller and the claimant and their  
34 designated representative, or, if a mailing list is provided by the commission, a copy shall be  
35 distributed to all parties and interested parties on the mailing list.

36 (c) The Office of State Controller and the claimant may file written comments on the draft staff  
37 analysis with the commission. Written comments shall be filed with the commission at least five  
38 (5) weeks before the hearing or as otherwise stipulated to by the parties or determined and  
39 publicized by the executive director. If a mailing list is provided by the commission, a copy of  
40 the comments must be served on all parties and interested parties on the mailing list in



1 accordance with section 1181.2 of these regulations. Written comments shall be reviewed by  
2 staff and may be incorporated into the final staff analysis presented to the commission.

3 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(d),  
4 Government Code.

5 **§ 1185.6. Withdrawal of Incorrect Reduction Claims.**

6 (a) An incorrect reduction claim, except for a claim by the original claimant in a consolidated  
7 incorrect reduction claim, may be withdrawn by written application any time before a decision is  
8 adopted or by oral application at the time of hearing. If such an application is made, the  
9 Executive Director shall issue a letter to the claimant and the State Controller dismissing the  
10 claim.

11 (b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction  
12 claim, may be withdrawn by written application any time before a decision is adopted or by oral  
13 application at the time of hearing. The original claimant shall file and serve the written  
14 application in accordance with section 1181.2 of these regulations and commission staff shall  
15 post a copy of the notice on the commission's web site for sixty (60) days prior to dismissal of  
16 the incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within  
17 sixty (60) days of providing notice of its intent to take over the claim, perfect the filing by  
18 submitting the written narrative as required by section 1185, subdivisions (e) (2) and (e) (3). If  
19 none of the joint claimants takes over the claim by substitution of parties within sixty (60) days  
20 of service and posting of the application to withdraw, the Executive Director shall issue a letter  
21 to everyone on the mailing list described in section 1181.2 of these regulations dismissing the  
22 claim and providing the joint claimants with an opportunity to perfect their individual claims  
23 within sixty (60) days of service by submitting the written narrative as required by section 1185,  
24 subdivisions (e) (2) and (e) (3). The commission shall also post the letter on the commission's  
25 web site.

26 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17530 and  
27 17551(d), Government Code.

28 **§ 1185.7. Reinstatement of Costs.**

29 If the commission determines that a reimbursement claim was incorrectly reduced, the  
30 commission shall send the statement of decision to the Office of State Controller and request that  
31 the Office of State Controller reinstate the costs that were incorrectly reduced.

32 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(d),  
33 Government Code.

34 **Article 6. Review of Office of State Controller's Claiming Instructions**

35 **§ 1186. Review of Office of State Controller's Claiming Instructions.**

36 (a) Upon request of a local agency or school district, the commission shall review claiming  
37 instructions issued by the Office of State Controller.

38 (b) A request to review claiming instructions shall include the following:

39 (1) A copy of the disputed claiming instructions.

1 ~~(2) If available, correspondence or other documentation that verifies the local agency or school~~  
2 ~~district sought to resolve the dispute through the Office of State Controller.~~

3 ~~(3) A narrative that details the suggested changes(s) and the reasons why the local agency or~~  
4 ~~school district finds the claiming instructions need to be modified.~~

5 ~~(4) The name, address, telephone number, and if available the facsimile number and electronic~~  
6 ~~mail address of the agency contact person.~~

7 ~~(e) An original and three (3) copies of the request to review claiming instructions shall be~~  
8 ~~submitted to the commission by the local agency or school district.~~

9 ~~(d) Within ten (10) days of receipt of a request to review claiming instructions, commission staff~~  
10 ~~shall notify the local agency or school district that submitted the request if the submittal is~~  
11 ~~complete or incomplete. A request to review the claiming instructions shall be considered~~  
12 ~~incomplete if any of the elements required in subdivision (b) or (c) of this section are illegible or~~  
13 ~~not included. Incomplete requests shall be returned to the local agency or school district. If a~~  
14 ~~complete request is not received by the commission within thirty (30) days from the date the~~  
15 ~~incomplete request was returned, the commission shall deem the request to be withdrawn.~~

16 ~~(e) Within ten (10) days of receipt of a request to review claiming instructions, commission staff~~  
17 ~~shall send a copy to the Department of Finance, the Office of State Controller, affected state~~  
18 ~~agencies and interested parties who are on the mailing list. Commission staff shall also notify the~~  
19 ~~affected state agencies and interested parties on the mailing list that they may review and provide~~  
20 ~~written comments or recommendations concerning the request to review claiming instructions~~  
21 ~~within thirty (30) days of service. A copy of the notice shall also be posted on the commission's~~  
22 ~~web site.~~

23 ~~(f) State agencies and interested parties shall submit written responses to the commission which~~  
24 ~~shall be filed and served in accordance with section 1181.2 of these regulations.~~

25 ~~(g) Within thirty (30) days of service of the written responses by state agencies and interested~~  
26 ~~parties, the local agency or school district that filed the request to review claiming instructions~~  
27 ~~may submit a written rebuttal to the commission which shall be filed and served in accordance~~  
28 ~~with section 1181.2 of these regulations.~~

29 ~~(h) The commission shall conduct a hearing in accordance with Article 7 of these regulations on~~  
30 ~~the request to review claiming instructions.~~

31 ~~(i) If the commission determines that the claiming instructions need to be modified, the~~  
32 ~~commission shall direct the Office of State Controller to modify the claiming instructions to~~  
33 ~~conform to the parameters and guidelines.~~

34 ~~(j) An approved change to the claiming instructions shall be subject to the following schedule:~~

35 ~~(1) A request for review filed before the deadline for initial claims as specified in the claiming~~  
36 ~~instructions shall apply to all years eligible for reimbursement as defined in the original~~  
37 ~~parameters and guidelines.~~

38 ~~(2) A request for review filed after the initial claiming deadline must be submitted on or before~~  
39 ~~the annual reimbursement claim filing deadline set out in Government Code section 17560~~  
40 ~~following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.~~

1 ~~(k) A request to review claiming instructions may be withdrawn by written application to the~~  
2 ~~executive director any time before a decision is adopted or by oral application at the time of~~  
3 ~~hearing. The requestor(s) shall file and serve the written application in accordance with section~~  
4 ~~1181.2 of these regulations. Commission staff shall post a copy of the notice on the commission's~~  
5 ~~web site for sixty (60) days prior to dismissal of the request to review claiming instructions. If no~~  
6 ~~other local agency or school district takes over the request to review claiming instructions by~~  
7 ~~substitution of parties within sixty (60) days of service and posting of the application to~~  
8 ~~withdraw, the Executive Director shall issue a letter to everyone on the mailing list described in~~  
9 ~~section 1181.2 of these regulations dismissing the request to review claiming instructions and~~  
10 ~~shall post the letter on the commission's web site.~~

11 ~~Note: Authority cited: Sections 17527(g) and (h), Government Code. Reference: Sections 17530,~~  
12 ~~17560 and 17571, Government Code.~~

13 **Article 6.5. Applications for a Finding of Significant Financial Distress**

14 **§ 1186.5. Reduction in Aid Levels; Definitions.**

15 ~~When the county has made a compelling case that basic county services cannot be maintained~~  
16 ~~without a reduction in the level of aid established by Welfare and Institutions Code section~~  
17 ~~17000.5, the commission shall make a finding of significant financial distress.~~

18 ~~In making such a finding, the following definitions shall apply:~~

19 ~~(a) "Application" means a county application filed pursuant to this article requesting the~~  
20 ~~commission determine that the county has made a compelling case that basic county services~~  
21 ~~cannot be maintained without a reduction in the level of General Assistance aid established by~~  
22 ~~Welfare and Institutions Code section 17000.5, and finding that as a result, the county is in~~  
23 ~~significant financial distress, as defined in Welfare and Institutions Code section 17000.6.~~

24 ~~(b) "Applicant" means the county that filed the request for a finding of significant financial~~  
25 ~~distress.~~

26 ~~(c) A "compelling case" sufficient to cause a finding of significant financial distress must be~~  
27 ~~established by clear and convincing evidence.~~

28 ~~(d) "Basic county services" means those services which are fundamental or essential. Such~~  
29 ~~services shall include, but are not limited to, those services required by state or federal law, and~~  
30 ~~may vary from county to county.~~

31 ~~(e) "Maintained" means the level of service which the county must provide in order to adequately~~  
32 ~~or effectively furnish basic county services.~~

33 ~~Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and~~  
34 ~~Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.~~

35 **1186.51. Filing of an Application for a Finding of Significant Financial Distress.**

36 ~~(a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of~~  
37 ~~supervisors of any county to obtain a finding of significant financial distress, the board of~~  
38 ~~supervisors must submit a written application to the Commission on State Mandates.~~

39 ~~(b) The applicant shall file an original and seven (7) copies of the application, including~~  
40 ~~supporting documents, with the commission.~~

- 1 ~~(c) All applications shall contain at least the following:~~
- 2 ~~(1) A table of contents, indicating page numbers.~~
- 3 ~~(2) A copy of a resolution from the county board of supervisors stating that compliance with the~~  
4 ~~standards set forth in Welfare and Institutions Code section 17000.5 will result in significant~~  
5 ~~financial distress to the county for a specified period of time, up to 36 months.~~
- 6 ~~(3) A written narrative, including a summary, detailing the relevant financial or other budgetary~~  
7 ~~information and documents necessary for a county to make a compelling case that basic county~~  
8 ~~services, including public safety, cannot be maintained without a reduction in the standard of aid~~  
9 ~~as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:~~
- 10 ~~(A) The monthly caseload of General Assistance recipients for each of the 12 months preceding~~  
11 ~~the date the application is filed.~~
- 12 ~~(B) The current monthly rate of the General Assistance Standard of Aid.~~
- 13 ~~(C) The proposed reduced rate of the General Assistance Standard of Aid.~~
- 14 ~~(D) An overview of county finances, including, but not limited to county revenue sources;~~  
15 ~~budget reserve data; budget expenditures; mandated expenditures, and maintenance of effort~~  
16 ~~costs.~~
- 17 ~~(E) A detailed summary of program needs and expenditure flexibility, including, but not limited~~  
18 ~~to department by department data on unmet program needs for basic county services.~~
- 19 ~~(F) The County's total population at the time the application is filed, and the total county~~  
20 ~~population for the two fiscal years prior to the year in which the application was filed.~~
- 21 ~~(d) The written narrative shall be submitted under penalty of perjury. In addition, the financial~~  
22 ~~and other budgetary documents shall be certified under penalty of perjury.~~
- 23 ~~(e) Each page of the application, including all supporting documentation, shall be consecutively~~  
24 ~~numbered.~~
- 25 ~~(f) The original application, including all supporting documentation, shall be unbound and~~  
26 ~~single-sided.~~
- 27 ~~(g) The executive director shall notify an applicant within 10 days of receipt of an application~~  
28 ~~whether its application is incomplete. If the application is incomplete, the executive director may~~  
29 ~~return the application to the county. An application shall be considered incomplete if the~~  
30 ~~elements in (b) through (f) of this section have not been satisfied, are illegible or are not~~  
31 ~~included. The requirements for commission public hearings and decisions, as set forth in~~  
32 ~~subdivision (c), of Welfare and Institutions Code section 17000.6, apply only to complete~~  
33 ~~applications.~~
- 34 ~~(h) Within ten days of receipt of a completed application, the executive director shall notify the~~  
35 ~~applicant that the application is complete, and notify the applicant of the schedule. The executive~~  
36 ~~director shall also send the application to interested persons located in the applicant county.~~
- 37 ~~(i) Prior to filing an application, a county may request a tentative date for conducting the hearing~~  
38 ~~in the county. If a complete application is not received by a specified date, a new tentative~~  
39 ~~hearing date may be set.~~

1 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
2 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

3 **§ 1186.52. Extension of Period for Preliminary and Final Decision and Current Period of**  
4 **Financial Distress.**

5 (a) ~~If an application is filed while another county's application is pending, the executive director~~  
6 ~~may extend both the preliminary decision period up to 120 days and the final decision period up~~  
7 ~~to 150 days from the filing date of the application, unless otherwise provided in the current~~  
8 ~~Budget Act. If the preliminary and final decision periods are extended, any current period of~~  
9 ~~significant financial distress of the applicant that has been set, pursuant to subdivision (b), of~~  
10 ~~Welfare and Institutions Code Section 17000.6, shall also be extended for the same period.~~

11 (b) ~~Within ten (10) days of receipt of a county's application, the executive director shall provide~~  
12 ~~written notice to the applicant of extensions of the preliminary decision and final decision~~  
13 ~~periods and of any current period of significant financial distress of the applicant.~~

14 Note: Authority cited: Stats. 1998, c. 324, Prov. (2), p. 622 (and subsequent Budget Acts);  
15 Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code.  
16 Reference: Section 17000.6(c), Welfare and Institutions Code.

17 **§ 1186.53. Notice.**

18 (a) ~~Upon receipt of a complete application for a finding of significant financial distress, the~~  
19 ~~commission shall provide to the applicant a written 30-day notice of the hearing, to be held in~~  
20 ~~the county.~~

21 (b) ~~The notice shall be publicly posted by the applicant at the county court house and one county~~  
22 ~~welfare office where General Assistance recipients are generally present. The commission shall~~  
23 ~~publish two notices in a newspaper of general circulation in the county. The first notice shall be~~  
24 ~~published at least 30 days prior to the hearing date. The second notice shall be published at least~~  
25 ~~ten days prior to the hearing date. The cost of publishing the notices shall be paid for by the~~  
26 ~~commission.~~

27 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
28 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

29 **§ 1186.54. Pre-Hearing Conference.**

30 A pre-hearing conference may be scheduled by the executive director for the purpose of  
31 identifying issues and determining methods of resolving such issues. The county, and other  
32 parties known to have an interest in the county's application shall be invited to participate. This  
33 conference shall not limit the issues that can be presented to or considered by the commission at  
34 public hearing.

35 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
36 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

37 **§ 1186.55. Assignment to Hearing Panels/Hearing Officers.**

38 The chairperson may assign an application to a hearing panel consisting of one or more members  
39 of the commission, which shall act on behalf of the commission, or to a hearing officer for  
40 hearing and preparation of a preliminary decision. Assignments by the chairperson of members

1 on such hearing panels shall be rotated among the members with the composition of the  
2 members so assigned being varied and changed to assure that there shall never be a fixed and  
3 continued composition of members.

4 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
5 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

6 **§ 1186.6. Request for Supplemental Information.**

7 (a) The executive director may request supplemental information from the applicant to assist the  
8 commission in its review and analysis of the application. The applicant shall provide the  
9 supplemental information under the timeline established by the executive director.

10 (b) The supplemental information shall be submitted under penalty of perjury. Any attached  
11 financial or other budgetary documents shall be certified under penalty of perjury.

12 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
13 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

14 **§ 1186.61. Review of Completed Application for a Finding of Significant Financial Distress  
15 and Preparation of Staff Analysis.**

16 (a) Before the hearing is conducted in the applicant county, the executive director shall prepare  
17 and distribute a staff analysis of the application, which shall include, but not be limited to, a  
18 review of written responses, opposition, recommendations and comments filed by interested  
19 persons, and rebuttals filed by the applicant. The staff analysis may also include a review of the  
20 applicant's revenue sources, including the applicant's flexibility in directing its resources; review  
21 of the applicant's budget expenditures, statutory relief, contingencies and fund balances, an  
22 analysis of the applicant's department by department evaluation of unmet need in basic  
23 county services; and a preliminary recommendation whether the commission should approve or  
24 deny the application. The staff analysis shall describe the application and assist the commission  
25 in determining whether or not to make a finding of significant financial distress.

26 (b) The executive director shall send the staff analysis out for comment at least ten (10) days  
27 prior to the hearing conducted in the applicant county.

28 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
29 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

30 **§ 1186.62. Written Comments.**

31 The applicant and any interest persons may file written comments concerning the staff analysis  
32 with the commission. Written comments shall be filed with the commission and simultaneously  
33 served upon the applicant and any interest persons included on the mailing list under the timeline  
34 established by the executive director. The written comments shall be reviewed by the executive  
35 director and may be incorporated into any revised or supplemental staff analysis of the  
36 application.

37 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
38 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

1 **§ 1186.63. Conduct of Hearing.**

2 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose  
3 questions to the chairperson, hearing panel, or hearing officer for opposing witnesses in support  
4 or rebuttal of any matter relevant to the issues even though that matter was not covered in the  
5 direct examination.

6 (b) The hearings will not be conducted according to technical rules relating to evidence and  
7 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on  
8 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and  
9 unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of  
10 supplementing or explaining other evidence but shall not be sufficient in itself to support a  
11 finding unless it would be admissible over objection in civil actions.

12 (c) The commission, hearing panel, or hearing officer may question any party or witness, may  
13 admit any relevant and material evidence, and may limit the length of testimony to a specific  
14 amount of time for any party or witness.

15 (d) The taking of evidence and testimony in a hearing shall be controlled by the commission,  
16 hearing panel, or hearing officer in the manner best suited to ascertain the facts.

17 (e) The commission, hearing panel, or hearing officer may require any person to testify under  
18 oath or affirmation.

19 (f) Public hearings, pursuant to this article, shall be recorded by stenographic reporter or  
20 electronic recording or both. The transcript or recordings shall be kept for the period of time  
21 required by applicable law governing the retention of records of state agency public proceedings,  
22 or until conclusion of administrative or judicial proceedings, whichever is later.

23 (g) The commission hearing will be conducted pursuant to the provisions of article 6.5.

24 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
25 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

26 **§ 1186.64. Representation at Hearing.**

27 (a) The board of supervisors of a county shall designate a county representative.

28 (b) The county representative shall be the lead spokesperson and shall present all matters  
29 respecting the interest of the county in the proceeding.

30 (c) Withdrawal of appearance of any representative may be effected by filing a written notice of  
31 withdrawal and by serving a copy on the commission.

32 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
33 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

34 **§ 1186.65. Continuance of Hearings and Further Hearings.**

35 (a) The commission, hearing panel, or hearing officer may continue a hearing to another time or  
36 place.

37 (b) Due to the strict time frames contained in subdivision (c) of Welfare and Institutions Code  
38 section 17000.6, continuances will be granted only under compelling and urgent circumstances.

1 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
2 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

3 **§ 1186.7. Preliminary and Final Decisions; Action on Decisions.**

4 (a) ~~Within 60 days after receipt of an application, the executive director shall notify the county of~~  
5 ~~the commission, hearing panel, or hearing officer's preliminary decision that the county did or~~  
6 ~~did not make a compelling case that it will incur significant financial distress pursuant to Welfare~~  
7 ~~and Institutions Code section 17000.6. If the time period is extended pursuant to Section 1186.52~~  
8 ~~of these regulations, notice of the preliminary decision shall be provided within 120 days after~~  
9 ~~receipt of an application, or as otherwise provided by the current Budget Act.~~

10 (b) ~~If an application is heard by a hearing panel, the panel shall direct staff to prepare the~~  
11 ~~preliminary decision in such form that it may be adopted as the final decision by the commission.~~  
12 ~~When an application is heard by a hearing officer, a preliminary decision shall be presented in~~  
13 ~~such form that it may be adopted by the commission as its final decision on the application.~~  
14 ~~When an application is heard before the commission itself the commission shall direct staff to~~  
15 ~~prepare a final decision in accord with the commission's vote, which will be presented to the~~  
16 ~~commission for adoption as its final decision.~~

17 (c) ~~Within 90 days after receipt of an application, the executive director shall give notice to the~~  
18 ~~county of the commission's final decision that the county did or did not make a compelling case~~  
19 ~~that it will incur significant financial distress pursuant to Welfare and Institutions Code section~~  
20 ~~17000.6. If the time period is extended pursuant to Section 1186.52 of these regulations, notice~~  
21 ~~of the final decision shall be provided within 150 days after receipt of an application, or as~~  
22 ~~otherwise provided by the current Budget Act.~~

23 (d) ~~If the preliminary decision prepared by the hearing panel or hearing officer is not adopted by~~  
24 ~~the commission as its final decision, the commission may direct appropriate modification of the~~  
25 ~~preliminary decision and thereafter adopt it as the commission final decision or decide the~~  
26 ~~application upon the record, with or without taking additional evidence, or may refer the~~  
27 ~~application to a hearing panel or hearing officer to take additional evidence. If the application is~~  
28 ~~so assigned to a hearing panel or hearing officer, the hearing panel or hearing officer shall~~  
29 ~~prepare a preliminary decision, as provided in subdivision (b), which shall be based upon the~~  
30 ~~additional evidence and the transcript and other papers which are a part of the record of the prior~~  
31 ~~hearing.~~

32 (e) ~~The affirmative vote of at least a majority of the existing membership of the commission is~~  
33 ~~required for the adoption of a final decision by the commission. A copy of the final decision shall~~  
34 ~~be filed by the commission as a public record.~~

35 (f) ~~A commission final decision which makes a finding of significant financial distress will be~~  
36 ~~effective for a period not to exceed 36 months. The final decision shall specify whether the~~  
37 ~~effective date of the period of significant financial distress shall commence on the date of the~~  
38 ~~final decision or on a date no more than 60 days from the date of the final decision.~~

39 Note: Authority cited: Stats. 1998, c. 324, Prov. (2), p. 622 (and subsequent Budget Acts);  
40 Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code.  
41 Reference: Sections 17527(c) and 17532, Government Code; and Section 17000.6, Welfare and  
42 Institutions Code.



1 **§ 1186.71. Form of Decision.**

2 The final decision shall be based on the record, shall be in writing, and shall include a statement  
3 of reasons for the decision, findings, and conclusions. A copy of the final decision shall be  
4 mailed to or served on the applicant county.

5 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
6 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

7 **§ 1186.72. Reapplications.**

8 (a) A county may file a reapplication for a finding of significant financial distress with the  
9 commission.

10 (b) The application and hearing procedures prescribed in Article 6.5 of these regulations shall  
11 also apply to reapplications. The applicant shall also provide the following information in its  
12 reapplication:

13 (1) How the applicant utilized the savings in reduction of the General Assistance Standard of Aid  
14 realized from the preceding finding of significant financial distress.

15 (2) The difference in the county's total population between the date the preceding application was  
16 filed and the date the reapplication is filed.

17 (3) Any staff changes, changes to working conditions, including but not limited to reduced work  
18 hours or salary increases or decreases that occurred since the date the preceding application was  
19 filed.

20 (4) Any statutes enacted since the date the preceding application was filed that change county  
21 revenue sources or expenditures, or impose new mandates upon the county.

22 (5) Tables that include the difference between proposed and approved unmet need in the  
23 preceding application, and the proposed unmet need in the reapplication. Tables may also be  
24 submitted by a predetermined computer medium.

25 (c) A county filing a reapplication of a previously approved finding of significant financial  
26 distress must present a compelling case of significant financial distress continuing since the last  
27 approved finding by the commission.

28 (d) For a previously denied application, a county may file a reapplication when the fiscal  
29 situation in the county has changed.

30 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
31 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

32 **§ 1186.73. Withdrawal of Applications.**

33 An application may be withdrawn by written notice any time before a final decision is issued or  
34 upon request at the time of hearing. When the commission receives such notice or request to  
35 withdraw, the commission may issue a decision dismissing the application.

36 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
37 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

1 **Article 7. Hearings and Decisions**

2 **§ 1187. Scheduling and Noticing the Hearing.**

3 (a) A "matter", subject to hearings and decisions under article 7 of these regulations, shall  
4 include a test claim, proposed parameters and guidelines, request to amend parameters and  
5 guidelines, incorrect reduction claim, request for inclusion or removal from the State Mandates  
6 Apportionment System, request for review of apportionment or base year entitlement for  
7 programs included in the State Mandates Apportionment System, or a request for review of the  
8 Office of State Controller's claiming instructions.

9 (b) A matter is set for hearing when commission staff issues its draft staff analysis. A written  
10 notice of the date, time, and place of hearing shall be mailed to everyone on the mailing list  
11 described in section 1181.2 of these regulations.

12 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
13 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,  
14 Government Code.

15 **§ 1187.1. Notice of Hearing. [Repealed]**

16 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
17 17553(a) and 17555, Government Code.

18 **§ 1187.2. Assignment to Hearing Panels/Hearing Officers.**

19 (a) After an informational hearing in accordance with Article 8 of these regulations, the  
20 commission's chairperson may assign a matter before the commission to a hearing panel  
21 consisting of one or more members or to a hearing officer for hearing and preparation of a  
22 proposed decision in such form that it may be adopted as the decision in the case.

23 (b) A matter shall be heard and decided by the commission itself at the request of any two (2)  
24 members of the commission.

25 Note: Authority cited: Sections 17527(c), 17527(g) and 17533(a), Government Code. Reference:  
26 Sections 17532, 17551, 17553 (a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and  
27 17615.9, Government Code.

28 **§ 1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.**

29 (a) Any party may ask that a matter be heard by the commission itself rather than by a hearing  
30 panel or hearing officer.

31 (b) Any party may request the disqualification of any hearing officer or commission member  
32 before the taking of evidence at a hearing by filing an affidavit stating with particularity the  
33 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the  
34 request concerns a commission member, the issue shall be determined by the other members of  
35 the commission. Where the request concerns the hearing officer, the issue shall be determined by  
36 the commission itself, if the commission itself hears the case with the hearing officer; otherwise  
37 the issue shall be determined by the hearing officer.

38 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:  
39 Sections 17527, 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8  
40 and 17615.9, Government Code.

1    **§ 1187.4. Pre-Hearing Conference.**

2    ~~(a) A pre-hearing conference may be scheduled by the commission or the executive director for~~  
3 ~~the purpose of identifying issues and determining methods of resolving such issues. The~~  
4 ~~claimant(s), Department of Finance, Office of the State Controller, affected state agencies, and~~  
5 ~~other interested parties to a claim shall be invited to participate. This conference shall not limit~~  
6 ~~the issues that can be presented to or considered by the commission at a public hearing.~~

7    ~~(b) Parties and interested parties shall receive notice of any prehearing conference convened~~  
8 ~~under this Section at least ten (10) days before the conference. The notice shall be served on the~~  
9 ~~parties to the claim by mail, facsimile transmission, e-mail, or by other electronic media. With~~  
10 ~~the agreement of the parties, the prehearing conference may be a teleconference.~~

11    ~~(c) Anything said, any document disclosed, and any new assertions and representations of fact~~  
12 ~~made during a prehearing conference shall not be made part of the administrative record of a~~  
13 ~~claim unless properly admitted into the record through the submission of an amendment to a test~~  
14 ~~claim, a written response, opposition, recommendations, comments, rebuttal, and/or public~~  
15 ~~testimony.~~

16    ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
17 ~~17527(e), 17530, 17532, 17551, 17553(a), Government Code.~~

18    **§ 1187.5. Evidence Submitted to the Commission.**

19    ~~(a) The hearings will not be conducted according to technical rules relating to evidence and~~  
20 ~~witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on~~  
21 ~~which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and~~  
22 ~~unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of~~  
23 ~~supplementing or explaining other evidence but shall not be sufficient in itself to support a~~  
24 ~~finding unless it would be admissible over objection in civil actions.~~

25    ~~(b) Oral or written testimony offered by any person shall be under oath or affirmation.~~

26    ~~(c) Official notice may be taken in the manner and of such information as is described in~~  
27 ~~Government Code Section 11515.~~

28    ~~(d) Each party shall have the right to present witnesses, introduce exhibits, and propose questions~~  
29 ~~to the chairperson for opposing witnesses. Evidence may be submitted to support or rebut any~~  
30 ~~issue. If declarations are to be used in lieu of testimony, the party proposing to use the~~  
31 ~~declaration shall comply with Government Code Section 11514.~~

32    ~~Note: Authority and reference cited: Sections 17527(e), 17553, 17557, 17610, 17621 and 17622,~~  
33 ~~Government Code.~~

34    **§ 1187.6. Conduct of Hearing.**

35    ~~(a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose~~  
36 ~~questions to the chairperson for opposing witnesses in support or rebuttal of any matter relevant~~  
37 ~~to the issues even though that matter was not covered in the direct examination.~~

38    ~~(b) The presiding member, commission members, hearing panel member or hearing officer may~~  
39 ~~question any party or witness and may admit any relevant and material evidence.~~

1 ~~(c) The taking of evidence in a hearing shall be controlled by the commission or hearing officer~~  
2 ~~in the manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to~~  
3 ~~taking evidence, the issues and the order of presenting evidence will be explained.~~

4 ~~(d) The hearing will ordinarily proceed in the following manner. Staff of the commission will~~  
5 ~~summarize the undisputed facts and the issues. The claimant will state its position and present its~~  
6 ~~evidence. The Department of Finance and/or other affected state agency will thereafter state its~~  
7 ~~position and present its evidence. The claimant will then be given an opportunity to reply.~~

8 ~~(e) The commission or hearing officer may call a party, or any other person who is present, to~~  
9 ~~testify under oath or affirmation. Any member of the commission, its executive director, or~~  
10 ~~hearing officer may question witnesses.~~

11 ~~(f) The commission or the executive director may require that prepared written testimony or~~  
12 ~~other evidence be submitted in advance of any hearing, for the purpose of facilitating the orderly~~  
13 ~~consideration of issues at the hearing.~~

14 ~~(1) Written testimony received at least 15 days in advance of the hearing shall be included in the~~  
15 ~~commission's meeting binders.~~

16 ~~(2) Written testimony received less than 15 days in advance of the hearing shall be included in~~  
17 ~~the commission's meeting binders, if possible, or shall be provided to the commission when the~~  
18 ~~item is heard, unless otherwise agreed to by the commission or the executive director.~~

19 ~~(3) Written testimony received on the day of the hearing, before the item is taken up by the~~  
20 ~~commission, shall be provided to the commission when the item is called, unless otherwise~~  
21 ~~agreed to by the commission or the executive director.~~

22 ~~(g) Commission public hearings shall be recorded by stenographic reporter or electronic~~  
23 ~~recording or both. The transcript or recordings shall be kept for the period of time required by~~  
24 ~~applicable law governing the retention of records of state agency public proceedings, or until~~  
25 ~~conclusion of administrative or judicial proceedings, whichever is later.~~

26 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
27 ~~17527(e), 17532, 17551, 17553(a), and 17555, Government Code.~~

28 **§ 1187.7. Witnesses and Subpoenas.**

29 ~~(a) A party shall arrange for the presence of its own witnesses at a hearing on a claim.~~

30 ~~(b) A subpoena may be issued upon a majority vote of the commission. A party requesting a~~  
31 ~~subpoena shall submit a written application to the commission at least six weeks prior to the~~  
32 ~~commission meeting at which the request will be considered.~~

33 ~~(c) An application for a subpoena to compel the attendance of a witness shall be made by~~  
34 ~~affidavit and shall give the name and address of the person to be subpoenaed, shall describe the~~  
35 ~~matters to be testified on, shall set forth in detail the relevance to the issues involved in the claim,~~  
36 ~~shall specify the date, time and place of the hearing on the claim and that, to the best of the~~  
37 ~~applicant's personal knowledge or information or belief, the person to be subpoenaed has~~  
38 ~~knowledge of such matters. If the applicant is unable to obtain the name of the person who has~~  
39 ~~knowledge of such matters, the name of the director of the state or local agency or~~  
40 ~~superintendent of a school district may be used for the application.~~

1 (d) An application for subpoena duces tecum for the production by a witness of books, papers,  
2 correspondence, memoranda, or other records, including records of the claimant, shall be made  
3 by affidavit and shall give the name and address of the person to be subpoenaed, shall describe  
4 the matters or things desired to be produced, shall set forth in detail the relevance to the issues  
5 involved in the claim, shall specify the date on which such matters shall be produced, and that, to  
6 the best of the applicant's personal knowledge or information or belief, the witness has such  
7 matters or things in his or her possession or under his or her control and that none of the matters  
8 or things desired to be produced are public records accessible to the public pursuant to Section  
9 6250 and following, of the Government Code. If the applicant is unable to obtain the name of the  
10 person who has possession or control of such matters or things desired to be produced, the name  
11 of the director or superintendent or custodian of records of the state or local agency or school  
12 district may be used for the application.

13 (e) When a request for subpoena or subpoena duces tecum is approved by the commission, the  
14 subpoena or subpoena duces tecum shall be issued signed by the executive director, but  
15 otherwise in blank.

16 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces tecum shall  
17 be completed by the requesting party, and the name, address, and telephone number of the  
18 requesting party shall be included on the form. Service of subpoenas and subpoenas duces tecum  
19 shall be made with a copy of the affidavit and shall be arranged for by requesting parties.

20 (g) Except as otherwise provided in this section, service of subpoenas or subpoenas duces tecum  
21 shall be in accordance with the provisions of Section 1985 and following of the Code of Civil  
22 Procedure.

23 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17527(d),  
24 17551, 17553(a), Government Code.

### 25 **§ 1187.8. Representation at Hearing.**

26 (a) A party may appear in person or through a representative.

27 (b) A representative of a party shall be deemed to control all matters respecting the interest of  
28 such party in the proceeding.

29 (c) Withdrawal of appearance of any representative may be effected by filing a written notice of  
30 withdrawal and by serving a copy on all parties.

31 Note: Authority and reference cited: Sections 17527(e), 17551, 17553, 17555, 17620, 17621 and  
32 17622, Government Code.

### 33 **§ 1187.9. Continuance of Hearings and Further Hearings.**

34 (a) The commission may continue a hearing to another time or place on its own motion or, upon  
35 a clear showing of good cause, at the request of any party. Written notice of the time and place of  
36 the continued hearing, except as provided herein, shall be in accordance with section 1187.1 of  
37 these regulations. When a continuance is ordered during a hearing, oral notice of the time and  
38 place of the continued hearing may be given to each party present at the hearing.

39 Prior to the adoption of its written decision on the matter being heard, the commission on its own  
40 motion, or upon a showing of good cause, may order a further hearing. Notice of the next hearing  
41 on the matter shall be given in accordance with section 1187.1 of these regulations.

1 (b) In determining whether there is good cause for a continuance within the meaning of  
2 subdivision (1) the following policy should be taken into consideration: Continuances are not  
3 favored by the commission. The parties are expected to submit for decision all matters in  
4 controversy at a single hearing and to produce at such hearing all necessary evidence, including  
5 witnesses, documents and all other matters considered essential in the proof of a party's  
6 allegations. Continuances will be granted only upon a clear showing of good cause.

7 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
8 17527, 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and  
9 17615.9, Government Code.

10 ~~**1188. Oral and Written Arguments.**~~

11 At the request of any party made prior to the close of the hearing, the commission shall grant oral  
12 argument. If written argument is requested, it may be granted and the parties will be advised as  
13 to the time and manner within which their briefs are to be filed.

14 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
15 17527, 17532, 17551, 17553(a), 17557(e), 17615.1, 17571, 17615.4, 17615.7, 17615.8 and  
16 17615.9, Government Code.

17 ~~**§ 1188.1. Decision; Action on Proposed Decision.**~~

18 (a) If a matter is heard before the commission itself, or a panel of the commission, and a hearing  
19 officer presided, the hearing officer who presided at the hearing shall be present during  
20 consideration of the claim and, if requested, shall assist and advise the commission in preparation  
21 of the proposed decision.

22 (b) If a matter is heard before the commission itself, the executive director may prepare and  
23 present the proposed statement of decision to the commission and interested parties before the  
24 hearing. The commission may adopt the proposed statement of decision on the same day as the  
25 hearing if there is no objection from the claimant or interested parties.

26 (c) If a matter is heard by a hearing panel or a hearing officer alone, the panel or hearing officer  
27 shall prepare a proposed decision in such form that it may be adopted as the decision in the  
28 proceeding. When a matter is heard before the commission itself, without a hearing officer, the  
29 commission shall direct commission staff to prepare a proposed decision in accord with the  
30 commission's vote, which will be presented to the commission for adoption as its decision.

31 (d) A copy of the proposed decision shall be filed by commission staff as a public record and a  
32 copy of the proposed decision shall be served by commission staff on each party. The  
33 commission itself may adopt the proposed decision or decide the case itself as provided in  
34 subdivision (e) below.

35 (e) If the proposed decision of the hearing officer or hearing panel is not adopted by the  
36 commission, the commission itself may decide the matter upon the record, including the  
37 transcript, with or without taking additional evidence or may refer the matter to the same hearing  
38 panel or hearing officer to take additional evidence. If the matter is so assigned to a hearing panel  
39 or hearing officer, the hearing panel or hearing officer shall prepare a proposed decision as  
40 provided in subdivision (c) upon the additional evidence and the transcript and other papers  
41 which are a part of the record of the prior hearing. A copy of such proposed decision shall be  
42 furnished to each party as prescribed in subdivision (d).

1 ~~The commission itself shall decide no matters provided for in this subdivision without affording~~  
2 ~~the parties the opportunity to present either oral or written argument before the commission.~~

3 ~~(f) If the proposed decision of commission staff is not adopted by the commission, as provided in~~  
4 ~~subsections (b) or (c), the commission shall direct appropriate modification of the proposed~~  
5 ~~decision and thereafter adopt it as the commission's decision.~~

6 ~~(g) Except as provided for in subsection (b), the proposed decision shall be prepared within a~~  
7 ~~reasonable time following submission of the matter to the hearing officer or panel or commission~~  
8 ~~vote, and within a reasonable time after the evidentiary hearing. It shall be served on the parties~~  
9 ~~promptly thereafter. The sole issue is whether the proposed decision accurately reflects the vote~~  
10 ~~of the Commission.~~

11 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
12 ~~17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,~~  
13 ~~Government Code.~~

14 **~~§ 1188.2. Form of Decision.~~**

15 ~~(a) Any decision made pursuant to evidence introduced at an adjudicatory hearing shall be in~~  
16 ~~writing, be based on the record, and shall include a statement of reasons for the decision,~~  
17 ~~findings and conclusions. A copy of the decision shall be mailed to or served on each party or his~~  
18 ~~representative.~~

19 ~~(b) After a decision or proposed decision has been mailed or served it shall not be changed~~  
20 ~~except to correct clerical errors, in which case a corrected decision or proposed decision shall be~~  
21 ~~prepared and mailed or served.~~

22 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
23 ~~17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,~~  
24 ~~Government Code.~~

25 **~~§ 1188.3. Withdrawal of a Matter.~~**

26 ~~A matter, or any portion of a matter, may be withdrawn by written application any time before a~~  
27 ~~decision is adopted, or by oral application at the time of hearing. If the withdrawal is of a test~~  
28 ~~claim or a proposed amendment of parameters and guidelines, or portion thereof, the procedures~~  
29 ~~described in section 1183.08 or 1183.2, subdivision (i) must be followed before dismissal, except~~  
30 ~~as provided in Government Code section 17574.~~

31 ~~Note: Authority cited: Sections 17527(g), 17553, 17573 and 17574, Government Code.~~  
32 ~~Reference: Sections 17551, 17553, 17557, 17571, 17573, 17574, 17615.1, 17615.4, 17615.7,~~  
33 ~~17615.8 and 17615.9, Government Code.~~

34 **~~§ 1188.31. Dismissal of Matters.~~**

35 ~~(a) Any matter, other than a test claim, subject to a hearing under Article 7, which has been~~  
36 ~~postponed or placed on inactive status by the claimant or requesting party for a period of more~~  
37 ~~than one year, may be dismissed by the commission on its own motion or by a motion of any~~  
38 ~~party after notice and an opportunity to be heard has been made to the claimant, parties, and~~  
39 ~~interested parties.~~

1 ~~(b) The hearing on a dismissal of a matter shall be conducted in accordance with Article 7 of~~  
2 ~~these regulations.~~

3 ~~(c) Notice of a hearing to dismiss a matter shall be made within 60 days of the date scheduled for~~  
4 ~~hearing. A copy of the notice shall also be posted on the commission's web site. The commission~~  
5 ~~shall notify the claimant, parties, and interested parties that they shall have the opportunity to~~  
6 ~~provide written comments on the motion to dismiss within 45 days of receipt of the notice of the~~  
7 ~~hearing. The claimant, parties, and interested parties shall file and serve their written comments~~  
8 ~~in accordance with section 1181.2 of these regulations.~~

9 ~~(d) Delays or postponements under the following circumstances will not be considered for~~  
10 ~~purposes of computing whether a matter has been postponed or placed on inactive status by the~~  
11 ~~claimant for more than one year:~~

12 ~~1. Delays or postponements made at the request of the commission or other state agency or~~  
13 ~~department;~~

14 ~~2. Delays or postponements, made at the request of the claimant or requesting party, pending the~~  
15 ~~resolution of a matter currently before the commission of an issue similar to or related to the~~  
16 ~~postponed matter; and~~

17 ~~3. Delays or postponements, made at the request of the claimant or requesting party, pending the~~  
18 ~~resolution of litigation of an issue similar to or related to the postponed matter.~~

19 ~~(e) The provisions of this regulation shall only apply to claims or requests filed on or after the~~  
20 ~~operative date of this regulation.~~

21 ~~Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:~~  
22 ~~Sections 17525, 17527(c), 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7,~~  
23 ~~17615.8 and 17615.9, Government Code.~~

24 **~~§ 1188.4. Reconsideration of a Prior Final Decision.~~**

25 ~~(a) Notwithstanding Section 1188.2(b) of these regulations, the commission may make~~  
26 ~~substantive changes to a prior final decision under this Section or order a reconsideration of all or~~  
27 ~~part of a test claim or incorrect reduction claim on petition of any party. The power to order a~~  
28 ~~reconsideration or amend a test claim decision shall expire thirty (30) days after the statement of~~  
29 ~~decision is delivered or mailed to the claimant. If additional time is needed to evaluate a petition~~  
30 ~~for reconsideration filed before the expiration of the thirty (30) day period, the commission may~~  
31 ~~grant a stay of that expiration for no more than thirty (30) days, solely for the purpose of~~  
32 ~~considering the petition. A request for reconsideration shall be deemed automatically stayed for~~  
33 ~~the thirty (30) day period. If no action is taken on a petition within the time allowed for ordering~~  
34 ~~reconsideration, the petition shall be deemed denied.~~

35 ~~(b) Except as provided elsewhere in this Section, any interested party, affected state agency, or~~  
36 ~~commission member may request that the commission reconsider or amend a test claim decision~~  
37 ~~and change a prior final decision to correct an error of law.~~

38 ~~(c) All requests for reconsideration shall be submitted to the commission, in writing, and shall~~  
39 ~~contain the following:~~

40 ~~(1) The name and address of the requesting party;~~

41 ~~(2) A copy of the commission's prior final decision;~~



1 ~~(3) A detailed statement of the reasons for the request, including:~~  
2 ~~(A) An explanation of the reasons for the request for reconsideration; and,~~  
3 ~~(B) All documentation the requestor intends to submit to support the request;~~  
4 ~~(4) A description of the proposed change to be made in the prior final decision; and,~~  
5 ~~(5) A statement that the request for reconsideration and all attachments, if any, have been sent to~~  
6 ~~the original claimant, interested parties, and affected state agencies, including their names and~~  
7 ~~addresses.~~  
8 ~~(d) Commission member requests may be made orally during a regularly scheduled commission~~  
9 ~~meeting. Commission staff shall prepare such written request, as specified in subsection (c)(1-5)~~  
10 ~~above.~~  
11 ~~(e) Any signatory to a written agreement that settles a claim may not request reconsideration of~~  
12 ~~that claim if the claim is settled with prejudice.~~  
13 ~~(f) Before the commission considers the request for reconsideration, commission staff shall~~  
14 ~~prepare a written analysis and recommend whether the request for reconsideration should be~~  
15 ~~granted. The commission shall consider the request for reconsideration at a scheduled meeting.~~  
16 ~~Five (5) affirmative votes shall be required to grant the request for reconsideration.~~  
17 ~~(g) If the commission grants the request for reconsideration, a hearing shall be conducted to~~  
18 ~~determine if the prior final decision is contrary to law and to correct an error of law.~~  
19 ~~(1) The following procedures shall govern the commission's review of the prior final decision:~~  
20 ~~(A) Before the commission considers whether a prior final decision is contrary to law,~~  
21 ~~commission staff shall prepare a written analysis regarding whether the prior final decision is~~  
22 ~~contrary to law which shall include but not be limited to a review of the written responses,~~  
23 ~~opposition, recommendations, and comments filed by other state agencies, interested parties, and~~  
24 ~~the requestor. Commission staff analysis shall describe the request for reconsideration and assist~~  
25 ~~the commission in determining whether the prior final decision is contrary to law.~~  
26 ~~(B) At least eight (8) weeks before the commission is scheduled to consider whether a prior final~~  
27 ~~decision is contrary to law, or at such other time as required by the executive director,~~  
28 ~~commission staff shall prepare a draft staff analysis and distribute it to the requestor, interested~~  
29 ~~parties, affected state agencies, and any person who requests a copy.~~  
30 ~~(C) The requestor, interested parties, or affected state agencies may file written comments with~~  
31 ~~commission staff concerning the draft staff analysis. Written comments shall be simultaneously~~  
32 ~~served upon the requestor, interested parties, and affected state agencies on the mailing list by~~  
33 ~~the date determined and publicized by the executive director. A three (3) week period for~~  
34 ~~comments shall be given, subject to the executive director's authority to expedite all matters~~  
35 ~~pursuant to Government Code section 17530. All written comments timely filed shall be~~  
36 ~~reviewed by commission staff and may be incorporated into the written analysis regarding~~  
37 ~~whether the prior final decision is contrary to law and presented to the commission before the~~  
38 ~~scheduled meeting.~~  
39 ~~(2) The procedures set forth in Article 7 shall govern the commission's hearings and decisions~~  
40 ~~process, except that five (5) affirmative votes shall be required to change a prior final decision.~~

1 ~~(h) If the commission changes a prior final decision, the procedures set forth in Article 3,~~  
2 ~~Sections 1183.1 through 1183.3, of these regulations shall govern the adoption of parameters and~~  
3 ~~guidelines and the statewide cost estimate, if applicable.~~

4 ~~(i) Failure to seek commission reconsideration of a prior final decision shall not affect a~~  
5 ~~claimant's or state agency's right to seek judicial review pursuant to Government Code section~~  
6 ~~17559, subdivision (b).~~

7 ~~(j) This Section only applies to reconsiderations requested pursuant to Government Code section~~  
8 ~~17759, subdivision (a); it does not apply to remands or reconsiderations directed by the courts or~~  
9 ~~by statute.~~

10 ~~Note: Authority cited: Sections 17500, 17527(c) and (g), 17553(a) and 17559(a), Government~~  
11 ~~Code. Reference: Sections 17532, 17551 and 17559, Government Code.~~

12 ~~**§ 1188.5. Amendment of a Prior Final Decision. [Repealed]**~~

13 ~~Note: Authority cited: Sections 17500, 17527(c) and (g) and 17553(a), Government Code.~~  
14 ~~Reference: Sections 17532, 17551 and 17559, Government Code.~~

15 **Article 8. Rulemaking and Informational Hearings**

16 ~~**§ 1189. Assignment of Matter to a Hearing Panel or Hearing Officer.**~~

17 ~~(a) The commission shall hold at least one (1) informational hearing in accordance with Article 8~~  
18 ~~of these regulations before the assignment of any matter to a hearing panel or hearing officer.~~  
19 ~~The commission shall provide notice to everyone who is on the mailing list described in section~~  
20 ~~1181.2 of these regulations before the informational hearing regarding the assignment of any~~  
21 ~~matter to a hearing panel or hearing officer.~~

22 ~~(b) Assignments by the commission chairperson of members on such hearing panels shall be~~  
23 ~~rotated among the members with the composition of the members so assigned being varied and~~  
24 ~~changed to assure that there shall never be a fixed and continued composition of members.~~

25 ~~(c) Any party may ask that a matter be heard by the commission itself rather than by a hearing~~  
26 ~~panel or hearing officer.~~

27 ~~(d) A matter shall be heard and decided by the commission itself at the request of any two (2)~~  
28 ~~members of the commission.~~

29 ~~(e) For purposes of article 8, "matter" is defined to include: proposed parameters and guidelines,~~  
30 ~~requests to amend parameters and guidelines, incorrect reduction claims, requests for inclusion~~  
31 ~~or removal from the State Mandates Apportionment System, requests for review of~~  
32 ~~apportionment or base year entitlement, and requests for review of the Office of State~~  
33 ~~Controller's claiming instructions.~~

34 ~~Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:~~  
35 ~~Sections 17525, 17527(c), 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7,~~  
36 ~~17615.8 and 17615.9, Government Code.~~

37 ~~**§ 1189.1. Petitions.**~~

38 ~~(a) Any person may petition the commission to request rulemaking hearings. Such petition shall~~  
39 ~~include:~~

- 1 ~~(1) the name, address, and telephone number of the petitioner;~~
- 2 ~~(2) the substance or nature of the regulation, amendment, or repeal requested;~~
- 3 ~~(3) the reasons for the request;~~
- 4 ~~(4) reference to the authority of the commission to take the action requested.~~

5 ~~(b) Such petition shall be filed with the executive director who shall within seven (7) days after~~  
6 ~~its filing determine whether the petition contains the information specified in subsection (a).~~

7 ~~(1) If the executive director determines that the petition is complete, it shall be certified in~~  
8 ~~writing as complete and the petitioner shall be so notified.~~

9 ~~(2) If the executive director determines that the petition is not complete, it shall be returned to the~~  
10 ~~petitioner accompanied by a statement of its defects. The petitioner may correct the petition and~~  
11 ~~resubmit it at any time.~~

12 ~~(c) Upon certification by the executive director, the commission shall, within sixty (60) days~~  
13 ~~from the filing of the petition, deny the petition, stating the reason for the denial in writing, or~~  
14 ~~grant the petition, directing the staff to prepare an appropriate order pursuant to Section 1189.2~~  
15 ~~of these regulations.~~

16 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11347,~~  
17 ~~11347.1, 17527(g) and 17530, Government Code.~~

## 18 **§ 1189.2. Commission Orders.**

19 ~~(a) The commission may, upon its own motion or upon granting a petition filed pursuant to~~  
20 ~~Section 1189.1 of these regulations, adopt an order to institute a rulemaking proceeding in~~  
21 ~~accordance with the procedures of Sections 1346.2, 11346.4, 11346.8 and 11346.9 of the~~  
22 ~~Government Code.~~

23 ~~(b) The commission may, upon its own motion, adopt an order to institute an informational~~  
24 ~~proceeding. The order shall include:~~

25 ~~(1) the date of the first hearing;~~

26 ~~(2) a statement indicating whether the commission or a committee thereof will hold additional~~  
27 ~~hearings on the matter;~~

28 ~~(3) a statement of the authority pursuant to which the hearing is ordered, and a reference to any~~  
29 ~~code sections or other provisions of law pursuant to which the information is to be gathered or~~  
30 ~~disseminated;~~

31 ~~(4) a statement of the nature and purpose of the proceedings;~~

32 ~~(5) a statement requiring the presence and participation of such persons as the commission may~~  
33 ~~direct, consistent with the nature and purpose of the proceedings.~~

34 ~~(c) In addition to the requirements of subsections (a) and (b) of this section, every order~~  
35 ~~instituting hearings pursuant to this section shall contain:~~

36 ~~(1) a statement indicating the time during which written comments will be received and the~~  
37 ~~manner by which such comments shall be filed;~~

38 ~~(2) a statement that any person may make oral comments on the subject of the proceedings;~~

1 ~~(3) a statement setting forth additional procedures deemed necessary by the commission and not~~  
2 ~~inconsistent with these regulations.~~

3 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11340.6,~~  
4 ~~11340.7, 17527(c) and (g) and 17551, Government Code.~~

5 **~~§ 1189.3. Notice.~~**

6 ~~(a) Notice of a rulemaking proceeding shall be given in accordance with Government Code~~  
7 ~~section 11346.4.~~

8 ~~(b) At least ten (10) days prior to the first hearing in an informational proceeding ordered~~  
9 ~~pursuant to section 1189.2 of these regulations, the executive director shall cause notice of the~~  
10 ~~hearing to be mailed to every person requested to participate in such proceedings, and to any~~  
11 ~~person who the executive director determines to be concerned with the subject matter of the~~  
12 ~~proceeding, and shall post a copy of the notice on the commission's web site.~~

13 ~~(c) In addition to the requirements of subsections (a) and (b) of this section, notice of additional~~  
14 ~~hearing shall be required at least ten (10) days prior to the commencement of such hearing unless~~  
15 ~~continuation is orally announced in a public hearing.~~

16 ~~(d) Nothing in this section shall preclude the commission from publishing notice in such~~  
17 ~~additional forms or media as the executive director may prescribe.~~

18 ~~(e) A copy of the order adopted pursuant to section 1189.2 of these regulations shall accompany~~  
19 ~~the initial notice prepared and mailed pursuant to this section, unless a copy of the order has been~~  
20 ~~previously mailed to those persons who would receive such notice.~~

21 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17527(g) and~~  
22 ~~11346.4, Government Code.~~

23 **~~§ 1189.4. Use of Testimony. [Repealed]~~**

24 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17527(e), 17551~~  
25 ~~and 17553(a), Government Code.~~

26 **~~§ 1189.5. Questioning. [Repealed]~~**

27 ~~Note: Authority and reference cited: Sections 17527 and 17532, Government Code.~~

28 **Article 8.5. Forms**

29 **~~§ 1189.6. Development and Approval of Commission Forms.~~**

30 ~~(a) In consultation with interested parties and in accordance with applicable law and these~~  
31 ~~regulations, the executive director shall develop the test claim and other forms to simplify and~~  
32 ~~improve the efficiency of the test claim process.~~

33 ~~(b) The executive director may also develop additional forms to simplify and improve the~~  
34 ~~efficiency of the incorrect reduction claims process.~~

35 ~~(c) The executive director shall conduct at least one (1) workshop with interested parties,~~  
36 ~~Department of Finance, Office of the State Controller, other affected state agencies, and~~  
37 ~~interested persons before approval of a form.~~

1 ~~(d) Upon development of a new form, the executive director shall notify claimants, interested~~  
2 ~~parties, affected state agencies, and interested persons, and shall disseminate copies at least ten~~  
3 ~~(10) days before a form's operative date.~~

4 ~~(e) Any party may appeal to the commission for review of the actions and decisions of the~~  
5 ~~executive director under this Section pursuant to Section 1181 of these regulations.~~

6 ~~Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections~~  
7 ~~17530, 17553 and 17557(a), Government Code.~~

8 ~~**§ 1189.61. Waiver of Forms Requirement.**~~

9 ~~The executive director may waive a requirement to use any form specified by these regulations if~~  
10 ~~the form has not yet been approved and promulgated by the commission.~~

11 ~~Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17530, 17553~~  
12 ~~and 17557(a), Government Code.~~

13 **Article 10. Mandate Redetermination Process**

14 ~~**§ 1190. Filing a Request to Adopt a New Test Claim Decision.**~~

15 ~~(a) A local agency or a school district, statewide association of local agencies or school districts,~~  
16 ~~the Department of Finance, Office of the State Controller, or other affected state agency, may file~~  
17 ~~a request to adopt a new test claim decision to supersede a previously adopted test claim decision~~  
18 ~~by making a showing that the state's liability pursuant to Article XIII B, section 6, subdivision~~  
19 ~~(a) of the California Constitution for the previously adopted test claim decision has been~~  
20 ~~modified based on a "subsequent change in law" as defined by Government Code section 17570,~~  
21 ~~subdivision (a)(2).~~

22 ~~(b) All requests to adopt a new test claim decision shall be filed on a form developed by the~~  
23 ~~executive director and shall contain a detailed analysis of how and why the state's liability for~~  
24 ~~mandate reimbursement has been modified pursuant to Article XIII B, section 6, subdivision (a)~~  
25 ~~of the California Constitution and all of the elements and accompanying documents required by~~  
26 ~~the form and Government Code section 17570, subdivision (d).~~

27 ~~(c) The detailed analysis of how and why the state's liability for mandate reimbursement has~~  
28 ~~been modified pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution~~  
29 ~~based on a "subsequent change in law" as defined by Government Code section 17570 requires~~  
30 ~~more than a written narrative or simple statement of the facts and law. It requires the application~~  
31 ~~of the law (Gov. Code § 17570 (a) and (b)) to the facts (i.e. the alleged subsequent change in~~  
32 ~~law) discussing, for each activity addressed in the prior test claim decision, how and why the~~  
33 ~~state's liability for that activity has been modified. Specific references shall be made to chapters,~~  
34 ~~articles, sections, or page numbers that are alleged to impose or not impose a reimbursable state-~~  
35 ~~mandated program.~~

36 ~~(d) The requester shall file one original request to adopt a new test claim decision and~~  
37 ~~accompanying documents with the commission. An "original" is either a signed hard copy or a~~  
38 ~~PDF electronic copy thereof submitted through the e-filing system on the commission's web site.~~  
39 ~~If the request is e-filed with the commission, the requester is responsible for maintaining the~~  
40 ~~paper request with original signature(s) for the duration of the redetermination process, including~~  
41 ~~any period of appeal. If a hard copy is submitted, the original shall be unbound and single-sided,~~

1 without tabs, and include a table of contents. If the request is filed in PDF format, the  
2 accompanying documents shall also be filed in PDF format.

3 ~~(e) The requester shall also file seven (7) copies of the request to adopt a new test claim decision  
4 and accompanying documents with the commission, if the request is filed in hard copy. The  
5 copies shall be double-sided and shall not include tabs. If the request is e-filed, no copies shall  
6 be filed.~~

7 ~~(f) Within ten (10) days of receipt of a request to adopt a new test claim decision, commission  
8 staff shall notify the requester if the request is complete or incomplete and refer the requester to  
9 these regulations. Requests to adopt a new test claim decision shall be considered incomplete if  
10 any of the elements required in subsections (b), (c), or (d) of this section are illegible or are not  
11 included. If a complete request to adopt a new test claim decision is not received within thirty  
12 (30) calendar days from the date the incomplete request was returned, the executive director shall  
13 disallow the original request filing date. New request(s) to adopt a new test claim decision may  
14 be accepted on the same subsequent change in law alleged to modify the state's liability pursuant  
15 to Article XIII B, section 6, subdivision (a) of the California Constitution.~~

16 ~~(g) A request to adopt a new test claim decision shall be filed on or before June 30 following a  
17 fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that  
18 fiscal year.~~

19 ~~(h) A requester may not add a new subsequent change in law to a request to adopt a new test  
20 claim decision after the request has been deemed complete.~~

21 ~~(i) Any request to adopt a new test claim decision that fails to allege a "subsequent change in  
22 law" as defined by Government Code section 17570, shall be returned by the executive director  
23 with a written notice stating the reason that the request is being returned. Examples of such  
24 filings may include, but are not limited to, circumstances where the filing meets the requirements  
25 for a proposed parameters and guidelines amendment or a new test claim filing.~~

26 ~~Note: Authority cited: Sections 17527(g) and 17570(d) Government Code. Reference: Sections  
27 17530 and 17570 Government Code.~~

28 **§ 1190.01. Review and Response.**

29 ~~(a) Within ten (10) days of receipt of a completed request to adopt a new test claim decision,  
30 commission staff shall send a written notice to the Department of Finance, Office of the State  
31 Controller, any affected state agency, the original test claimant, and any known interested party,  
32 that:~~

33 ~~(1) a copy of the request to adopt a new test claim decision has been posted on the commission's  
34 web site, and~~

35 ~~(2) they shall have the opportunity to review and provide a written response concerning the  
36 request to adopt a new test claim decision within thirty (30) days and to present evidence at the  
37 hearing on the request to adopt a new test claim decision.~~

38 ~~(b) Content and Form. Written responses on the request to adopt a new test claim decision shall  
39 contain the following documentary evidence, if applicable:~~

40 ~~(1) If assertions or representations of fact are made, they must be supported by documentary  
41 evidence which shall be submitted with the response. All documentary evidence shall be~~

1 authenticated by declarations under penalty of perjury signed by persons who are authorized and  
2 competent to do so and must be based on the declarant's personal knowledge or information or  
3 belief.

4 ~~(2) Include a copy of relevant portions of state constitutional provisions, state and federal~~  
5 ~~statutes, and executive orders, and a copy of administrative decisions and court decisions that~~  
6 ~~may impact the alleged mandate, unless such authorities are also cited in the request to adopt a~~  
7 ~~new test claim decision. The specific chapters, articles, sections, or page numbers must be~~  
8 ~~identified. Published court decisions arising from state mandate determinations by the Board of~~  
9 ~~Control and the commission, article XIII B, section 6 of the California Constitution, and~~  
10 ~~Government Code sections 17500 and following are exempt from the requirements of this~~  
11 ~~subsection. When an omnibus bill is relevant to the response, only the relevant pages of the~~  
12 ~~statute, including the Legislative Counsel's Digest and the specific statutory changes at issue~~  
13 ~~shall be filed.~~

14 ~~(c) The written response and supporting documentation shall be signed at the end of the~~  
15 ~~document, under penalty of perjury by an authorized representative, with the declaration that it is~~  
16 ~~true and complete to the best of the representative's personal knowledge or information or belief.~~  
17 ~~The date of signing, the representative's title, address, and telephone number shall be included. If~~  
18 ~~the authorized representative can be reached via facsimile machine or e mail, the facsimile~~  
19 ~~number and e mail address shall also be included.~~

20 ~~(d) Filing. An original and two (2) copies of a written response and supporting documentation~~  
21 ~~concerning a request to adopt a new test claim decision shall be filed with commission staff and~~  
22 ~~served in accordance with Section 1181.2 of these regulations. If a hard copy is submitted, the~~  
23 ~~original document shall be unbound and single sided. If the response is e filed, no copies shall~~  
24 ~~be filed. Proof of service shall be included with the response filed with commission staff.~~

25 ~~(e) Everyone on the mailing list described in Section 1181.2 of these regulations shall be~~  
26 ~~provided written notice that a copy of the response has been posted on the commission's web~~  
27 ~~site.~~

28 ~~Note: Authority cited: Sections 17527(g), 17570(d), Government Code. Reference: Sections~~  
29 ~~17530, and 17570, Government Code.~~

30 **~~§ 1190.02. Rebuttal.~~**

31 ~~(a) Parties and interested parties shall be given an opportunity to rebut written responses~~  
32 ~~concerning a request to adopt a new a test claim decision by filing written rebuttals within thirty~~  
33 ~~(30) days of service of the responses.~~

34 ~~(b) Content and Form. A written rebuttal shall contain the following documentary evidence, if~~  
35 ~~applicable:~~

36 ~~(1) If new assertions or representations of fact are made, they must be supported by documentary~~  
37 ~~evidence which shall be submitted with the rebuttal. All documentary evidence must be~~  
38 ~~authenticated by declarations under penalty of perjury signed by persons who are authorized and~~  
39 ~~competent to do so and must be based upon the declarant's personal knowledge or information or~~  
40 ~~belief.~~

41 ~~(2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive~~  
42 ~~orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,~~

1 unless such authorities are also cited in the request to adopt a new test claim decision or any  
2 response thereto. The specific chapters, articles, sections, or page numbers shall be identified.  
3 Published court decisions arising from state mandate determinations by the Board of Control and  
4 the commission, article XIII B, section 6 of the California Constitution, and Government Code  
5 sections 17500 and following are exempt from the requirements of this subsection. When an  
6 omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including the  
7 Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

8 (c) The original written rebuttal to a response concerning a request to adopt a new test claim  
9 decision shall be filed with commission staff and served in accordance with Section 1181.2 of  
10 these regulations.

11 (d) The rebuttal shall be signed at the end of the document, under penalty of perjury by the  
12 requester or its authorized representative, with the declaration that the rebuttal is true and  
13 complete to the best of the declarant's personal knowledge or information or belief. The date of  
14 signing, the declarant's title, address, and telephone number shall be included. If the declarant  
15 can be reached by facsimile machine or e-mail, the declarant's facsimile number and e-mail  
16 address shall also be included.

17 (e) Everyone on the mailing list described in Section 1181.2 of these regulations shall be  
18 provided written notice that a copy of the rebuttal has been posted on the commission's web site.

19 Note: Authority cited: Sections 17527(g) and 17570(d), Government Code. Reference: Sections  
20 17530 and 17570, Government Code.

21 **§ 1190.03. Informal Conference.**

22 (a) The executive director may schedule an informal conference with the requester, the  
23 Department of Finance, Office of the State Controller, other affected state agencies and  
24 interested parties upon request. With the consent of the parties, the informal conference may be a  
25 teleconference.

26 (b) The purpose of an informal conference may be to:

27 (1) Set dates for receiving responses or rebuttal; completing the staff analyses; and hearing the  
28 request.

29 (2) Give the requester the opportunity to present the request to adopt a new test claim decision to  
30 supersede a prior test claim decision and to respond to questions from commission staff and  
31 other state or local agency or school district staff or representatives for the purpose of resolving  
32 or clarifying issues of fact or law.

33 (c) Any party may notify the executive director of any interested parties who should be invited to  
34 attend an informal conference.

35 (d) Unless waived by the parties, commission staff shall provide at least ten (10) days notice of  
36 the informal conference by mail, facsimile transmission, e-mail, or by other electronic media.

37 (e) Anything said, any document disclosed, and any new assertions and representations of fact  
38 made during an informal conference shall not be made part of the administrative record of a  
39 request to adopt a new test claim decision unless properly admitted into the record through the  
40 submission of an amendment to a request to adopt a new test claim decision, a written response,  
41 rebuttal, and/or public testimony.



1 ~~Note: Authority cited: Sections 17527(g), 17570(d), Government Code. Reference: Sections~~  
2 ~~17530, and 17570, Government Code.~~

3 ~~**§ 1190.04. Executive Director's Authority to Consolidate Requests to Adopt a New Test**~~  
4 ~~**Claim Decision.**~~

5 ~~(a) The executive director may consolidate a request to adopt a new test claim decision with~~  
6 ~~another request to adopt a new test claim decision for the second hearing, if some or all of the~~  
7 ~~same statutes, regulations or executive orders are at issue, if necessary to ensure the complete,~~  
8 ~~fair, or timely consideration of any request to adopt a new test claim decision.~~

9 ~~(b) At least ten (10) days before the action is taken, the executive director shall serve on the~~  
10 ~~parties and interested parties on the mailing list described in Section 1181.2 of these regulations,~~  
11 ~~and post on the commission's web site, a notice of any proposed action to consolidate.~~

12 ~~Note: Authority cited: Section 17527(g) and 17570(d), Government Code. Reference: Sections~~  
13 ~~17530, 17570, Government Code.~~

14 ~~**§ 1190.05. Hearing Process and Form of Decision.**~~

15 ~~Notwithstanding any other provision of these regulations, mandate redetermination process~~  
16 ~~hearings and decisions shall be subject to article 7 of these regulations. There shall be a two-step~~  
17 ~~hearing process for requests to adopt a new test claim decision as follows:~~

18 ~~(a) The First Hearing:~~

19 ~~(1) The first hearing shall be limited to the issue of whether the requester has made an adequate~~  
20 ~~showing which identifies a subsequent change in law as defined by Government Code section~~  
21 ~~17570, material to the prior test claim decision, that may modify the state's liability pursuant to~~  
22 ~~Article XIII B, section 6, subdivision (a) of the California Constitution. The commission shall~~  
23 ~~find that the requester has made an adequate showing if it finds that the request, when considered~~  
24 ~~in light of all of the written responses and supporting documentation in the record of this request,~~  
25 ~~has a substantial possibility of prevailing at the second hearing.~~

26 ~~(2) At least eight (8) weeks before the hearing or at such other time as required by the executive~~  
27 ~~director or stipulated to by the parties, commission staff shall prepare a draft staff analysis and~~  
28 ~~distribute it to the parties, interested parties, and any person who requests a copy, and shall post~~  
29 ~~it on the commission's web site. A request to adopt a new test claim decision is set for the first~~  
30 ~~hearing when commission staff issues its draft staff analysis. A written notice of the date, time,~~  
31 ~~and place of the first hearing shall be served on everyone on the mailing list described in Section~~  
32 ~~1181.2 of these regulations and posted on the commission's web site.~~

33 ~~(3) Any party or interested party may file written comments concerning the draft staff analysis~~  
34 ~~with commission staff. Written comments shall be filed and served as described in Section~~  
35 ~~1181.2 of these regulations, by the date determined and publicized by the executive director. A~~  
36 ~~three (3) week period for comments shall be given, subject to the executive director's authority to~~  
37 ~~expedite all matters pursuant to Government Code section 17530. All written comments timely~~  
38 ~~filed shall be reviewed by commission staff and may be incorporated into the final written~~  
39 ~~analysis of the request to adopt a new test claim decision.~~

40 ~~(4) Before the first hearing on the request to adopt a new test claim decision, commission staff~~  
41 ~~shall prepare a final written analysis limited to the issue of whether the requester has made a~~

1 showing that identifies a subsequent change in law, material to the prior test claim decision,  
2 which may modify the state's liability pursuant to Article XIII B, section 6, subdivision (a) of the  
3 California Constitution. This analysis shall consider only a review of the request, written  
4 responses, written rebuttals and supporting documentation filed by the parties and interested  
5 parties. The final staff analysis for the first hearing shall find that the requester has made an  
6 adequate showing if staff finds that the request, when considered in light of all of the written  
7 responses and supporting documentation in the record of this request, has a substantial possibility  
8 of prevailing at the second hearing.

9 (5) If, at the first hearing, the commission finds that:

10 (A) the requester has not made an adequate showing, when considered in light of all of the  
11 written responses, rebuttals and supporting documentation in the record and testimony at the  
12 hearing, that the request to adopt a new test claim decision has a substantial possibility of  
13 prevailing at the second hearing, the commission shall publish a decision denying the request to  
14 adopt a new test claim decision.

15 (B) the requester has made an adequate showing, when considered in light of all of the written  
16 responses, rebuttals and supporting documentation in the record and testimony at the hearing, the  
17 commission shall publish a decision finding that an adequate showing has been made and setting  
18 the second hearing on the request to adopt a new test claim decision to supersede the previously  
19 adopted test claim decision.

20 Everyone on the mailing list described in Section 1181.2 of these regulations shall be provided  
21 written notice that the commission's decision has been posted on the commission's web site and,  
22 if applicable, that the date, time, and place of the second hearing has also been posted on the  
23 commission's web site.

24 (b) The Second Hearing:

25 (1) If the commission proceeds to the second hearing, it shall consider whether the state's  
26 liability pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution has  
27 been modified based on the subsequent change in law alleged by the requester, thus requiring  
28 adoption of a new test claim decision to supersede the previously adopted test claim decision. If  
29 the commission finds that the state's liability pursuant to Article XIII B, section 6, subdivision  
30 (a) of the California Constitution has been modified based on the subsequent change in law  
31 alleged by the requester, it shall adopt a new statement of decision that reflects the modified  
32 liability of the state.

33 (2) Before the second hearing on the request to adopt a new test claim decision, commission staff  
34 shall prepare a final written analysis. At least eight (8) weeks before the hearing or at such other  
35 time as required by the executive director or stipulated to by the parties, commission staff shall  
36 prepare a draft staff analysis and distribute it to everyone on the mailing list described in Section  
37 1181.2 of these regulations and post it on the commission's web site. The analysis shall consider  
38 only a review of the request, written responses, written rebuttals and supporting documentation  
39 filed by the parties and interested parties in the record of this request.

40 (3) Any party or interested party may file written comments concerning the draft staff analysis  
41 with commission staff. Written comments shall be filed and served as described in Section  
42 1181.2 of these regulations, by the date determined and publicized by the executive director. A  
43 three (3) week period for comments shall be given, subject to the executive director's authority to

1 expedite all matters pursuant to Government Code section 17530. All written comments timely  
2 filed shall be reviewed by commission staff and may be incorporated into the final written  
3 analysis of the request to adopt a new test claim decision.

4 ~~(4) If, at the second hearing, the commission finds that the state's liability pursuant to Article  
5 XIII B, section 6, subdivision (a) of the California Constitution:~~

6 ~~(A) has not been modified based on a subsequent change in law as defined by Government Code  
7 section 17570, subdivision (a)(2), the commission shall publish a decision denying the request.~~

8 ~~(B) has been modified based on a subsequent change in law, as defined by Government Code  
9 section 17570, subdivision (a)(2) the commission shall adopt a new statement of decision to  
10 supersede the prior statement of decision. The new statement of decision shall be prepared in  
11 writing, based on the record, and shall include a statement of reasons for the decision, findings  
12 and conclusions.~~

13 ~~Everyone on the mailing list described in Section 1181.2 of these regulations shall be provided  
14 written notice that a copy of the decision has been posted on the commission's web site.~~

15 ~~(5) After a decision or proposed decision has been served or posted on the commission's web  
16 site, it shall not be changed except to correct clerical errors, in which case a corrected decision or  
17 proposed decision shall be prepared and posted on the commission's web site. Everyone on the  
18 mailing list described in Section 1181.2 of these regulations shall be provided written notice that  
19 a copy of the revised decision has been posted on the commission's web site.~~

20 ~~(6) If a new statement of decision is adopted which finds that there are costs mandated by the  
21 state pursuant to Article XIII B, section 6, subdivision (a) of the California Constitution, the  
22 amount and method of reimbursement shall be redetermined in accordance with sections 1183.1-  
23 1183.32 of these regulations.~~

24 ~~Note: Authority cited: Section 17527(g) and 17570(d), Government Code. Reference: Sections  
25 17530, 17570, Government Code.~~

## 26 **Article 1. General**

### 27 **§ 1181.1 Delegation of Certain Functions; Executive Director Appeals.**

28 (a) Whenever it is stated in these rules that the "Commission" may or shall exercise or discharge  
29 any power, duty, purpose, function, or jurisdiction, the Commission on State Mandates  
30 specifically has reserved the same for its own exclusive action.

31 (b) Whenever it is stated that the "executive director" may or shall exercise or discharge any  
32 power, duty, purpose, function, or jurisdiction, or it is not expressly stated that the Commission  
33 itself shall so act, the executive director of the Commission has the authority to act thereon.

34 (c) A real party in interest to a matter may appeal to the Commission for review of the actions  
35 and decisions of the executive director on that matter.

36 (1) The appellant shall submit the appeal in writing within 10 days of first being served written  
37 notice of the executive director's action or decision.

38 (2) The appellant shall file and serve the appeal in accordance with section 1181.3 of these  
39 regulations.

1 (3) The appeal shall explain the basis for the appeal, state the action being requested of the  
2 Commission, and include all facts and materials the applicant believes are relevant to the appeal.

3 (4) The executive director shall schedule the appeal for hearing and vote by the Commission as  
4 soon as practicable following receipt of the appeal.

5 (5) Other parties may submit comments on an appeal in accordance with section 1181.3 of these  
6 regulations.

7 (6) The Commission shall determine whether to uphold the executive director's decision by a  
8 majority vote of the members present. The decision shall be final and not subject to  
9 reconsideration.

10 (7) The executive director shall notify the appellant in writing within 10 days of the  
11 Commission's decision.

12 (d) Nothing herein prohibits the executive director from delegating to subordinates as provided  
13 in Government Code section 18572.

14 Note: Authority cited: Sections 17530 and 17531, Government Code. Reference: Section 17530,  
15 Government Code, *Redevelopment Agency v. Commission on State Mandates* (1996) 43  
16 Cal.App.4th 1188.

17 **§ 1181.2. Definitions.**

18 Unless otherwise indicated, the following definitions and those found in Government Code  
19 sections 17510 through 17524 apply to this chapter:

20 (a) "Affected state agency" means a state department or agency that is responsible, in whole or in  
21 part, for implementation, enforcement, or administration of any statutes or executive orders that  
22 are the subject of a matter.

23 (b) "Amendment" of a test claim means the addition of new allegations based on new statutes or  
24 executive orders to an existing test claim. The addition or substitution of parties and supporting  
25 declarations based on the original statutes or executive orders alleged in an existing test claim is  
26 not an "amendment."

27 (c) "Claimant" means the local agency or school district filing a test claim or incorrect reduction  
28 claim.

29 (d) "Commission staff" means the executive director, legal counsel, or other Commission  
30 employee authorized by the Commission or the executive director to represent the Commission  
31 on a specific claim or request, or to receive filings at the Commission office.

32 (e) "Completed" means that all requirements for a new filing for a test claim, proposed  
33 parameters and guidelines, request to amend parameters and guidelines, request for  
34 reconsideration, request to review claiming instructions, incorrect reduction claim or request for  
35 mandate redetermination have been satisfied by the claimant or requester.

36 (f) "Filing date" means the date received at the Commission's office during normal business  
37 hours by any of the methods described in section 1181.3 of these regulations.

38 (g) "Incorrect reduction claim" means a claim alleging that the Office of State Controller  
39 incorrectly reduced the reimbursement claim of a local agency or school district.

1 (h) "Informational hearing" means any hearing designed to gather and assess information to  
2 assist the Commission in formulating policies, informing the public of Commission actions, or  
3 obtaining public comment and opinion.

4 (i) "Interested party" means a local agency, school district, or state agency, with a beneficial  
5 interest in the matter.

6 (j) "Interested person" means any individual, local agency, school district, state agency,  
7 corporation, partnership, association, or other type of entity, having an interest in the activities of  
8 the Commission.

9 (k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and  
10 guidelines, joint request for reasonable reimbursement methodology, request for review of  
11 claiming instructions, request for removal or inclusion in State Mandates Apportionment System,  
12 or request for mandate redetermination.

13 (l) "Party" includes a party's representative of record who is expressly authorized to act on the  
14 party's behalf. Party means the following for each matter as specified below:

15 (1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other  
16 affected state agencies.

17 (2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State  
18 Controller.

19 (3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the  
20 Department of Finance, the Office of State Controller, affected state and local agencies, and  
21 affected school districts.

22 (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" means the test  
23 claimant and the Department of Finance.

24 (5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office  
25 of State Controller.

26 (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System"  
27 means the requester, the Department of Finance, and the Office of State Controller.

28 (7) "Party to a Request for Mandate Redetermination" means the requester, the Department of  
29 Finance, the Office of State Controller, affected state and local agencies, and affected school  
30 districts.

31 (m) "Real Party in Interest" means any person or entity whose interest will be directly affected  
32 by the resolution of the matter.

33 (n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule,  
34 regulation, or standard of general application that implements, interprets, or makes specific any  
35 provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any  
36 other statute enforced or administered by the Commission.

37 (o) "Statewide cost estimate" means the approximate sum of money that local agencies or school  
38 districts may have incurred to implement a state-mandated program or any increased level of  
39 service of an existing mandated program. A statewide cost estimate submitted by a test claimant  
40 shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes

1 and executive orders alleged in a test claim, except as provided in Government Code section  
2 17557.1(a). A statewide cost estimate adopted by the Commission shall be an estimate based on  
3 the Commission's determination of a test claim for the initial period of reimbursement to be  
4 reported to the Legislature.

5 (p) "Statewide estimate of costs" is based on a reasonable reimbursement methodology proposed  
6 by a test claimant and the Department of Finance, adopted by the Commission, and reported to  
7 the Legislature pursuant to Government Code section 17557.2.

8 (q) "Subsequent change in law" means a change in law that requires a finding that an incurred  
9 cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a  
10 cost mandated by the state pursuant to Government Code section 17556, or a change in mandates  
11 law. Amendments to article XIII B, section 6 of the California Constitution that were approved  
12 by the voters on November 2, 2004 and changes in the statutes or executive orders that impose  
13 new state-mandated activities and require a finding pursuant to Government Code section  
14 17551(a) are not a "subsequent change in law."

15 (r) "Teleconference" means a conference of individuals in different locations, connected by  
16 electronic means, through audio, video, or both.

17 (s) "Test claim" means the first claim filed with the Commission alleging that a particular statute  
18 or executive order imposes costs mandated by the state pursuant to Government Code section  
19 17521 and also includes a claim filed on a legislatively determined mandate pursuant to  
20 Government Code section 17574(c). The test claim procedure functions similarly to a class  
21 action and has been established to expeditiously resolve disputes affecting multiple agencies.

22 (t) "Written material" means any paper or electronic document relevant to a matter that is filed  
23 with the Commission except that "written material" does not include a "new filing" as defined in  
24 subdivision (k) of this section.

25 Note: Authority cited: Sections 17527(g), 17553(a), 17570 (d), Government Code. Reference:  
26 Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, 17532, 17551, 17553, 17557,  
27 17557.1, 17557.2, 17570, 17571, 17600, 17615.1, 17615.4, 17615.7, 17615.8, and 17615.9,  
28 Government Code; *Redevelopment Agency v. Commission on State Mandates* (1996) 43  
29 Cal.App.4<sup>th</sup> 1188, *City of San Jose v. State of California* (1996) 45 Cal.App.4<sup>th</sup> 1802, 1807.

### 30 **§ 1181.3. Filing and Service of Written Materials and New Filings.**

31 (a) Filing. Unless otherwise provided in this chapter, new filings and written materials may be  
32 filed electronically or by hard copy as described in this subdivision. If filed by hard copy, the  
33 filer shall simultaneously serve all written material in accordance with subdivision (b) of this  
34 regulation. Filing is complete upon receipt by the Commission. Filing of new filings and written  
35 materials may be effected by any of the following methods:

36 (1) E-Filing. Submit the original to the Commission by saving the signed original in a PDF file  
37 and submitting it via the Commission's e-filing system, available on the Commission's website.  
38 Documents e-filed with the Commission must be in a legible and searchable format. The filer is  
39 responsible for maintaining the signed original for the duration of the process for the matter,  
40 including any period of appeal. Notwithstanding any other provision in these regulations, if a  
41 new filing or written material is e-filed, no additional copies shall be submitted to Commission  
42 staff. The following shall apply to e-filing:

1 (A) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail  
2 service for that matter.

3 (B) An automated notice that the document was successfully sent is immediately available to the  
4 person who e-files using the Commission's e-filing system and should be saved or printed for the  
5 filer's records. Commission staff shall also reply by e-mail confirming actual receipt of the  
6 legible, searchable document by the Commission within two business day of receipt. In the  
7 absence of a confirmation e-mail from Commission staff, it is the responsibility of the person  
8 who e-files to obtain confirmation that the Commission actually received the filing.

9 (C) By using e-filing, the filing person agrees, in the event of failure of e-filing, to re-file the  
10 document, no later than the business day after the business day on which notice of the failure of  
11 e-filing is received by the filing party, by any means authorized by these rules, in order to  
12 maintain the original filing date. "Failure of e-filing" occurs when the filing person receives  
13 notification, in any manner, of non-receipt of an e-filed document or of any other inability of  
14 Commission staff to access the document. The filer and Commission staff may agree to any  
15 form for re-filing allowed by these regulations.

16 (D) Documents e-filed with the Commission do not need to be served and proof of service does  
17 not need to be provided for persons that have provided an e-mail address for the mailing list.  
18 Nothing in this regulation excuses a filer from serving hard copies of written material on persons  
19 who appear on the mailing list and have not provided an e-mail address for the mailing list or  
20 from providing a proof of service with the e-filing to the Commission for the service.

21 (E) Upon confirmation of actual receipt, Commission staff shall notify all persons on the mailing  
22 list for the matter that written material may be viewed on the Commission's website. For "new  
23 filings" as defined by section 1181.2(k) of these regulations, Commission staff shall notify all  
24 persons on the mailing list prepared pursuant to section 1181.4 of these regulations, of the  
25 availability of those filings on the Commission's website when Commission staff sends its notice  
26 of complete filing to the filing party.

27 (F) The Commission may serve any document by e-mail service, or by making it available at a  
28 particular URL, unless doing so would be contrary to state or federal law.

29 (G) The executive director may issue any order consistent with these rules to govern e-mail  
30 service for a particular matter.

31 (2) By first class mail. Submit the unbound original and seven copies to the Commission.

32 (3) By overnight delivery. Submit the unbound original and seven copies to the Commission.

33 (4) By personal service. Hand the unbound original and seven copies to Commission staff.

34 (b) Service. If written materials are filed in hard copy, the filing must simultaneously be served  
35 on everyone on the mailing list using the same method as was used for the filing. Unless  
36 otherwise provided in this section, a proof of service shall be included with any written material  
37 filed with Commission staff. Proof of personal service requires a declaration of the messenger of  
38 the time and place that the written material was served. Service is not required for new filings  
39 because mailing lists for matters are only prepared, pursuant to section 1181.4 of these  
40 regulations, after a new filing is deemed complete. Completed new filings will be served on the  
41 mailing list by Commission staff with the Notice of Complete Filing.

42 Note: Authority cited: Sections 17527(g), 17553(a), and 11104.5, Government Code. Reference:

1 Sections 17530, 17551, 17573(b) and 17573(g), Government Code.

2 **§ 1181.4. Mailing Lists and Numbering of Matters**

3 (a) For all matters deemed complete, Commission staff shall prepare a mailing list of the names,  
4 addresses, phone numbers and e-mail addresses of the parties, interested parties, and interested  
5 persons who have requested inclusion on the mailing list. The mailing list will be uploaded to  
6 the Commission’s website and an e-mail notification of its availability will be sent to everyone  
7 on the list who has provided an e-mail address. A hard copy will be provided by Commission  
8 staff to persons on the mailing list who have not provided an e-mail address and to any person  
9 who requests a hard copy.

10 (b) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail  
11 service of documents for that matter.

12 (c) For the following new filings received by the Commission, the executive director shall issue  
13 sequential matter numbers, by fiscal year, as follows:

14 (1) Test Claim (TC)

15 (2) Incorrect Reduction Claim (I)

16 (3) Request to Amend Parameters and Guidelines (PGA)

17 (4) Joint Request for Reasonable Reimbursement Methodology (RRM)

18 (5) Request for Review of Claiming Instructions (RCI)

19 (6) Request for Removal or Inclusion in State Mandates Apportionment System (SMAS)

20 (7) Joint Request for Legislatively Determined Mandate (LDM)

21 (8) Request for Mandate Redetermination (MR)

22 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.  
23 Reference: Sections 17530, 17551, 17554, 17557, 17557.1, 17571, 17557.2, 17570, 17573(b),  
24 17573(g), 17574(c) and 17615.1, Government Code.

25 **§ 1181.5. Appointment of Designees and Election and Duties of Officers.**

26 (a) If a Commission member, as defined by Government Code section 17525, with statutory  
27 authority to designate a deputy to represent him or her makes a designation, that designee may  
28 continue to serve on the Commission until the designation is revoked by the current Commission  
29 member.

30 (b) Commission members as defined by Government Code section 17525 shall be officers.  
31 Duties of Officers:

32 (1) Duties of Chairperson. The chairperson shall preside over all meetings of the Commission  
33 when present. The chairperson has all the rights and responsibilities of the other members,  
34 including the right to introduce motions or proposals and to speak and vote on them while  
35 presiding. The chairperson has the power to appoint one or more members of the Commission as  
36 a subcommittee to investigate and report to the Commission on any matter within the scope of  
37 the purposes of the Commission or to form advisory groups to assist the Commission or its  
38 subcommittees in fulfilling their purposes.



1 (2) Duties of Vice Chairperson. The vice chairperson shall preside over all meetings of the  
2 Commission at which the chairperson is not present. The vice chairperson has all the rights and  
3 responsibilities of the other members, including the right to introduce motions or proposals and  
4 to speak and vote on them while presiding.

5 (c) Time of Election. The Commission shall elect a chairperson and vice chairperson at the  
6 January meeting of each year, or at the next regularly scheduled meeting, if no meeting is held in  
7 January. In the calendar year following the statewide election of constitutional officers, the  
8 Commission may postpone its election. The Commission may authorize the executive director to  
9 conduct the election portion of its meeting.

10 (d) Vacancy. If an office (chairperson or vice-chairperson) held by a public member or local  
11 elected official becomes vacant, an election shall be conducted as soon as practicable to fill the  
12 vacant office.

13 (e) When Election Takes Effect. An election shall take effect immediately.

14 Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections 7.5,  
15 7.6, 7.9, 17525, 17528 and 17530, Government Code.

16 **§ 1181.6. Development and Approval of Commission Forms.**

17 (a) In consultation with interested parties and in accordance with applicable law and these  
18 regulations, the executive director shall develop the test claim form, incorrect reduction claim  
19 form, mandate redetermination form, and other forms, to simplify and improve the efficiency of  
20 the Commission's processes.

21 (b) The executive director shall conduct at least one workshop with interested parties,  
22 Department of Finance, Office of the State Controller, other affected state agencies, and  
23 interested persons before approval of a form.

24 (c) Upon development of a new form, the executive director shall notify claimants, interested  
25 parties, affected state agencies, and interested persons, and shall disseminate copies at least 10  
26 days before the operative date of a form.

27 (d) Any party may appeal to the Commission for review of the actions and decisions of the  
28 executive director under this section pursuant to section 1181.1 of these regulations.

29 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
30 17530, 17553 and 17557(a), Government Code.

31 **§ 1181.7. Waiver of Requirement to Use Forms.**

32 The executive director may waive a requirement to use any form specified by these regulations.

33 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17530, 17553  
34 and 17557(a), Government Code.

35 **§ 1181.8. Commission Meeting Quorum and Voting Requirements.**

36 (a) A majority of the existing membership of the Commission shall constitute a quorum.

37 (b) All actions of the Commission, with the exception of requests to reconsider a prior final  
38 decision as provided in section 1187.15, shall require the affirmative vote of at least a majority of  
39 the existing membership of the Commission.

- 1 (c) In the case of a tie vote, the Commission may:  
2 (1) Re-hear the claim when the membership of the Commission changes or when an abstaining  
3 member completes review of the administrative record;  
4 (2) Assign the claim to a hearing panel or to a hearing officer, pursuant to section 1187.2 et seq.,  
5 for hearing and preparation of a proposed decision for consideration by the Commission. If the  
6 Commission assigns the claim to a hearing panel, the selection of the hearing panel shall be by  
7 lot, or other means of random and impartial selection; or  
8 (3) Direct staff to prepare another proposed decision based on an interpretation of the law and  
9 evidence in the record for consideration by the Commission.

10 (d) A majority of the votes cast by those members assigned to a hearing panel is required for the  
11 approval of a preliminary decision on claims and applications for a finding of significant  
12 financial distress.

13 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17525,  
14 17527(c) and 17532, Government Code; and Section 17000.6, Welfare and Institutions Code.

15 **§ 1181.9. Commission Meeting Notice, Agenda, and Consent Calendar.**

16 (a) Time and distribution. Notices and agendas of meetings shall be given to all members, to all  
17 parties and interested parties to proceedings on the agenda, and to all persons who request them  
18 in writing. The notice and agenda shall be provided no less than 10 days prior to the scheduled  
19 meeting.

20 (b) Agenda. The meeting agenda shall be prepared by the executive director and shall include  
21 any item proposed by any member, or the executive director.

22 (c) The agenda may include an item designated "the consent calendar."

23 (1) The consent calendar shall include those matters for which there is no known opposition by  
24 any of the parties or interested parties.

25 (2) At the request of any member, party or interested party, any matter shall be removed from the  
26 consent calendar and may be considered at the same meeting as a separate item of business.

27 (3) The chairperson may also remove any matter from a duly noticed meeting agenda and place it  
28 on the consent calendar, provided there is no objection from the parties, interested parties, any  
29 Commission member, or person present and wishing to comment on the matter.

30 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11125,  
31 11125.1, 17527(b) and (c) and 17530, Government Code.

32 **§ 1181.10. Commission Meeting Procedures.**

33 (a) Presiding Member. The chairperson shall preside over all meetings of the Commission when  
34 present. In the chairperson's absence, the vice chairperson shall preside. If neither the  
35 chairperson nor the vice chairperson is in attendance, the member present who has the greatest  
36 seniority on the Commission shall preside. The presiding member may yield the chair.

37 (b) Public Comments.

1 (1) Comments in Writing. Any person may submit comments in writing on any agenda item. To  
2 be included as a part of the administrative record for the matter, comments must be provided to  
3 the Commission members and be made available for public review either before or at the  
4 Commission hearing on the matter.

5 (A) Comments received at least 15 days in advance of the meeting shall be included in the  
6 Commission's meeting binders, a copy of which is available for public viewing at the  
7 Commission meeting.

8 (B) Comments received more than five days in advance of the meeting shall be included in the  
9 Commission's meeting binders, if feasible, or shall be provided to the Commission when the item  
10 is called, unless otherwise agreed to by the Commission or the executive director.

11 (C) For written comments received less than five days in advance of the meeting, the commenter  
12 shall provide 12 copies to Commission staff at the meeting. Commission staff shall provide  
13 copies of the comments to the Commission and shall place a copy on a table for public review  
14 when the item is called.

15 (2) Oral Comments. Any person present and so desiring shall be given an opportunity to make  
16 oral comments on any agenda item, provided, however, that the presiding member may limit or  
17 preclude comments as necessary for the orderly conduct of business.

18 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
19 11125.7 and 17526-17528, Government Code.

20 **§ 1181.11. Permanent Record of Commission Meetings.**

21 (a) The Commission shall keep minutes of its meetings. Minutes shall be approved by the  
22 Commission and, upon approval, shall be signed by the chairperson or other person designated  
23 by the chairperson. Signed minutes shall be the original evidence of actions taken at any  
24 meeting, including the text of any resolutions adopted.

25 (b) Commission public meetings shall be recorded by stenographic reporter or electronic  
26 recording or both. The transcript or recordings shall be kept for the period of time required by  
27 applicable law governing the retention of records of state agency public proceedings, or until  
28 conclusion of administrative or judicial proceedings, whichever is later.

29 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17530,  
30 Government Code.

31 **§ 1181.12. Default Rules of Commission Meetings.**

32 In all cases not provided for by Government Code Section 17500 et seq., the Bagley-Keene Open  
33 Meeting Act (Government Code Section 11120 et seq.) and the Commission's rules and  
34 regulations, the authority shall be Robert's Rules of Order (revised), unless otherwise designated  
35 by the Commission at the annual election meeting.

36 Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections  
37 11120 et seq. and 17526, Government Code.

38 **§ 1181.13. Commission Meeting by Teleconference.**

39 The Commission may hold an open or closed meeting by teleconference if it is difficult or  
40 impossible for the Commission to achieve a quorum. A meeting held by teleconference shall be

- 1 held subject to all of the following:  
 2 (a) A meeting held by teleconference shall comply with the Bagley-Keene Open Meeting Act.  
 3 (b) Each teleconference location shall be identified in the notice of the meeting and shall be  
 4 accessible to the public.  
 5 (c) The portion of the teleconference meeting that is required to be open to the public shall be  
 6 audible to the public at the location specified in the notice of the meeting.  
 7 (d) All votes taken during a teleconference meeting shall be by roll call.  
 8 (e) The portion of the teleconferenced meeting that is closed to the public may not include the  
 9 consideration of any agenda item pursuant to section 11125.5 of the Government Code.  
 10 (f) At least one member of the Commission shall be physically present at the location specified  
 11 in the notice of the meeting.  
 12 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11123,  
 13 17527(b) and (c), Government Code.

14 **Article 2. Applications for a Finding of Significant Financial Distress**

15 **§ 1182.1. Reduction in Aid Levels; Definitions.**

16 When the county has made a compelling case that basic county services cannot be maintained  
 17 without a reduction in the level of aid established by Welfare and Institutions Code section  
 18 17000.5, the Commission shall make a finding of significant financial distress.  
 19 In making such a finding, the following definitions shall apply:

20 (a) "Application" means a county application filed pursuant to this article requesting the  
 21 Commission determine that the county has made a compelling case that basic county services  
 22 cannot be maintained without a reduction in the level of General Assistance aid established by  
 23 Welfare and Institutions Code section 17000.5, and finding that as a result, the county is in  
 24 significant financial distress, as defined in Welfare and Institutions Code section 17000.6.

25 (b) "Applicant" means the county that filed the request for a finding of significant financial  
 26 distress.

27 (c) A "compelling case" sufficient to cause a finding of significant financial distress must be  
 28 established by clear and convincing evidence.

29 (d) "Basic county services" means those services which are fundamental or essential. The  
 30 services shall include, but are not limited to, those services required by state or federal law, and  
 31 may vary from county to county.

32 (e) "Maintained" means the level of service which the county must provide in order to adequately  
 33 or effectively furnish basic county services.

34 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
 35 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

36 **§ 1182.2. Filing of an Application for a Finding of Significant Financial Distress.**

37 (a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of  
 38 supervisors of any county to obtain a finding of significant financial distress, the board of  
 39 supervisors must submit a written application to the Commission on State Mandates.

- 1 (b) The applicant shall file an original application, including supporting documents, with the  
2 Commission in accordance with section 1181.3 of these regulations.
- 3 (c) All applications shall contain at least the following:
- 4 (1) A table of contents, indicating page numbers.
- 5 (2) A copy of a resolution from the county board of supervisors stating that compliance with the  
6 standards set forth in Welfare and Institutions Code section 17000.5 will result in significant  
7 financial distress to the county for a specified period of time, up to 36 months.
- 8 (3) A written narrative, including a summary, detailing the relevant financial or other budgetary  
9 information and documents necessary for a county to make a compelling case that basic county  
10 services, including public safety, cannot be maintained without a reduction in the standard of aid  
11 as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:
- 12 (A) The monthly caseload of General Assistance recipients for each of the 12 months preceding  
13 the date the application is filed.
- 14 (B) The current monthly rate of the General Assistance Standard of Aid.
- 15 (C) The proposed reduced rate of the General Assistance Standard of Aid.
- 16 (D) An overview of county finances, including, but not limited to county revenue sources;  
17 budget reserve data; budget expenditures; mandated expenditures and maintenance of effort  
18 costs.
- 19 (E) A detailed summary of program needs and expenditure flexibility, including, but not limited  
20 to department-by-department data on unmet program needs for basic county services.
- 21 (F) The county's total population at the time the application is filed, and the total county  
22 population for the two fiscal years prior to the year in which the application was filed.
- 23 (d) The written narrative shall be submitted under penalty of perjury. In addition, the financial  
24 and other budgetary documents shall be certified under penalty of perjury.
- 25 (e) Each page of the application, including all supporting documentation, shall be consecutively  
26 numbered.
- 27 (f) The original application, including all supporting documentation, shall be unbound and  
28 single-sided.
- 29 (g) The executive director shall notify an applicant within 10 days of receipt of an application  
30 whether its application is incomplete. If the application is incomplete, the executive director may  
31 return the application to the county. An application shall be considered incomplete if the  
32 elements in subdivisions (b) through (f) of this section have not been satisfied, are illegible or are  
33 not included. The requirements for Commission public hearings and decisions, as set forth in  
34 Welfare and Institutions Code section 17000.6(c), apply only to complete applications.
- 35 (h) Within 10 days of receipt of a completed application, the executive director shall notify the  
36 applicant that the application is complete, and notify the applicant of the schedule. The executive  
37 director shall also send the application to interested persons located in the applicant county.
- 38 (i) Prior to filing an application, a county may request a tentative date for conducting the hearing  
39 in the county. If a complete application is not received by a specified date, a new tentative  
40 hearing date may be set.

1 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
2 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

3 **§ 1182.3. Extension of Period for Preliminary and Final Decision and Current Period of**  
4 **Financial Distress.**

5 (a) If an application is filed while another county's application is pending, the executive director  
6 may extend both the preliminary decision period up to 120 days and the final decision period up  
7 to 150 days from the filing date of the application, unless otherwise provided in the current  
8 Budget Act. If the preliminary and final decision periods are extended, any current period of  
9 significant financial distress of the applicant that has been set, pursuant to Welfare and  
10 Institutions Code Section 17000.6(b), shall also be extended for the same period.

11 (b) Within 10 days of receipt of a county's application, the executive director shall provide  
12 written notice to the applicant of extensions of the preliminary decision and final decision  
13 periods and of any current period of significant financial distress of the applicant.

14 Note: Authority cited: Stats. 1998, c. 324, Prov. (2), p. 622 (and subsequent Budget Acts);  
15 Section 17527(g), Government Code; and Section 17000.6(b), Welfare and Institutions Code.  
16 Reference: Section 17000.6(c), Welfare and Institutions Code.

17 **§ 1182.4. Notice.**

18 (a) Upon receipt of a complete application for a finding of significant financial distress, the  
19 Commission shall provide to the applicant a written 30- day notice of the hearing, to be held in  
20 the county.

21 (b) The notice shall be publicly posted by the applicant at the county court house and one county  
22 welfare office where General Assistance recipients are generally present. The Commission shall  
23 publish two notices in a newspaper of general circulation in the county. The first notice shall be  
24 published at least 30 days prior to the hearing date. The second notice shall be published at least  
25 10 days prior to the hearing date. The cost of publishing the notices shall be paid for by the  
26 Commission. Notice shall also be posted on the Commission's website.

27 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
28 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

29 **§ 1182.5. Pre-Hearing Conference.**

30 A pre-hearing conference may be scheduled by the executive director for the purpose of  
31 identifying issues and determining methods of resolving the issues. The county, and other parties  
32 known to have an interest in the county's application shall be invited to participate. This  
33 conference shall not limit the issues that can be presented to or considered by the Commission at  
34 public hearing.

35 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
36 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

37 **§ 1182.6. Assignment to Hearing Panels/Hearing Officers.**

38 The chairperson may assign an application to a hearing panel consisting of one or more members  
39 of the Commission, which shall act on behalf of the Commission, or to a hearing officer for  
40 hearing and preparation of a preliminary decision. Assignments by the chairperson of members

1 on the hearing panels shall be rotated among the members with the composition of the members  
2 so assigned being varied and changed to assure that there shall never be a fixed and continued  
3 composition of members.

4 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
5 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

6 **§ 1182.7. Request for Supplemental Information.**

7 (a) The executive director may request supplemental information from the applicant to assist the  
8 Commission in its review and analysis of the application. The applicant shall provide the  
9 supplemental information under the timeline established by the executive director.

10 (b) The supplemental information shall be submitted under penalty of perjury. Any attached  
11 financial or other budgetary documents shall be certified under penalty of perjury.

12 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
13 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

14 **§ 1182.8. Review of Completed Application for a Finding of Significant Financial Distress**  
15 **and Preparation of Staff Analysis.**

16 (a) Before the hearing is conducted in the applicant county, the executive director shall prepare  
17 and distribute a staff analysis of the application, which shall include, but not be limited to, a  
18 review of written comments filed by interested persons, and rebuttals filed by the applicant. The  
19 staff analysis may also include a review of the applicant's revenue sources, including the  
20 applicant's flexibility in directing its resources; review of the applicant's budget expenditures,  
21 statutory relief, contingencies, and fund balances; an analysis of the applicant's department-by-  
22 department evaluation of unmet need in basic county services; and a preliminary  
23 recommendation whether the Commission should approve or deny the application. The staff  
24 analysis shall describe the application and assist the Commission in determining whether or not  
25 to make a finding of significant financial distress.

26 (b) The executive director shall send the staff analysis out for comment at least 10 days prior to  
27 the hearing conducted in the applicant county.

28 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
29 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

30 **§ 1182.9. Written Comments.**

31 The applicant and any interested persons may file written comments concerning the staff analysis  
32 with the Commission. Written comments shall be filed with the Commission in accordance with  
33 section 1181.3 of these regulations. The written comments shall be reviewed by Commission  
34 staff and may be incorporated into any revised or supplemental staff analysis of the application.

35 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
36 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

37 **§ 1182.10. Conduct of Hearing.**

38 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose  
39 questions to the chairperson, hearing panel, or hearing officer for opposing witnesses in support

1 or rebuttal of any matter relevant to the issues even though that matter was not covered in the  
2 direct examination.

3 (b) The hearings will not be conducted according to technical rules relating to evidence and  
4 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on  
5 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant  
6 and unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the  
7 purpose of supplementing or explaining other evidence but shall not be sufficient in itself to  
8 support a finding unless it would be admissible over objection in civil actions.

9 (c) The Commission, hearing panel, or hearing officer may question any party or witness, may  
10 admit any relevant and material evidence, and may limit the length of testimony to a specific  
11 amount of time for any party or witness.

12 (d) The taking of evidence and testimony in a hearing shall be controlled by the Commission,  
13 hearing panel, or hearing officer in the manner best suited to ascertain the facts.

14 (e) Oral or written representations of fact offered by any person shall be under oath  
15 or affirmation. Written representations of fact must be signed under penalty of perjury by  
16 persons who are authorized and competent to do so and must be based upon the declarant's  
17 personal knowledge or information or belief.

18 (f) Public hearings, pursuant to this article, shall be recorded by stenographic reporter or  
19 electronic recording or both. The transcript or recordings shall be kept for the period of time  
20 required by applicable law governing the retention of records of state agency public proceedings,  
21 or until conclusion of administrative or judicial proceedings, whichever is later.

22

23 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
24 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

25 **§ 1182.11. Representation at Hearing.**

26 (a) The board of supervisors of a county shall designate a county representative.

27 (b) The county representative shall be the lead spokesperson and shall present all matters  
28 respecting the interest of the county in the proceeding.

29 (c) Withdrawal of appearance of any representative may be effected by filing a written notice of  
30 withdrawal and by serving a copy on the Commission.

31 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
32 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

33 **§ 1182.12. Continuance of Hearings and Further Hearings.**

34 (a) The Commission, hearing panel, or hearing officer may continue a hearing to another time or  
35 place.

36 (b) Due to the strict time frames contained in Welfare and Institutions Code section 17000.6(c),  
37 continuances will be granted only under compelling and urgent circumstances.

38 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
39 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.



1 **§ 1182.13. Preliminary and Final Decisions; Action on Decisions.**

2 (a) Within 60 days after receipt of an application, the executive director shall notify the county of  
3 the Commission, hearing panel, or hearing officer's preliminary decision that the county did or  
4 did not make a compelling case that it will incur significant financial distress pursuant to Welfare  
5 and Institutions Code section 17000.6. If the time period is extended pursuant to section 1182.3  
6 of these regulations, notice of the preliminary decision shall be provided within 120 days after  
7 receipt of an application, or as otherwise provided by the current Budget Act.

8 (b) If an application is heard by a hearing panel, the panel shall direct staff to prepare the  
9 preliminary decision in a form that may be adopted as the final decision by the Commission.  
10 When an application is heard by a hearing officer, a preliminary decision shall be presented in a  
11 form that may be adopted by the Commission as its final decision on the application. When an  
12 application is heard before the Commission itself the Commission shall direct staff to prepare a  
13 final decision in accord with the Commission's vote, which will be presented to the Commission  
14 for adoption as its final decision.

15 (c) Within 90 days after receipt of an application, the executive director shall give notice to the  
16 county of the Commission's final decision that the county did or did not make a compelling case  
17 that it will incur significant financial distress pursuant to Welfare and Institutions Code section  
18 17000.6. If the time period is extended pursuant to section 1182.3 of these regulations, notice of  
19 the final decision shall be provided within 150 days after receipt of an application, or as  
20 otherwise provided by the current Budget Act.

21 (d) If the preliminary decision prepared by the hearing panel or hearing officer is not adopted by  
22 the Commission as its final decision, the Commission may direct appropriate modification of the  
23 preliminary decision and thereafter adopt it as the Commission final decision or decide the  
24 application upon the record, with or without taking additional evidence, or may refer the  
25 application to a hearing panel or hearing officer to take additional evidence. If the application is  
26 so assigned to a hearing panel or hearing officer, the hearing panel or hearing officer shall  
27 prepare a preliminary decision, as provided in subdivision (b), which shall be based upon the  
28 additional evidence and the transcript and other papers which are a part of the record of the prior  
29 hearing.

30 (e) The affirmative vote of at least a majority of the existing membership of the Commission is  
31 required for the adoption of a final decision by the Commission. A copy of the final decision  
32 shall be filed by the Commission as a public record.

33 (f) A Commission final decision which makes a finding of significant financial distress will be  
34 effective for a period not to exceed 36 months. The final decision shall specify whether the  
35 effective date of the period of significant financial distress shall commence on the date of the  
36 final decision or on a date no more than 60 days from the date of the final decision.

37 Note: Authority cited: Stats. 1998, c. 324, Prov. (2), p. 622 (and subsequent Budget Acts);  
38 Section 17527(g), Government Code; and Section 17000.6, Welfare and Institutions Code.  
39 Reference: Sections 17527(c) and 17532, Government Code; and Section 17000.6, Welfare and  
40 Institutions Code.

1 **§ 1182.14. Form of Decision.**

2 The final decision shall be based on the record, shall be in writing, and shall include a statement  
3 of reasons for the decision, findings, and conclusions. A copy of the final decision shall be  
4 mailed to or served on the applicant county.

5 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
6 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

7 **§ 1182.15. Reapplications.**

8 (a) A county may file a reapplication for a finding of significant financial distress with the  
9 Commission.

10 (b) The application and hearing procedures prescribed in article 2 of these regulations shall also  
11 apply to reapplications. The applicant shall also provide the following information in its  
12 reapplication:

13 (1) How the applicant utilized the savings in reduction of the General Assistance Standard of Aid  
14 realized from the preceding finding of significant financial distress.

15 (2) The difference in the county's total population between the date the preceding application was  
16 filed and the date the reapplication is filed.

17 (3) Any staff changes or changes to working conditions, including but not limited to reduced  
18 work hours or salary increases or decreases that occurred since the date the preceding application  
19 was filed.

20 (4) Any statutes enacted since the date the preceding application was filed that change county  
21 revenue sources or expenditures, or impose new mandates upon the county.

22 (5) Tables that include the difference between proposed and approved unmet need in the  
23 preceding application, and the proposed unmet need in the reapplication. Tables may also be  
24 submitted by a predetermined computer medium.

25 (c) A county filing a reapplication of a previously approved finding of significant financial  
26 distress must present a compelling case of significant financial distress continuing since the last  
27 approved finding by the Commission.

28 (d) For a previously denied application, a county may file a reapplication when the fiscal  
29 situation in the county has changed.

30 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
31 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

32 **§ 1182.16. Withdrawal of Applications.**

33 An application may be withdrawn by written notice any time before a final decision is issued or  
34 upon request at the time of hearing. When the Commission receives a notice or request to  
35 withdraw, the Commission may issue a decision dismissing the application.

36 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and  
37 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

1 **Article 3. Test Claims**

2 **§ 1183.1 Test Claim Filing.**

3 (a) In order to obtain a mandate determination, a local agency or school district shall file a test  
4 claim with the Commission. Claimants may agree to submit a test claim as a joint effort, as  
5 provided in section 1183.1(g) of these regulations. Otherwise, the first claim filed on a statute or  
6 executive order by a similarly situated claimant is the test claim and no duplicate test claims will  
7 be accepted by the Commission. Other similarly situated affected agencies may participate in the  
8 process by submitting comments in writing on any agenda item as provided in section 1181.10 of  
9 these regulations, and may attend any Commission hearing on the test claim and provide written  
10 or oral comments to the Commission. Affected agencies that are not similarly situated, meaning  
11 that test claim statutes affect them differently, may file a test claim on the same statutes as the  
12 first claim, but must demonstrate how and why they are affected differently.

13 (b) Except as provided in Government Code sections 17573 and 17574, any test claim or  
14 amendment filed with the Commission must be filed not later than 12 months following the  
15 effective date of a statute or executive order, or within 12 months of first incurring increased  
16 costs as a result of a statute or executive order, whichever is later. For purposes of claiming  
17 based on the date of first incurring costs, "within 12 months" means by June 30 of the fiscal year  
18 following the fiscal year in which increased costs were first incurred by the test claimant.

19 (c) All test claims, or amendments thereto, shall be filed on a form developed by the executive  
20 director and shall contain all of the elements and supplemental documents required by statute,  
21 regulation and the form. When an omnibus bill is pled, claimant shall file only the relevant  
22 pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes  
23 at issue.

24 (d) The claimant shall file the test claim, or amendment thereto, and accompanying documents  
25 with the Commission in accordance with section 1181.3 of these regulations.

26 (e) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff shall  
27 notify the claimant if the test claim is complete or incomplete. Test claims will be considered  
28 incomplete if any of the elements required in subdivisions (c) and (d) of this section are illegible  
29 or are not included. If a complete test claim is not received within 30 calendar days from the date  
30 the incomplete test claim was returned, the executive director may disallow the original test  
31 claim filing date. A new test claim may be accepted on the same statute or executive order  
32 alleged to impose a reimbursable state-mandated program.

33 (f) Test claims may be prepared as a joint effort between two or more claimants and filed with  
34 the Commission if the claimants attest to all of the following in the test claim filing:

35 (1) The claimants allege state-mandated costs result from the same statute or executive order;

36 (2) The claimants agree on all issues of the test claim; and

37 (3) The claimants have designated one contact person to act as the resource for information  
38 regarding the test claim.

39 (g) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for  
40 any reason may be dismissed by the executive director with a written notice stating the reason for  
41 dismissal.

1 (h) Any party may appeal to the Commission for review of the actions and decisions of the  
2 executive director under this section pursuant to section 1181.1 of these regulations.

3 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
4 17521, 17530, 17551, 17553, 17557(e), 17564, 17573 and 17574, Government Code.

5 **§ 1183.2. Review of Test Claim.**

6 (a) Within 10 days of receipt of a completed test claim, or amendment thereto, Commission staff  
7 shall make a copy of the test claim or amendment available to those named on the mailing list  
8 prepared in accordance with section 1181.4 of these regulations and shall post it on the  
9 Commission's web site.

10 (b) Written comments concerning the test claim shall be filed and served within 30 days from the  
11 date the test claim or amendment is issued for comment and in accordance with the provisions of  
12 section 1181.3 of these regulations.

13 (c) Content and Form. Written comments on the test claim shall contain the following  
14 documentary evidence, if applicable:

15 (1) If representations of fact are made, they must be supported by documentary evidence  
16 submitted with the comments in accordance with section 1187.5 of these regulations.

17 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive  
18 orders, and a copy of administrative decisions and court decisions that may impact the alleged  
19 mandate, unless the authorities are also cited in the test claim. The specific statutes and chapters,  
20 articles, sections, regulatory registers, and page numbers must be identified. Published court  
21 decisions arising from state mandate determinations by the Board of Control and the  
22 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and  
23 Government Code sections 17500 et seq. are exempt from the requirements of this subdivision.

24 (d) The written comments and supporting documentation shall be signed at the end of the  
25 document by an authorized representative, with the declaration that it is true and complete to the  
26 best of the representative's personal knowledge or information or belief. The date of signing, the  
27 representative's title, address, and telephone number shall be included. If the authorized  
28 representative can be reached via e-mail, the e-mail address shall also be included.

29 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
30 17530, 17553(a) and 17557(e), Government Code.

31 **§ 1183.3. Claimant's Rebuttal.**

32 (a) Written rebuttals to written comments concerning a test claim may be filed and served in  
33 accordance with section 1181.3 of these regulations within 30 days of service of the written  
34 comments.

35 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if  
36 applicable:

37 (1) If new representations of fact are made, they must be supported by documentary evidence  
38 submitted with the rebuttal. All documentary evidence shall be in accordance with section  
39 1187.5 of these regulations.

1 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive  
2 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,  
3 unless the authorities are also cited in the test claim or any opposition thereto. The specific  
4 statutes and chapters, articles, sections, regulatory registers, and page numbers shall be  
5 identified. Published court decisions arising from state mandate determinations by the Board of  
6 Control and the Commission on State Mandates, article XIII B, section 6 of the California  
7 Constitution, and Government Code sections 17500 et seq. are exempt from the requirements of  
8 this subsection.

9 (c) The rebuttal shall be signed at the end of the document by the claimant or its authorized  
10 representative, with the declaration that the rebuttal is true and complete to the best of the  
11 declarant's personal knowledge or information or belief. The date of signing, and the declarant's  
12 title, address, and telephone number shall be included. If the declarant can be reached by e-mail,  
13 the declarant's e-mail address shall also be included.

14 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
15 17530 and 17553(a), Government Code.

16 **§ 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.**

17 Within 30 days of the filing date of a test claim deemed complete, a claimant may file a motion  
18 with the executive director to consolidate part or all of any test claim with another test claim, or  
19 to sever any part of any test claim, if necessary to ensure the complete, fair, or timely  
20 consideration of any test claim.

21 (a) Any motion to consolidate or to sever shall be filed and served in accordance with section  
22 1181.3 of these regulations.

23 (b) Within 30 days after receipt of a motion to consolidate or sever, the executive director may  
24 consolidate or sever any test claim.

25 Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Sections  
26 17530, 17553, Government Code.

27 **§ 1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.**

28 (a) The executive director may consolidate part or all of any test claim with another test claim or  
29 sever a test claim, if necessary to ensure the complete, fair, or timely consideration of any test  
30 claim.

31 (b) At least 10 days before the action is taken, the executive director shall simultaneously serve  
32 on the parties and interested parties on the mailing list described in section 1181.2 of these  
33 regulations, and post on the Commission's website, a notice of any proposed action to  
34 consolidate or sever.

35 Note: Authority cited: Section 17527(g) and 17553, Government Code. Reference: Sections  
36 17530, 17553 and 17554, Government Code.

37 **§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.**

38 (a) Before the hearing on the test claim, Commission staff shall prepare a proposed decision for  
39 the test claim, which shall include but not be limited to a review of the written comments filed.  
40 The proposed decision shall describe and analyze the test claim to assist the Commission in

1 determining whether the alleged statutes or executive orders contain a reimbursable state-  
2 mandated program under article XIII B, section 6 of the California Constitution.

3 (b) At least eight weeks before the hearing, or at a time required by the executive director or  
4 stipulated to by the parties, Commission staff shall prepare a draft proposed decision and  
5 distribute it to the parties, interested parties, and those on the mailing list described in section  
6 1181.3 of these regulations, and shall post it on the Commission's website.

7 (c) Anyone may file written comments concerning the draft proposed decision. If representations  
8 of fact are made, they must be supported by documentary evidence submitted with the comments  
9 in accordance with section 1187.5 of these regulations. Written comments shall be filed and  
10 served as described in section 1181.3 of these regulations, by the date determined and publicized  
11 by the executive director. A three-week period for comments shall be given, subject to the  
12 executive director's authority to expedite all matters pursuant to Government Code section  
13 17530. All written comments timely filed shall be reviewed by Commission staff and may be  
14 incorporated into the proposed decision for the test claim.

15 (d) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
16 other evidence filed after the three-week comment period described in subdivision (c) of this  
17 section. The Commission need not rely on, and staff need not respond to, late comments,  
18 exhibits, or other evidence submitted in response to a draft proposed decision after the comment  
19 period expires.

20 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections  
21 17514, 17530, 17551 and 17553, Government Code.

22 **§ 1183.7. Content of Parameters and Guidelines.**

23 The parameters and guidelines shall describe the claimable reimbursable costs and contain the  
24 following information:

25 (a) Summary of the Mandate. A summary of the mandate identifying the statutes or executive  
26 orders that contain the mandate and the increased level of service and activities found to be  
27 required under those statutes or executive orders.

28 (b) Eligible Claimants. A description of the local governmental entities eligible to file for  
29 reimbursement.

30 (c) Period of Reimbursement. A description of the period of reimbursement specifying the  
31 beginning and ending (if applicable) of the reimbursement period.

32 (d) Reimbursable Activities. A description of the specific costs and types of costs that are  
33 reimbursable, including one-time costs and on-going costs, and reasonably necessary activities  
34 required to comply with the mandate. "Reasonably necessary activities" are those activities  
35 necessary to comply with the statutes, regulations and other executive orders found to impose a  
36 state-mandated program. Activities required by statutes, regulations and other executive orders  
37 that were not pled in the test claim may only be used to define reasonably necessary activities to  
38 the extent that compliance with the approved state-mandated activities would not otherwise be  
39 possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All  
40 representations of fact to support any proposed reasonably necessary activities shall be supported  
41 by documentary evidence submitted in accordance with section 1187.5 of these regulations.

- 1 (e) Claim Preparation. Instruction on claim preparation, including instructions for direct and  
2 indirect cost reporting for actual costs incurred, or application of a reasonable reimbursement  
3 methodology.
- 4 (f) Record Retention. Notice of the Office of the State Controller's authority to audit claims and  
5 the amount of time supporting documents must be retained during the period subject to audit.
- 6 (g) Any Offsetting Revenues and Reimbursements that reduce the cost of any reimbursable  
7 activity, including the identification of:
- 8 (1) Dedicated state and federal funds appropriated for this program.
- 9 (2) Non-local agency funds dedicated for this program.
- 10 (3) Local agency's general purpose funds for this program.
- 11 (4) Fee authority to offset part of the costs of this program.
- 12 (h) Any Offsetting Savings. Identification of any offsetting savings provided by the test claim  
13 statute or executive order, or other statute or executive order, which decreases the cost of any  
14 reimbursable activity and permits or requires the discontinuance or reduction in the level of  
15 service of the program.
- 16 (i) Claiming Instructions. Notice of the Office of the State Controller's duty to issue claiming  
17 instructions, which constitutes notice of the right of local agencies and school districts to file  
18 reimbursement claims, based upon the decision and parameters and guidelines adopted by the  
19 Commission.
- 20 (j) Remedies Before the Commission. Instructions for filing requests to review claiming  
21 instructions and requests to amend parameters and guidelines with the Commission.
- 22 (k) Legal and Factual Basis. Notice that the legal and factual basis for the parameters and  
23 guidelines are found in the administrative record for the test claim, which is on file with the  
24 Commission.
- 25 Note: Authority cited: Sections 17517.5, 17527(g) and 17553(a), Government Code. Reference:  
26 Sections 17518.5, 17530, 17553, 17556(e) and 17557, Government Code.
- 27 **§ 1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of**  
28 **Comments.**
- 29 (a) Within 30 days of adoption of the decision on a test claim, or the early termination or  
30 expiration of a reasonable reimbursement methodology, the successful test claimant shall submit,  
31 to the Commission, proposed parameters and guidelines, pursuant to Government Code section  
32 17557 (a).
- 33 (b) If any of the elements described in section 1183.7 are missing or are not adequately  
34 addressed, Commission staff shall, within 10 days of receipt, deem the proposed parameters and  
35 guidelines incomplete and shall return the proposal to the claimants with a description of the  
36 subjects that are to be redrafted or supplemented.
- 37 (c) Within 10 days of receipt of completed proposed parameters and guidelines, Commission  
38 staff shall send a copy to those who are on the mailing list described in section 1181.4 of these  
39 regulations, and shall post it on the Commission's website.

1 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and  
2 provide written comments concerning the proposed parameters and guidelines within 15 days of  
3 service.

4 (e) Written comments shall be filed and served in accordance with section 1181.3 of these  
5 regulations.

6 (f) Within 15 days of service of the comments the claimant and other interested parties may  
7 submit written rebuttals to the Commission, and shall file and serve their rebuttals in accordance  
8 with section 1181.3 of these regulations.

9 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
10 17530, 17553(a), 17557 and 17557.2, Government Code.

11 **§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.**

12 (a) After adoption of a decision on a test claim, but before claimant submits proposed parameters  
13 and guidelines, Commission staff may expedite the parameters and guidelines process by  
14 drafting proposed parameters and guidelines to assist the claimant. The expedited draft proposed  
15 parameters and guidelines shall be served to everyone on the mailing list described in section  
16 1181.4 of these regulations, and shall be posted on the Commission's website.

17 (b) In lieu of filing an original proposal pursuant to Government Code section 17557 (a), the  
18 successful test claimant may file comments on the expedited draft proposed parameters and  
19 guidelines with the Commission. The claimant shall review all sections and if necessary may:

20 (1) Clarify the reimbursable activities identified by Commission staff, and provide an  
21 explanation of why the clarification is necessary.

22 (2) Include additional descriptions of reasonably necessary activities in accordance with section  
23 1183.7(d) of these regulations.

24 (3) Indicate whether the Commission should consider a reasonable reimbursement methodology  
25 for this program, and the basis for the recommendation.

26 (4) Identify any offsetting revenues and reimbursements that reduce the cost of any reimbursable  
27 activity, including revenues from:

28 (A) Dedicated state and federal funds appropriated for this program.

29 (B) Non-local agency funds dedicated for this program.

30 (C) Local agency's general purpose funds for this program.

31 (D) Fee authority to offset part of the costs of this program.

32 (5) Identify any offsetting savings provided by the test claim statute or executive order, or other  
33 statute or executive order, which decreases the cost of any reimbursable activity and permits or  
34 requires the discontinuance or reduction in the level of service of the program.

35 (c) The successful test claimant shall file its proposed modifications or comments within 20 days  
36 of receipt of Commission staff's draft proposal.

37 (d) The opportunity for state agencies and interested parties to comment on staff's draft proposal  
38 and the claimant's modifications or comments, and the claimant and interested parties'



1 opportunity for rebuttal will be conducted according to the timelines under section 1183.22 of  
2 these regulations.

3 Note: Authority cited: Sections 17517.5, 17527(g), 17530 and 17553(a), Government Code.  
4 Reference: Sections 17553(a), 17556(e), 17557 and 17564, Government Code.

5 **§ 1183.10. Reasonable Reimbursement Methodology.**

6 (a) Government Code section 17518.5 defines a "reasonable reimbursement methodology" as a  
7 formula for reimbursing local agencies and school districts for costs mandated by the state, as  
8 defined in Section 17514.

9 (b) For purposes of developing a reasonable reimbursement methodology pursuant to  
10 Government Code sections 17557 or 17557.1, the following definitions apply:

11 (1) "Costs to implement the mandate in a cost-efficient manner" include only those costs for the  
12 activities that were determined to be reimbursable by the Commission in the decision on the test  
13 claim, and the costs for the most reasonable methods of complying with the mandate pursuant to  
14 section 1183.12 (d), of these regulations.

15 (2)When surveying or otherwise gathering cost data to develop a formula, "representative sample  
16 of claimants" does not include eligible claimants that do not respond to surveys or otherwise  
17 participate in submitting cost data.

18 (c) An interested party may submit cost information or other cost projections that can be the  
19 basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable  
20 reimbursement methodology submitted pursuant to Government Code section 17557.1.

21 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
22 17518.5, 17557 and 17557.1, Government Code.

23 **§ 1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs.**

24 (a) Notwithstanding Government Code section 17557, within 30 days of the adoption of a  
25 decision on a test claim, the successful test claimant and the Department of Finance may notify  
26 the executive director in writing of their intent to follow the process described in Government  
27 Code sections 17557.1-17557.2 to develop a reasonable reimbursement methodology and  
28 statewide estimate of costs.

29 (b) The written notification shall provide all information and filing dates, as specified in  
30 Government Code section 17557.1(a).

31 (c) At the request of the test claimant and the Department of Finance, the executive director may  
32 provide for up to four extensions of the 180-day period for submittal of the draft reasonable  
33 reimbursement methodology and proposed statewide estimate of costs for the initial claiming  
34 period and budget year. Any request must be based on good cause as described in section 1187.9  
35 and also include an update of all information and filing dates provided in the original written  
36 notification submitted pursuant to Government Code section 17557.1(a). If no submittal of a  
37 draft and no request for an extension has been made by the filing date specified in the notice of  
38 intent to develop a reasonable reimbursement methodology, or if all extensions have been  
39 exhausted, the executive director shall issue a letter notifying the test claimant of the duty to  
40 submit proposed parameters and guidelines within 30 days under Government Code section  
41 17557 (a).

1 (d) The test claimant and Department of Finance shall file and serve any filings made pursuant to  
2 Government Code section 17557.1 in accordance with section 1181.3 of these regulations.

3 (e) Commission staff shall notify all recipients that they shall have the opportunity to review and  
4 provide written comments concerning the draft reasonable reimbursement methodology and  
5 proposed statewide estimate of costs within 15 days of service.

6 (f) Written comments may be filed in accordance with section 1181.3 of these regulations.

7 (g) Within seven days of service of the written comments, the test claimant and Department of  
8 Finance may submit written rebuttals which shall be filed and served in accordance with section  
9 1181.3 of these regulations.

10 (h) At least 10 days prior to the next hearing, Commission staff shall review comments and issue  
11 a staff recommendation on whether the Commission should approve the draft reasonable  
12 reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to  
13 Government Code section 17557.2.

14 Note: Authority cited: Sections 17527(c), 17527(g) and 17532, Government Code. Reference:  
15 Sections 17557.1 and 17557.2, Government Code.

16 **§ 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and**  
17 **Guidelines.**

18 (a) If the claimant indicates in the proposed parameters and guidelines or comments that a  
19 reasonable reimbursement methodology, as defined in Government Code section 17518.5,  
20 should be considered for inclusion in the parameters and guidelines, or if the Department of  
21 Finance, Office of the State Controller, any affected state agency, or eligible claimant proposes  
22 consideration of a reasonable reimbursement methodology, Commission staff may schedule an  
23 informal conference in accordance with section 1187.4 of these regulations to discuss the  
24 methodology and plan for submittal of a reasonable reimbursement methodology.

25 (b) A proposed reasonable reimbursement methodology, as described in Government Code  
26 section 17518.5, shall include any documentation or assumption relied upon to develop the  
27 proposed methodology.

28 (c) Commission staff shall notify all recipients that they shall have the opportunity to review and  
29 provide written comments concerning the proposed reasonable reimbursement methodology  
30 within 15 days of service.

31 (d) Proposed reasonable reimbursement methodologies and comments regarding those proposals  
32 shall be filed and served in accordance with section 1181.3 of these regulations.

33 (e) Within 15 days of service of the written comments prepared by other parties and interested  
34 parties, the party that proposed the reasonable reimbursement methodology may submit a written  
35 rebuttal to the Commission, and shall file and serve the rebuttal in accordance with section  
36 1181.3 of these regulations.

37 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
38 17518.5, 17557 and 17557.1, Government Code.

1 **§ 1183.13. Adoption of Parameters and Guidelines.**

2 (a) After review of the proposed parameters and guidelines, written comments, and rebuttals,  
3 Commission staff shall prepare a proposed decision and recommend the adoption of the  
4 claimant's proposed parameters and guidelines or adoption of an amended, modified, or  
5 supplemented version of the claimant's proposed parameters and guidelines. Commission staff's  
6 recommendation may include a reasonable reimbursement methodology developed pursuant to  
7 Government Code section 17518.5.

8 (b) Written comments on the proposed decision and proposed parameters and guidelines shall be  
9 filed and served in accordance with section 1181.3 of these regulations, by the date noticed by  
10 the executive director. A three-week period for comments shall be given, subject to the  
11 executive director's authority to expedite all matters pursuant to Government Code section  
12 17530. All written comments timely filed shall be reviewed by Commission staff and may be  
13 incorporated into the proposed decision and recommendation on the proposed parameters and  
14 guidelines.

15 (c) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
16 other evidence filed after the three-week comment period described in subdivision (b) of this  
17 section. The Commission need not rely on, and staff need not respond to, late comments,  
18 exhibits, or other evidence submitted in response to a draft proposed decision and proposed  
19 parameters and guidelines after the comment period expires.

20 (d) The Commission shall conduct a hearing in accordance with article 7 of these regulations  
21 before adoption of the parameters and guidelines.

22 (e) Within 10 days of the adoption of parameters and guidelines, the executive director shall send  
23 copies to the Office of the State Controller and to everyone on the mailing list described in  
24 section 1181.4 of these regulations, and shall post a copy on the Commission's website.

25 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference cited:  
26 Sections 17518.5, 17530, 17553(a) and 17557, Government Code.

27 **§ 1183.14. Statewide Cost Estimate.**

28 (a) If the Commission determines that there are state-mandated costs pursuant to Government  
29 Code sections 17514, it shall adopt a statewide cost estimate of the amount within 12 months  
30 after receipt of a completed test claim unless extended to 18 months by the Commission or  
31 executive director.

32 (b) Commission staff may develop the statewide cost estimate based on initial reimbursement  
33 claims filed with the Office of the State Controller, application of a reasonable reimbursement  
34 methodology, or use a different methodology based on recommendations from the test claimant,  
35 the Department of Finance, or other interested parties.

36 (c) Before presenting a statewide cost estimate to the Commission for adoption, Commission  
37 staff shall disclose to the parties and interested parties the methodology, basis for any  
38 assumptions made, and sources of any data used to develop the estimate.

39 (d) Before adopting the statewide cost estimate, the Commission shall hold at least one  
40 informational hearing under article 8 of these regulations.

1 (e) Upon adoption of the statewide cost estimate by the Commission, a summary of the  
2 parameters and guidelines and the statewide cost estimate shall be included in the Commission's  
3 report to the Legislature required by Government Code section 17600.

4 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
5 17518.5, 17553 and 17557(a), Government Code.

6 **§ 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement**  
7 **Methodology.**

8 (a) The test claimant and the Department of Finance may file a joint request for early termination  
9 of a reasonable reimbursement methodology with the Commission by submitting a request made  
10 pursuant to Government Code section 17557.2(e) which shall be filed and served in accordance  
11 with section 1181.3 of these regulations.

12 (b) Commission staff shall notify all recipients that they shall have the opportunity to review and  
13 provide written comments on the joint request for early termination of a reasonable  
14 reimbursement methodology within 15 days of service.

15 (c) Written comments may be filed and served in accordance with section 1181.3 of these  
16 regulations.

17 (d) Within seven days of service of the written comments, the test claimant and Department of  
18 Finance may submit written rebuttals which shall be filed and served in accordance with section  
19 1181.3 of these regulations.

20 (e) At least 10 days prior to the next hearing, Commission staff shall review comments and issue  
21 recommendation on whether the Commission should approve the joint request for early  
22 termination of a reasonable reimbursement methodology pursuant to Government Code section  
23 17557.2 (e).

24 (f) If the Commission approves a joint request for early termination, the Commission shall notify  
25 the test claimant of the duty to submit proposed parameters and guidelines to the Commission  
26 pursuant to Government Code section 17557(a), and section 1183.13 of these regulations.

27 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
28 17553(a), 17557 and 17557.2, Government Code.

29 **§ 1183.16. Expiration of Reasonable Reimbursement Methodology.**

30 (a) At least one year before the expiration of a reasonable reimbursement methodology,  
31 Commission staff shall notify the test claimant and the Department of Finance, that they may do  
32 one of the following within 60 days:

33 (1) Jointly propose amendments to the reasonable reimbursement methodology by submitting:  
34 (A) the draft reasonable reimbursement methodology, (B) a description of the steps the test  
35 claimant and the Department of Finance undertook to determine the level of support by local  
36 agencies or school districts for the draft reasonable reimbursement methodology, (C) an  
37 agreement that the reasonable reimbursement methodology developed and approved  
38 under Government Code section 17557.2 shall be in effect for a period of five years unless a  
39 different term is approved by the Commission, and (D) an estimate of the mandate's annual cost  
40 for the subsequent budget year.

- 1 (2) Jointly propose that the reasonable reimbursement methodology remain in effect.
- 2 (3) Allow the reasonable reimbursement methodology to expire and notify the Commission that  
3 the test claimant will submit proposed parameters and guidelines to the Commission pursuant to  
4 Government Code section 17557(a) and section 1183. 8 of these regulations or request that  
5 Commission staff prepare expedited parameters and guidelines pursuant to section 1183.9 of  
6 these regulations to replace the reasonable reimbursement methodology.
- 7 (b) Copies of the notice provided under subdivision (a) shall be filed and served in accordance  
8 with section 1181.3 of these regulations.
- 9 (c) The test claimant and the Department of Finance may jointly propose amendments to the  
10 reasonable reimbursement methodology or the continuation of a reasonable reimbursement  
11 methodology by submitting a request made pursuant to Government Code section 17557.2(f),  
12 which shall be filed and served in accordance with section 1181.3 of these regulations.
- 13 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and  
14 provide written comments on the jointly proposed amendments or request for continuation of the  
15 reasonable reimbursement methodology within 30 days of service.
- 16 (e) Written comments shall be filed and served in accordance with section 1181.3 of these  
17 regulations.
- 18 (f) Within 15 days of service of the written comments prepared by other parties and interested  
19 parties, the test claimant and Department of Finance may submit written rebuttals which shall be  
20 filed and served in accordance with section 1181.3 of these regulations.
- 21 (g) At least 10 days prior to the next hearing, Commission staff shall review comments and issue  
22 a staff recommendation on whether the Commission should approve the jointly proposed  
23 amendments or the continuation of a reasonable reimbursement methodology pursuant to  
24 Government Code section 17557.2(g).
- 25 (h) Within 10 days of the adoption of the jointly proposed amendments or the continuation of a  
26 reasonable reimbursement methodology, the executive director shall send copies to the Office of  
27 the State Controller, and to parties and interested parties who are on the mailing list described in  
28 section 1181.4 of these regulations.
- 29 (i) If the test claimant or the Department of Finance fail to respond within 60 days to the notice  
30 described in subdivision (a) of this section, Commission staff shall prepare proposed parameters  
31 and guidelines within 30 days of the parties' failure to respond and the process for expedited  
32 parameters and guidelines in section 1183.13 of these regulations shall become operative.

33 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
34 17553(a), 17557, 17557.1 and 17557.2, Government Code.

35 **§ 1183.17. Amendments to Parameters and Guidelines.**

36 (a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines  
37 shall include the proposed language for the specific sections of the existing parameters and  
38 guidelines that are to be changed, and include a narrative explaining why the amendment is  
39 required.

40 A request to amend parameters and guidelines may be filed to make any of the following  
41 changes to the parameters and guidelines:

- 1 (1) Delete any reimbursable activity that is repealed by statute or executive order after the  
2 adoption of the original or last amended parameters and guidelines.
- 3 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do  
4 not require a new legal finding that there are "no costs mandated by the state" under Government  
5 Code section 17556(e).
- 6 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable  
7 activities.
- 8 (4) Clarify reimbursable activities consistent with the original decisions on the test claim and  
9 parameters and guidelines.
- 10 (5) Add new reimbursable activities that are reasonably necessary for the performance of the  
11 original state-mandated program pursuant to section 1183.1(d) of these regulations.
- 12 (6) Define what is not reimbursable consistent with the original decisions on the test claim and  
13 parameters and guidelines.
- 14 (7) Consolidate the parameters and guidelines for two or more programs.
- 15 (8) Amend the "boilerplate" language.
- 16 (b) For purposes of this section, "boilerplate" language is defined as the language in the  
17 parameters and guidelines that is not unique to the state-mandated program that is the subject of  
18 the parameters and guidelines.
- 19 (c) The addition or substitution of requesters and supporting declarations based on the original  
20 facts alleged in an existing parameters and guidelines amendment request is not an  
21 "amendment." However, new proposals for amendments must be submitted as a new parameters  
22 and guidelines amendment request.
- 23 (d) A claimant or state agency requesting an amendment to existing parameters and guidelines  
24 shall file in accordance with section 1181.3 of these regulations.
- 25 (e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff  
26 shall send a copy to those who are on the mailing list described in section 1181.4 of these  
27 regulations, and shall post the request on the Commission's website.
- 28 (f) Commission staff shall notify all recipients that they shall have the opportunity to review and  
29 provide written comments concerning the proposed amendment of the parameters and guidelines  
30 within 30 days of service.
- 31 (g) Written comments on the request to amend the parameters and guidelines shall be filed and  
32 served in accordance with section 1181.3 of these regulations.
- 33 (h) Written rebuttals to the comments may be filed within 30 days of service of the comments.  
34 Written rebuttals shall be filed and served in accordance with section 1181.3 of these regulations.
- 35 (i) After review of the proposed amendment to the parameters and guidelines, written comments,  
36 and rebuttals submitted, Commission staff shall prepare a draft proposed decision and  
37 recommend whether the requester's proposed amendment to the parameters and guidelines  
38 should be adopted.
- 39 (j) Written comments on the draft proposed decision and recommendation on the proposed  
40 amendment to the parameters and guidelines shall be filed and served with the Commission in

1 accordance with section 1181.3 of these regulations, by the date noticed by the executive  
2 director. A three-week period for comments shall be given, subject to the executive director's  
3 authority to expedite all matters pursuant to Government Code section 17530. All written  
4 comments timely filed shall be reviewed by Commission staff and may be incorporated into the  
5 proposed decision and recommendation on the proposed amendment to the parameters and  
6 guidelines.

7 (k) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
8 other evidence filed after the three-week comment period described in subdivision (j) of this  
9 section. The Commission need not rely on, and staff need not respond to, late comments,  
10 exhibits, or other evidence submitted in response to a draft proposed decision after the comment  
11 period expires.

12 (l) An amendment shall be made only after the Commission has conducted a hearing in  
13 accordance with article 7 of these regulations.

14 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
15 17530, 17553, 17557 and 17560, Government Code.

16 **§ 1183.18. Timelines.**

17 (a) In computing any period of time prescribed by these regulations and applicable statutes,  
18 including the filing date as defined in section 1181.2 of these regulations, the following rules  
19 shall apply:

20 (1) The day of the act, event, or default from which the designated period of time begins to run  
21 shall not be included. The last day of the period so computed shall be included, unless it is a  
22 Saturday, Sunday, or state holiday.

23 (2) Days representing extensions of time and postponements of hearings granted to the parties  
24 shall be tolled and may not be counted toward the date on which a statewide cost estimate must  
25 be adopted by the Commission.

26 (3) Days following a test claimant's submission of incomplete information to the Commission,  
27 from the date on which Commission staff returns the incomplete information to the claimant up  
28 to the date on which the Commission receives complete information from the test claimant, shall  
29 be tolled and may not be counted toward the date on which a statewide cost estimate must be  
30 adopted by the Commission.

31 (4) If a party or interested party to a test claim notifies Commission staff that a reasonable  
32 reimbursement methodology may be developed for inclusion in pending parameters and  
33 guidelines, the days following the date of the notification up to the date on which a reasonable  
34 reimbursement methodology is developed, shall be tolled and may not be counted toward the  
35 date on which a statewide cost estimate must be adopted by the Commission. The days tolled  
36 shall not exceed 60 days from the date of the notification.

37 (5) If the test claimant and the Department of Finance notify the Commission staff in writing of  
38 their intent to develop a reasonable reimbursement methodology and statewide estimate of costs  
39 for the initial claiming period and budget year for reimbursement pursuant to Government Code  
40 section 17557.1, the days following the date of the notification up to the date on which a draft  
41 reasonable reimbursement methodology and proposed statewide estimate of costs are developed  
42 and submitted to the Commission, shall be tolled and may not be counted toward the date on

1 which a statewide cost estimate must be adopted by the Commission. The days tolled shall not  
2 exceed 180 days from the date of the notification.

3 (6) Three days shall be added to any prescribed period in which a party or interested party is  
4 required or permitted to do an act after service of a document upon that party or interested party  
5 by mail. The three days added for mail service shall be tolled and may not be counted toward the  
6 date on which a statewide cost estimate must be adopted.

7 (7) Solely for the purpose of determining when a statewide cost estimate shall be adopted, test  
8 claims that are amended, severed, or consolidated shall be deemed received on the effective date  
9 of the last amendment, severance, or consolidation, unless otherwise stipulated by the parties and  
10 approved by the executive director.

11 (8) Days between the effective date of the parameters and guidelines and the date the initial  
12 reimbursement claims are due to the Office of the State Controller shall be tolled and may not be  
13 counted toward the date on which a statewide cost estimate must be adopted by the Commission.

14 (b) The following timelines shall be used by Commission staff as a reference for the timely  
15 processing of test claims, adoption of statewide cost estimates or statewide estimates of costs:

16 (1) Timeline for a Test Claim, Parameters and Guidelines, and Statewide Cost Estimate (12  
17 Months)

| <u>PARTY/ACTIVITIES</u>   | <u>DAY NUMBER</u> |
|---|-------------------|
| <u>TEST CLAIM</u>   |                   |
| <u>CLAIMANT files test claim with the Commission.</u>                                 | <u>0</u>          |
| <u>COMMISSION staff begins counting days on the first day after receipt</u>           | <u>1</u>          |
| <u>COMMISSION staff reviews test claim to determine if complete</u>                   | <u>by 10</u>      |
| <u>COMMISSION staff sends test claim to state agencies for review.</u>                | <u>by 10</u>      |
| <u>COMMISSION staff convenes informal conference with parties, if necessary.</u>      | <u>by 30</u>      |
| <u>STATE AGENCIES file comments on test claim.</u>                                    | <u>by 40</u>      |
| <u>CLAIMANT submits rebuttal.</u>   | <u>by 70</u>      |
| <u>COMMISSION staff completes draft analysis of test claim and serves on parties.</u> | <u>by 100</u>     |
| <u>PARTIES submit comments on staff's draft analysis of test claim.</u>               | <u>by 130</u>     |
| <u>COMMISSION staff completes analysis and issues Proposed Decision.</u>              | <u>by 160</u>     |
| <u>COMMISSION hears test claim and adopts Proposed Decision.</u>                      | <u>by 180</u>     |
| <u>COMMISSION staff issues Decision and serves on parties.</u>                        | <u>by 190</u>     |
| <u>COMMISSION staff notifies Legislature of Decision</u>                              | <u>by 210</u>     |
| <u>PARAMETERS AND GUIDELINES</u>  |                   |
| <u>CLAIMANT submits proposed Parameters and Guidelines.</u>                           | <u>by 220</u>     |
| <u>STATE AGENCIES AND PARTIES may file comments.</u>                                  | <u>by 235</u>     |
| <u>CLAIMANT rebuts comments.</u>  | <u>by 250</u>     |
| <u>COMMISSION staff completes draft Parameters and Guidelines</u>                     |                   |
| <u>and serves on parties.</u>   | <u>by 265</u>     |
| <u>PARTIES submit comments on staff's draft Parameters and</u>                        |                   |
| <u>Guidelines.</u>  | <u>by 275</u>     |
| <u>COMMISSION staff completes Parameters and Guidelines</u>                           |                   |
| <u>and serves on parties.</u>   | <u>by 279</u>     |
| <u>COMMISSION conducts hearing and adopts Parameters and</u>                          |                   |



|   |   |        |
|---|---|--------|
| 1 | <u>Guidelines.</u>  | by 293 |
| 2 | <u>COMMISSION staff issues adopted Parameters and Guidelines.</u>           | by 303 |
| 3 | <u>STATEWIDE COST ESTIMATE</u>  |        |
| 4 | <u>COMMISSION staff develops Statewide Cost Estimate.</u>                   | by 335 |
| 5 | <u>ALL PARTIES comment on Statewide Cost Estimate.</u>                      | by 345 |
| 6 | <u>COMMISSION staff revises Statewide Cost Estimate.</u>                    | by 350 |
| 7 | <u>COMMISSION conducts hearing and adopts Statewide</u>                     |        |
| 8 | <u>Cost Estimate.</u>   | by 365 |
| 9 | <u>COMMISSION staff reports Statewide Cost Estimate to the Legislature.</u> | by 395 |

10 (2) Timeline for a Test Claim, Reasonable Reimbursement Methodology, and Statewide  
11 Estimate of Costs

|    |   |                   |
|----|---|-------------------|
| 12 | <u>PARTY/ACTIVITIES</u>   | <u>DAY NUMBER</u> |
| 13 | <u>TEST CLAIM</u>   |                   |
| 14 | <u>PARTY/ACTIVITIES</u>   | <u>DAY NUMBER</u> |
| 15 | <u>CLAIMANT files test claim with the Commission</u>  | 0                 |
| 16 | <u>COMMISSION staff begins counting days on the first day after receipt.</u>                        | 1                 |
| 17 | <u>COMMISSION staff reviews test claim to determine if complete.</u>                                | by 10             |
| 18 | <u>COMMISSION staff sends test claim to state agencies for review.</u>                              | by 10             |
| 19 | <u>COMMISSION staff convenes informal conference with parties, if necessary.</u>                    | by 30             |
| 20 | <u>STATE AGENCIES file comments on test claim.</u>  | by 40             |
| 21 | <u>CLAIMANT submits rebuttal.</u>   | by 70             |
| 22 | <u>COMMISSION staff completes draft analysis of test claim and serves on parties.</u>               | by 100            |
| 23 | <u>PARTIES submit comments on staff's draft analysis of test claim.</u>                             | by 130            |
| 24 | <u>COMMISSION staff completes analysis and issues proposed decision.</u>                            | by 160            |
| 25 | <u>COMMISSION hears test claim and adopts proposed decision.</u>                                    | by 180            |
| 26 | <u>COMMISSION staff issues decision and serves parties.</u>   | by 190            |
| 27 | <u>COMMISSION staff notifies Legislature of Decision.</u>   | by 220            |
| 28 | <u>REASONABLE REIMBURSEMENT METHODOLOGY (RRM)</u>   |                   |
| 29 | <u>AND STATEWIDE ESTIMATE OF COSTS (SEC)</u>  |                   |
| 30 | <u>CLAIMANT AND DEPARTMENT OF FINANCE (DOF) notify Commission</u>                                   |                   |
| 31 | <u>in writing of their intent to follow the process in 17557.1 to develop a RRM and SEC (within</u> |                   |
| 32 | <u>30 days after adoption of decision).</u>   | by 220            |
| 33 | <u>CLAIMANT AND DOF submit plan no later than six months after the date</u>                         |                   |
| 34 | <u>of letter of intent and 60 days before hearing.</u>  | by 400            |
| 35 | <u>COMMISSION staff notifies parties of comment period.</u>   | by 410            |
| 36 | <u>PARTIES submit comments on the draft RRM and SEC.</u>  | by 425            |
| 37 | <u>CLAIMANT AND DOF submit written rebuttal.</u>  | by 432            |
| 38 | <u>COMMISSION staff issues review comments and recommendation.</u>                                  | by 450            |
| 39 | <u>COMMISSION conducts hearing, approves the draft RRM, and adopts</u>                              |                   |
| 40 | <u>the proposed SEC for the initial claiming period and budget year.</u>                            | by 460            |
| 41 | <u>COMMISSION staff submits RRM to the CONTROLLER.</u>  | by 470            |
| 42 | <u>COMMISSION staff reports SEC to the Legislature.</u>   | by 490            |

43 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
44 17527, 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and  
45 17615.9, Government Code; California Rules of Court, Rule 3.1332.

1 **Article 4. Review of Office of State Controller's Claiming Instructions**

2 **§ 1184.1. Review of Office of State Controller's Claiming Instructions.**

3 (a) Upon request of a local agency or school district, the Commission shall review claiming  
4 instructions issued by the Office of State Controller.

5 (b) A request to review claiming instructions shall include the following:

6 (1) A copy of the disputed claiming instructions.

7 (2) If available, correspondence or other documentation that verifies the local agency or school  
8 district sought to resolve the dispute through the Office of State Controller.

9 (3) A narrative that details the suggested changes and the reasons why the local agency or school  
10 district finds the claiming instructions need to be modified.

11 (4) The name, address, telephone number, and e-mail address of the agency contact person.

12 (c) An original request to review claiming instructions shall be submitted to the Commission by  
13 the local agency or school district in accordance with section 1181.3 of these regulations.

14 (d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall  
15 notify the local agency or school district that submitted the request if the submittal is complete or  
16 incomplete. A request to review the claiming instructions shall be considered incomplete if any  
17 of the elements required in subdivision (b) or (c) of this section are illegible or not included.  
18 Incomplete requests shall be returned to the local agency or school district. If a complete request  
19 is not received by the Commission within 30 days from the date the incomplete request was  
20 returned, the Commission shall deem the request to be withdrawn.

21 (e) Within 10 days of receipt of a complete request to review claiming instructions, Commission  
22 staff shall send a copy to all persons who are on the mailing list described in section 1181.4 of  
23 these regulations. Commission staff shall provide notice that written comments concerning the  
24 request to review claiming instructions may be submitted within 30 days of service of the notice  
25 of complete filing. A copy of the notice shall also be posted on the Commission's website.

26 (f) Written comments shall be filed and served in accordance with section 1181.3 of these  
27 regulations.

28 (g) Within 30 days of service of the written comments, the requester may submit a written  
29 rebuttal to the Commission which shall be filed and served in accordance with section 1181.3 of  
30 these regulations.

31 (h) Before hearing a request to review claiming instructions, Commission staff shall prepare a  
32 proposed decision that shall include a review of the request and any comments filed. The  
33 analysis shall also include a staff recommendation on whether the request to review and modify  
34 the claiming instructions should be approved or denied.

35 (i) The requester and any state agency or interested party may file written comments on the staff  
36 analysis with Commission staff. Written comments shall be filed and served as described in  
37 section 1181.3 of these regulations, by the date determined and publicized by the executive  
38 director. If representations of fact are made, they must be supported by documentary evidence  
39 submitted with the comments in accordance with section 1187.5 of these regulations. A three-  
40 week period for comments shall be given, subject to the executive director's authority to

1 expedite all matters pursuant to Government Code section 17530. All written comments timely  
2 filed shall be reviewed by Commission staff and may be incorporated into the proposed decision  
3 on the request to review and modify the claiming instructions.

4 (j) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
5 other evidence filed after the three-week comment period described in subdivision (i) of this  
6 section. The Commission need not rely on, and staff need not respond to, late comments,  
7 exhibits, or other evidence submitted in response to a draft proposed decision after the comment  
8 period expires.

9 (k) The Commission shall conduct a hearing in accordance with article 7 of these regulations on  
10 the request to review claiming instructions.

11 (l) If the Commission determines that the claiming instructions need to be modified, the  
12 Commission shall direct the Office of State Controller to modify the claiming instructions to  
13 conform to the parameters and guidelines.

14 (m) An approved change to the claiming instructions shall be subject to the following schedule:

15 (1) A request for review filed before the deadline for initial claims as specified in the claiming  
16 instructions shall apply to all years eligible for reimbursement as defined in the original  
17 parameters and guidelines.

18 (2) A request for review filed after the initial claiming deadline must be submitted on or before  
19 the annual reimbursement claim filing deadline set out in Government Code section 17560  
20 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

21 (n) A request to review claiming instructions may be withdrawn by written application to the  
22 executive director any time before a decision is adopted or by oral application at the time of  
23 hearing. The requesters shall file and serve the written application in accordance with section  
24 1181.3 of these regulations. Commission staff shall post a copy of the notice on the  
25 Commission's website for 60 days prior to dismissal of the request to review claiming  
26 instructions. If no other local agency or school district takes over the request to review claiming  
27 instructions by substitution of parties within 60 days of service and posting of the application to  
28 withdraw, the executive director shall issue a letter to everyone on the mailing list described in  
29 section 1181.4 of these regulations dismissing the request to review claiming instructions and  
30 shall post the letter on the Commission's website.

31 Note: Authority cited: Sections 17527(g) and (h), Government Code. Reference: Sections 17530,  
32 17560 and 17571, Government Code.

## 33 **Article 5. Incorrect Reduction Claims**

### 34 **§ 1185.1. Incorrect Reduction Claim Filing.**

35 (a) To obtain a determination that the Office of State Controller incorrectly reduced a  
36 reimbursement claim, a claimant shall file an "incorrect reduction claim" with the Commission.

37 (b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,  
38 it must notify the Commission of its intent to do so at the time it files its incorrect reduction  
39 claim and meet the requirements of section 1185.3 of these regulations.

1 (c) All incorrect reduction claims shall be filed with the Commission no later than three years  
2 following the date of the Office of State Controller's final state audit report, letter, remittance  
3 advice, or other written notice of adjustment to a reimbursement claim.

4 (d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement  
5 claim filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

6 (e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by  
7 the Commission.

8 (f) All incorrect reduction claims, or amendments thereto, shall contain at least the following  
9 elements and documents:

10 (1) A copy of the Office of State Controller's claiming instructions that were in effect during the  
11 fiscal years of the reimbursement claims.

12 (2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall  
13 include a comprehensive description of the reduced or disallowed areas of costs.

14 (3) All representations of fact shall be supported by testimonial or documentary evidence and  
15 shall be submitted with the claim in accordance with section 1187.5 of these regulations.

16 (4) A copy of any final state audit report, letter, remittance advice, or other written notice of  
17 adjustment from the Office of State Controller that explains the reasons for the reduction or  
18 disallowance.

19 (5) A copy of the subject reimbursement claims the claimant submitted to the Office of State  
20 Controller.

21 (g) An incorrect reduction claim, or amendment thereto, shall be signed at the end of the  
22 document, under penalty of perjury by the claimant or its authorized representative, with the  
23 declaration that the incorrect reduction claim is true and complete to the best of the declarant's  
24 personal knowledge or information or belief. The date signed, the declarant's title, address,  
25 telephone number, and, e-mail address shall be included.

26 (h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and  
27 accompanying documents with the Commission in accordance with section 1181.3 of these  
28 regulations.

29 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17530,  
30 17551(d) and 17553(d), Government Code.

31 **§ 1185.2. Review of Incorrect Reduction Claims.**

32 (a) (i) Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify  
33 the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction  
34 claims will be considered incomplete if any of the elements required in section 1185.1(c) through  
35 (h) are illegible or not included. Incomplete incorrect reduction claims shall be returned to the  
36 claimant. If a complete incorrect reduction claim is not received by the Commission within 30  
37 days from the date the incomplete claim was returned to the claimant, the executive director shall  
38 deem the filing to be withdrawn.

39 (b) Within 10 days of receipt of a complete incorrect reduction claim, Commission staff shall  
40 provide a copy of the claim to the Office of State Controller.

1 (c) Commission staff shall notify the Office of State Controller that written comments and  
2 supporting documentation in connection with an incorrect reduction claim shall be filed no more  
3 than 90 days from the date the copy of the claim is provided to the Office of State Controller.  
4 Written comments and supporting documentation may be filed in accordance with section  
5 1181.3. If the written comments make representations of fact, the representations shall be  
6 supported by documentary evidence and shall be submitted with the comments in accordance  
7 with section 1187.5 of these regulations.(c) The claimant and interested parties may submit  
8 written rebuttals to the Office of State Controller's comments within 30 days of service of the  
9 Office of State Controller's comments. Written rebuttals and supporting documentation shall be  
10 filed and served pursuant to section 1181.3. If the written rebuttal involves representations of  
11 fact, the representations shall be supported by documentary evidence and shall be submitted with  
12 the rebuttal in accordance with section 1187.5 of these regulations.

13 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17551(d) and  
14 17553(d), Government Code.

15 **§ 1185.3. Consolidation of Claims Initiated by an Individual Claimant.**

16 (a) On behalf of a class of claimants, an individual claimant may initiate the consolidation of  
17 claims alleging an incorrect reduction as described in Government Code section 17558.7, if all of  
18 the following apply:

19 (1) The method, act, or practice that the claimant alleges led to the reduction has led to similar  
20 reductions of other parties' claims, and all of the claims involve common questions of law or  
21 fact.

22 (2) The common questions of law or fact among the claims predominate over any matter  
23 affecting only an individual claim.

24 (3) The consolidation of similar claims by individual claimants would result in consistent  
25 decision making by the Commission.

26 (4) The claimant filing the consolidated claim would fairly and adequately protect the interests of  
27 the other claimants.

28 (b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the  
29 Commission of its intent at the time of filing on a form provided by the Commission.

30 (c) Within 10 days of receipt of a consolidated incorrect reduction claim, Commission staff shall  
31 notify the claimant if the consolidated incorrect reduction claim is complete or incomplete  
32 pursuant to section 1185.1, and request the Office of the State Controller to provide the  
33 Commission, within 30 days, a list of claimants for whom the Controller has reduced similar  
34 claims under the same mandate, and the date each claimant was notified of an adjustment.

35 (d) Upon receipt of the list from the Office of the State Controller, the Commission shall notify  
36 the list of other claimants experiencing similar reductions by the Controller under the same  
37 mandate and other interested parties of the original claimant's intent to consolidate an incorrect  
38 reduction claim.

39 Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section  
40 17558.7, Government Code.

1 **§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

2 (a) Within 30 days of receipt of the Commission's notice regarding the original claimant's notice  
3 of intent to consolidate an incorrect reduction claim, any other eligible claimant may, on a form  
4 provided by the Commission, file a notice of intent to join the consolidated incorrect reduction  
5 claim.

6 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with  
7 section 1185.1(c) and contain at least the following elements and documents:

8 (1) A copy of the final state audit report, letter, remittance advice, or other written notice of  
9 adjustment from the Office of State Controller that explains the reasons for the reduction or  
10 disallowance.

11 (2) A copy of the subject reimbursement claims submitted to the Office of State Controller.

12 (3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification  
13 by the joining claimant authorizing the original claimant to act as its representative in the  
14 consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing  
15 is true and complete to the best of the declarant's personal knowledge or information or belief.  
16 The date signed, the declarant's title, address, telephone number, and, e-mail address shall be  
17 included. All representations of fact shall be supported by testimonial or documentary evidence  
18 and shall be submitted in accordance with section 1187.5 of these regulations.

19 (4) The joining claimant shall file one original notice of intent to join and accompanying  
20 documents with the Commission in accordance with section 1181.3 of these regulations.

21 (c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect reduction claim,  
22 Commission staff shall notify the joining claimant if the notice of intent to join is complete or  
23 incomplete. Notices of intent to join a consolidated incorrect reduction claim will be considered  
24 incomplete if any of the elements required in subdivision (b) of this section are illegible or not  
25 included. Incomplete notices of intent shall be returned to the joining claimant. If a complete  
26 notice of intent to join a consolidated incorrect reduction claim is not received by the  
27 Commission within 30 days from the date the incomplete notice of intent was returned to the  
28 joining claimant, the Commission shall deem the filing to be withdrawn.

29 Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section  
30 17558.7, Government Code.

31 **§ 1185.5. Opting Out of a Consolidated Incorrect Reduction Claim.**

32 Pursuant to Government Code section 17558.7(f), each claimant that files a notice of intent to  
33 join a consolidated incorrect reduction claim may opt out and not be bound by any determination  
34 made on the consolidated claim.

35 (a) To opt out of a consolidated incorrect reduction claim, claimants shall file a written notice  
36 with the Commission within 15 days of service of the Office of State Controller's comments. A  
37 copy of the notice must be served in accordance with section 1181.3.

38 (b) No later than one year after opting out, or within the statute of limitations under section  
39 1185.1(c), whichever is later, a claimant that opts out of a consolidated claim shall file an  
40 individual incorrect reduction claim in order to preserve its right to challenge a reduction made  
41 by the Controller on that same mandate.

1 (c) If a claimant opts out of a consolidated incorrect reduction claim and an individual incorrect  
2 reduction claim for that entity is already on file with the Commission, the individual filing is  
3 automatically reinstated.

4 Note: Authority cited: Sections 17527(g) and 17558.7(g), Government Code. Reference: Section  
5 17558.7, Government Code.

6 **§ 1185.6. Executive Director's Authority to Consolidate or Sever Incorrect Reduction**  
7 **Claims.**

8 The executive director may consolidate or sever part or all of any incorrect reduction claim with  
9 another incorrect reduction claim, if necessary to ensure the complete, fair, or timely  
10 consideration of any incorrect reduction claim.

11 (a) At least 30 days before the action is taken, the executive director shall simultaneously serve  
12 on all persons on the mailing list described in section 1181.4 of these regulations a notice of any  
13 proposed action to consolidate or sever and shall post the notice on the Commission's website.

14 (b) During the 30-day notice period, a claimant may serve and file a written request that an  
15 individual incorrect reduction claim be severed from a proposed consolidation. Timely requests  
16 to sever shall be approved by the executive director.

17 (c) Late requests for severing an individual incorrect reduction claim shall be denied.

18 Note: Authority cited: Sections 17527(g) and 17558.8(b), Government Code. Reference:  
19 Sections 17530, 17554 and 17558.8, Government Code.

20 **§ 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed**  
21 **Decision.**

22 (a) The Commission shall conduct a hearing in accordance with article 7 of these regulations  
23 before adopting a decision on an individual or consolidated incorrect reduction claim.

24 (b) Before hearing an individual or consolidated incorrect reduction claim, Commission staff  
25 shall prepare a written analysis of the incorrect reduction claim that shall include, but not be  
26 limited to, a review of any statements filed by the Office of State Controller and the claimant's  
27 rebuttal. The analysis shall also include a staff recommendation on whether the claimant's  
28 reimbursement claim was incorrectly reduced.

29 (c) At least eight weeks before the hearing or at a time required by the executive director or  
30 stipulated to by the claimant and the Office of State Controller, Commission staff shall distribute  
31 a proposed decision to all those on the mailing list described in section 1181.4 of these  
32 regulations.

33 (d) Written comments shall be filed and served as described in section 1181.3 of these  
34 regulations, by the date determined and publicized by the executive director. A three-week  
35 period for comments shall be given, subject to the executive director's authority to expedite all  
36 matters pursuant to Government Code section 17530. All written comments timely filed shall be  
37 reviewed by Commission staff and may be incorporated into the proposed decision for the  
38 incorrect reduction claim.

39 (e) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
40 other evidence filed after the three-week comment period described in subdivision (d) of this

1 section. The Commission need not rely on, and staff need not respond to, late comments,  
2 exhibits, or other evidence submitted in response to a draft proposed decision after the comment  
3 period expires.

4 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(d),  
5 Government Code.

6 **§ 1185.8. Withdrawal of Incorrect Reduction Claims.**

7 (a) An incorrect reduction claim, except for a claim by the original claimant in a consolidated  
8 incorrect reduction claim, may be withdrawn by written application any time before a decision is  
9 adopted or by oral application at the time of hearing. If an application is made, the executive  
10 director shall issue a letter to the claimant and the State Controller dismissing the claim.

11 (b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction  
12 claim, may be withdrawn by written application any time before a decision is adopted or by oral  
13 application at the time of hearing. The original claimant shall file and serve the written  
14 application in accordance with section 1181.3 of these regulations and Commission staff shall  
15 post a copy of the notice on the Commission's website for 60 days prior to dismissal of the  
16 incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60  
17 days of providing notice of its intent to take over the claim, perfect the filing by submitting the  
18 written narrative as required by section 1185.1. If none of the joint claimants takes over the claim  
19 by substitution of parties within 60 days of service and posting of the application to withdraw,  
20 the executive director shall issue a letter to everyone on the mailing list described in section  
21 1181.4 of these regulations dismissing the claim and providing the joint claimants with an  
22 opportunity to perfect their individual claims within 60 days of service by submitting the written  
23 narrative as required by section 1185.1. The letter shall be posted on the Commission's website.

24 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17530 and  
25 17551(d), Government Code.

26 **§ 1185.9. Reinstatement of Costs.**

27 If the Commission determines that a reimbursement claim was incorrectly reduced, the  
28 Commission shall send the decision to the Office of State Controller and request that the Office  
29 of State Controller reinstate the costs that were incorrectly reduced.

30 Note: Authority cited: Section 17527(g), Government Code. Reference: Section 17551(d),  
31 Government Code.

32 **Article 6. State Mandates Apportionment System**

33 **§ 1186.1. Definitions: State Mandates Apportionment System.**

34 (a) Request for Inclusion. A Request for Inclusion is a factual statement about a mandated cost  
35 program and a petition for a review of the described program by the Commission on State  
36 Mandates. The review is intended to result in a decision whether or not to include the program in  
37 the State Mandates Apportionment System.

38 (b) Stable costs. Stable costs are those costs incurred by local agencies or school districts as a  
39 result of implementing a mandated cost program which, when reviewed on a statewide basis over  
40 a three-year period, have not fluctuated significantly.



1 (c) Request for Removal. A Request for Removal is a factual statement about significant  
2 modifications or amendments to a program which is part of the State Mandates Apportionment  
3 System. The statement is intended to result in the discontinuance of the program in the State  
4 Mandates Apportionment System.

5 Note: Authority and reference cited: Section 17615, Government Code.

6 **§ 1186.2. Request for Inclusion.**

7 (a) Any local agency, school district, the Department of Finance or the State Controller's Office  
8 may request that the Commission review a mandated cost program for possible inclusion in the  
9 State Mandates Apportionment System in accordance with Government Code section 17615.1.

10 (b) In order to obtain a review and determination regarding inclusion in the system, a local  
11 agency, school district or state agency must file a "Request for Inclusion" with the Commission.

12 (c) The request for inclusion must contain at least the following:

13 (1) The chapter number of the law which established the mandated cost program(s).

14 (2) A detailed narrative describing the mandated cost program with an explanation of the reasons  
15 why the mandated cost program should be included in the State Mandates Apportionment  
16 System.

17 (3) Any other pertinent information which will substantiate the request or which would have a  
18 bearing on the decision of the Commission in this matter.

19 (d) The Commission shall consider the recommendation submitted from the Controller for each  
20 new mandate submitted for inclusion in the State Mandates Apportionment System in  
21 accordance with Government Code section 17615.4(c).

22 (e) Requests for inclusion will be considered incomplete if any of the preceding elements or  
23 documents required in subdivision (c) of this section are illegible or not included. Incomplete  
24 requests for inclusion shall be returned to the requester for completion.

25 (f) Requests for inclusion filings and any state agency recommendations shall be subject to the  
26 requirements of article 7 of these regulations beginning at section 1187.1.

27 Note: Authority and reference cited: Sections 17615 and 17615.1, Government Code.

28 **§ 1186.3. Adoption of Finding for Request for Inclusion.**

29 (a) The Commission, after reviewing the request for inclusion and conducting at least one  
30 hearing in accordance with article 7 of these regulations, shall adopt a finding that the mandated  
31 program will or will not be included in the State Mandates Apportionment System.

32 (b) The primary criteria to be used by the Commission in making a determination will include a  
33 review of the mandated program to determine if the program has a history of stable costs for  
34 most claimants, if the mandated program has been recently modified, and if inclusion would  
35 accurately reflect the costs of the state mandated program.

36 (c) Upon adoption of a finding that a mandated program should be included in the State  
37 Mandates Apportionment System, the Commission shall direct the Controller to include the  
38 program in the system.

39 Note: Authority and reference cited: Section 17615.1, Government Code.

1 **§ 1186.4. Request for Removal.**

2 (a) Any local agency, school district, or state agency may request that the Commission review a  
3 mandated program included in the State Mandates Apportionment System that has been modified  
4 or amended by the Legislature or an executive order for possible removal of the program from  
5 the system in accordance with Section 17615.7 of the Government Code.

6 (b) In order to obtain a review and determination regarding removal of a program from the  
7 system, a local agency, school district, or state agency must file a "Request for Removal" with  
8 the Commission.

9 (c) The request for removal must contain at least the following elements:

10 (1) The chapter number or executive order of the law which established the mandated cost  
11 program.

12 (2) The chapter number of the law or the executive order which significantly modified or  
13 amended the costs of the program or a detailed description of the circumstances or events which  
14 have caused the changes.

15 (3) A detailed narrative describing the mandated cost program with an explanation of the reasons  
16 why the mandated program should no longer be included in the State Mandates Apportionment  
17 System.

18 (4) Any other information which will substantiate the request or which would have a bearing on  
19 the decision of the Commission in this matter.

20 (d) Requests for Removal will be considered incomplete if any of the preceding elements or  
21 documents required in subdivision (c) of this section are illegible or not included. Incomplete  
22 Requests for Removal shall be returned to the requester for completion.

23 (e) Request for removal filings and any state agency recommendations shall be subject to the  
24 requirements of article 7 of these regulations beginning at section 1187.

25 Note: Authority and reference cited: Section 17615.7, Government Code.

26 **§ 1186.5. Adoption of Finding for Request for Removal.**

27 (a) The Commission, after reviewing the request for removal and conducting at least one hearing  
28 in accordance in article 7 of these regulations, shall adopt a finding that the mandated program  
29 will or will not continue to be included in the State Mandates Apportionment System.

30 (b) The primary criteria to be used by the Commission in making a determination regarding  
31 removal will include whether the mandated program was significantly modified or amended by  
32 the Legislature or by executive order so as to affect the ongoing costs of the program in a way  
33 that the historical costs of the program are no longer an accurate reflection of continuing costs.

34 (c) Upon adoption of a finding that a mandated program should be removed from the system, the  
35 Commission shall direct the Controller to remove the program from the system. In that direction  
36 to the Controller, the Commission shall specify if the program will be removed temporarily or  
37 for an indefinite period of time.

38 Note: Authority and reference cited: Section 17615.5, Government Code.

1 **§ 1186.6. Reviewing an Apportionment or Base Year Entitlement.**

2 (a) Upon request of a local agency, school district or state agency the Commission shall review  
3 the apportionment or base year entitlement pursuant to Government Code section 17615.8(a).

4 (b) In order to obtain a review of an apportionment or base year entitlement a "Request for  
5 Review" shall be filed with the Commission.

6 (c) The request for review shall contain at least the following elements:

7 (1) Identification of the mandated program that is alleged to require review.

8 (2) A detailed narrative describing the need to modify the apportionment or base year  
9 entitlement.

10 (3) A statement to the effect that the other mandated programs included in the local agency or  
11 school district's apportionment are not overfunded in an amount sufficient to offset any  
12 underfunding.

13 (4) Cost information that outlines the amount of the funding for the total apportionment and the  
14 calculations necessary to show that the program needing modification either under or over  
15 reimburse the local agency or school district's actual costs by 20 percent or by \$1,000, whichever  
16 is less.

17 Note: Authority and reference cited: Section 17615.8, Government Code.

18 **§ 1186.7. Adjustment to Apportionment.**

19 (a) The Commission, after reviewing an apportionment or base year entitlement and conducting  
20 at least one hearing in accordance with article 7 of these regulations, shall adopt a finding that  
21 the apportionment or base year entitlement will or will not be adjusted.

22 (b) If the Commission determines that a local agency or school district's apportionment falls  
23 short of reimbursing for all mandates upon which the apportionment or base year entitlement is  
24 based by 20 percent or by \$1,000, whichever is less, then the Commission shall direct the  
25 Controller to adjust the apportionment accordingly.

26 (c) If the Commission determines that a local agency or school district's apportionment  
27 adequately reflects the costs incurred by the local agency or school district for all mandates upon  
28 which that apportionment is based, the Commission may, in its discretion, direct the Controller  
29 to withhold the costs of the Commission's review from the next apportionment to the local  
30 agency or school district. A direction to withhold costs from the next apportionment will be  
31 made only when the Commission determines that the request to review an apportionment was  
32 frivolous and without merit.

33 Note: Authority and reference cited: Section 17615.9, Government Code.

34 **Article 7. Quasi-Judicial Hearing Procedures and Decisions**

35 **§ 1187.1. Scheduling and Noticing the Hearing.**

36 (a) A "matter," subject to hearings and decisions under article 7 of these regulations, shall  
37 include test claims, proposed parameters and guidelines, requests to amend parameters and  
38 guidelines, incorrect reduction claims, requests for inclusion or removal from the State Mandates  
39 Apportionment System, requests for review of apportionment or base year entitlement for

1 programs included in the State Mandates Apportionment System, requests for review of the  
2 Office of State Controller's claiming instructions, and requests for mandate redetermination.

3 (b) A matter is set for hearing when Commission staff issues its draft proposed decision. A  
4 written notice of the date, time, and place of hearing shall be provided to everyone on the  
5 mailing list as described in section 1181.4 of these regulations and shall be posted on the  
6 Commission's web site.

7 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
8 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,  
9 Government Code.

10 **§ 1187.2. Assignment to Hearing Panels/Hearing Officers.**

11 (a) After an informational hearing, in accordance with Article 8 of these regulations, the  
12 Commission's chairperson may assign a matter before the Commission to a hearing panel  
13 consisting of one or more members or to a hearing officer for hearing and preparation of a  
14 proposed decision that may be adopted as the decision in the case.

15 (b) Assignments by the Commission chairperson of members on hearing panels shall be rotated  
16 among the members with the composition of the members so assigned being varied and changed  
17 to assure that there shall never be a fixed and continued composition of members.

18 (c) A matter shall be heard and decided by the Commission itself at the request of any two  
19 members of the Commission.

20 Note: Authority cited: Sections 17527(c), 17527(g) and 17533(a), Government Code. Reference:  
21 Sections 17532, 17551, 17553 (a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and  
22 17615.9, Government Code.

23 **§ 1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.**

24 (a) Any party may ask that a matter be heard by the Commission itself rather than by a hearing  
25 panel or hearing officer.

26 (b) Any party may request the disqualification of any hearing officer or Commission member  
27 before the taking of evidence at a hearing by filing an affidavit stating with particularity the  
28 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the  
29 request concerns a Commission member, the issue shall be determined by the other members of  
30 the Commission. Where the request concerns the hearing officer, the issue shall be determined  
31 by the Commission itself, if the Commission itself hears the case with the hearing officer;  
32 otherwise the issue shall be determined by the hearing officer.

33 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:  
34 Sections 17527, 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8  
35 and 17615.9, Government Code.

36 **§ 1187.4. Informal Conference.**

37 (a) An informal conference may be scheduled by the Commission or the executive director of  
38 their own accord or by request of a party or interested party to the matter in question. The parties  
39 and interested parties to the matter shall be invited to participate. With the consent of the parties,  
40 the informal conference may be a teleconference.

1 (b) At least 10 days before any informal conference, Commission staff shall serve notice of the  
2 conference to those on the mailing list for the matter in question as established pursuant to  
3 section 1181.4 of these regulations.

4 (c) The purpose of an informal conference may be to:

5 (1) Set dates for receiving comments or claimant rebuttal; completing the proposed decision; and  
6 hearing the matter.

7 (2) Give the claimant or requester the opportunity to present the matter and to respond to  
8 questions from Commission staff and parties and interested parties for the purpose of resolving  
9 or clarifying issues of fact or law.

10 (3) Consider whether a reasonable reimbursement methodology may be developed and included  
11 in the parameters and guidelines.

12 (4) Review a draft reasonable reimbursement methodology and proposed statewide estimate of  
13 costs that are jointly prepared by the test claimant and the Department of Finance pursuant to  
14 Government Code section 17557.1.

15 (5) Identify issues and determine methods of resolving those issues.

16 (d) Any party may notify the executive director of any interested parties who should be invited  
17 to attend an informal conference.

18 (e) Anything said, any document disclosed, and any new representations of fact made during an  
19 informal conference shall not be made part of the administrative record of a test claim unless  
20 properly admitted into the record through the submission of an amendment to a test claim,  
21 written comment, rebuttal, or public testimony.

22 Note: Authority cited: Sections 17527(g), 17553(a), Government Code. Reference: Sections  
23 17518.5, 17527(c), 17530, 17551, 17553(a) and 17557.1, Government Code.

24 **§ 1187.5. Evidence Submitted to the Commission.**

25 (a) The hearings will not be conducted according to technical rules relating to evidence and  
26 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on  
27 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and  
28 unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of  
29 supplementing or explaining other evidence but shall not be sufficient in itself to support a  
30 finding unless it would be admissible over objection in civil actions.

31 (b) Oral or written representations of fact offered by any person at an article 7 hearing shall be  
32 under oath or affirmation. All written representations of fact submitted to the Commission must  
33 be signed under penalty of perjury by persons who are authorized and competent to do so and  
34 must be based upon the declarant's personal knowledge or information or belief.

35 (c) Official notice may be taken in the manner and of the information described in Government  
36 Code Section 11515.

37 (d) Each party shall have the right to present witnesses, introduce exhibits, and propose to the  
38 chairperson questions for opposing witnesses. Evidence may be submitted to support or rebut  
39 any issue. If declarations are to be used in lieu of testimony, the party proposing to use the  
40 declaration shall comply with Government Code Section 11514.

1 Note: Authority and reference cited: Sections 17527(e), 17553, 17557, 17610, 17621 and 17622,  
2 Government Code.

3 **§ 1187.6. Conduct of Hearing.**

4 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose to  
5 the chairperson questions for opposing witnesses in support or rebuttal of any matter relevant to  
6 the issues even though that matter was not covered in the direct examination.

7 (b) The presiding member, Commission members, hearing panel member or hearing officer may  
8 question any party or witness and may admit any relevant and material evidence.

9 (c) The taking of evidence in a hearing shall be controlled by the Commission or hearing officer  
10 in the manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to  
11 taking evidence, the issues and the order of presenting evidence will be explained.

12 (d) The hearing will ordinarily proceed in the following manner. Staff of the Commission will  
13 summarize the matter. The claimant will state its position and present its evidence. The  
14 Department of Finance or other affected state agency will thereafter state its position and present  
15 its evidence. The claimant will then be given an opportunity to reply.

16 (e) The Commission or hearing officer may call a party, or any other person who is present, to  
17 testify under oath or affirmation. Any member of the Commission, its executive director, or  
18 hearing officer may question witnesses.

19 (f) The Commission or the executive director may require that prepared written testimony or  
20 other evidence be submitted in advance of any hearing, for the purpose of facilitating the orderly  
21 consideration of issues at the hearing.

22 (g) Commission public hearings shall be recorded by stenographic reporter or electronic  
23 recording or both. The transcript or recordings shall be kept for the period of time required by  
24 applicable law governing the retention of records of state agency public proceedings, or until  
25 conclusion of administrative or judicial proceedings, whichever is later.

26 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
27 17527(c), 17532, 17551, 17553(a), and 17555, Government Code.

28 **§ 1187.7. Witnesses and Subpoenas.**

29 (a) A party shall arrange for the presence of its own witnesses at a hearing on a claim.

30 (b) A subpoena may be issued upon a majority vote of the Commission. A party requesting a  
31 subpoena shall submit a written application to the Commission at least six weeks prior to the  
32 Commission meeting at which the request will be considered.

33 (c) An application for a subpoena to compel the attendance of a witness shall be made by  
34 affidavit and shall give the name and address of the person to be subpoenaed, shall describe the  
35 matters to be testified on, shall set forth in detail the relevance to the issues involved in the claim,  
36 shall specify the date, time and place of the hearing on the claim and that, to the best of the  
37 applicant's personal knowledge or information or belief, the person to be subpoenaed has  
38 knowledge of the matters. If the applicant is unable to obtain the name of the person who has  
39 knowledge of the matters, the name of the director of the state or local agency or superintendent  
40 of a school district may be used for the application.

1 (d) An application for subpoena duces tecum for the production by a witness of books, papers,  
2 correspondence, memoranda, or other records, including records of the claimant, shall be made  
3 by affidavit and shall give the name and address of the person to be subpoenaed, shall describe  
4 the matters or things desired to be produced, shall set forth in detail the relevance to the issues  
5 involved in the claim, shall specify the date on which the matters shall be produced, and that, to  
6 the best of the applicant's personal knowledge or information or belief, the witness has the  
7 matters or things in his or her possession or under his or her control and that none of the matters  
8 or things desired to be produced are public records accessible to the public pursuant to Section  
9 6250 et seq., of the Government Code. If the applicant is unable to obtain the name of the person  
10 who has possession or control of the matters or things desired to be produced, the name of the  
11 director or superintendent or custodian of records of the state or local agency or school district  
12 may be used for the application.

13 (e) When a request for subpoena or subpoena duces tecum is approved by the Commission, the  
14 subpoena or subpoena duces tecum shall be issued signed by the executive director, but  
15 otherwise be blank.

16 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces tecum shall  
17 be completed by the requesting party, and the name, address, and telephone number of the  
18 requesting party shall be included on the form. Service of subpoenas and subpoenas duces tecum  
19 shall be made with a copy of the affidavit and shall be arranged for by requesting parties.

20 (g) Except as otherwise provided in this section, service of subpoenas or subpoenas duces tecum  
21 shall be in accordance with the provisions of Section 1985 et seq. of the Code of Civil Procedure.

22 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 17527(d),  
23 17551, 17553(a), Government Code.

#### 24 **§ 1187.8. Representation at Hearing.**

25 (a) A party may appear in person or through an authorized representative.

26 (b) A representative of a party shall be deemed to control all matters respecting the interest of  
27 that party in the proceeding.

28 (c) Withdrawal of appearance of any representative may be effected by filing and serving a  
29 written notice of withdrawal in accordance with section 1181.3 of these regulations.

30 Note: Authority and reference cited: Sections 17527(c), 17551, 17553, 17555, 17620, 17621 and  
31 17622, Government Code.

#### 32 **§ 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and** 33 **Continuances of Hearings.**

34 (a) Requests for Extensions of Time

35 Any party or interested party to a matter may request an extension of time by filing a request  
36 with the executive director before the date set for filing of comments or rebuttals with  
37 Commission staff on that matter. The request shall fully explain the reasons for the extension,  
38 propose a new date for filing, and be simultaneously served in accordance with section 1181.3 of  
39 these regulations. So long as a postponement of a hearing would not be required, there is no  
40 prejudice to any party or interested party, and there is no other good reason for denial, the  
41 request shall be approved. A party to a matter may request an extension of time that would

1 necessitate rescheduling a hearing, but shall also include a request for postponement of the  
2 hearing, pursuant to section 1187.9(b). Within two business days of receipt of the request, the  
3 executive director shall determine whether the extension will be granted and notify all persons on  
4 the mailing list prepared pursuant to section 1181.4 of these regulations.

5 (b) Requests for Postponement of Hearing

6 A party to an article 7 matter may request a postponement of a hearing on that matter, until the  
7 next regularly scheduled hearing. Although postponements of hearings are disfavored, each  
8 request for a postponement must be considered on its own merits. The request shall fully explain  
9 the reasons for the postponement, and be filed and served in accordance with section 1181.3 of  
10 these regulations. Within two business days of receipt of the request, the executive director shall  
11 determine whether the postponement will be granted and notify all persons on the mailing list  
12 prepared pursuant to section 1181.4 of these regulations. The executive director may postpone  
13 the matter only on an affirmative showing of good cause.

14 (1) Circumstances that may indicate good cause include:

15 (A) The unavailability of a party, party representative, or witness because of death, illness, or  
16 other excusable circumstances;

17 (B) The substitution of a party representative, but only where there is an affirmative showing that  
18 the substitution is required in the interests of justice;

19 (C) The addition of a new party if:

20 1. The new party has not had a reasonable opportunity to prepare for hearing; or

21 2. The other parties have not had a reasonable opportunity to prepare for hearing in regard to the  
22 new party's involvement in the matter;

23 (D) A party's excused inability to obtain essential testimony, documents, or other material  
24 evidence despite diligent efforts;

25 (E) A significant, unanticipated change in the status of the matter as a result of which the matter  
26 is not ready for hearing; or

27 (F) The number and complexity of issues in the proposed decision or in comments filed on the  
28 matter.

29 (2) Other factors to be considered: In determining whether to grant a postponement, the  
30 executive director shall consider the facts and circumstances that are relevant to the  
31 determination. These may include:

32 (A) The proximity of the hearing date;

33 (B) Whether there was any previous postponement, extension of time, or delay of hearing due to  
34 any party;

35 (C) The length of the postponement requested;

36 (D) The availability of alternative means to address the problem that gave rise to the request for a  
37 postponement;

38 (E) The prejudice that parties or witnesses will suffer as a result of the postponement;



1 (F) If the matter was granted expedited scheduling, the reasons for that status and whether the  
2 need for a postponement outweighs the need to avoid delay;

3 (G) The Commission’s backlog of matters and the impact of granting a postponement on other  
4 pending matters;

5 (H) Whether the claimant or requester representative is engaged in a trial or other hearing that  
6 conflicts with the Commission hearing;

7 (I) Whether, pursuant to Government Code 17554, all parties have stipulated to a postponement;  
8 and

9 (J) Whether the interests of justice are best served by a postponement, by moving forward with  
10 the hearing on the matter, or by imposing conditions on the postponement.

11 (3) Approval of Requests for Postponement

12 (A) A request filed by the claimant or requester at least 15 days before the hearing shall be  
13 approved by the executive director for good cause.

14 (B) A request filed by stipulation of the parties, including the claimant or requester, shall be  
15 approved by the executive director for good cause.

16 (C) A request filed by the claimant or requester less than 15 days before the hearing may be  
17 approved by the executive director for good cause.

18 (D) A request filed by an interested party may be approved by the executive director for good  
19 cause. If a state agency makes a request before filing comments on the test claim, that request  
20 shall be accompanied by a notice of intent to oppose the test claim in whole or in part.

21 (4) Postponement on Commission Staff’s Own Motion: The executive director may postpone a  
22 hearing on a matter for good cause and shall notify all persons on the mailing list prepared  
23 pursuant to section 1181.4 of these regulations.

24 (c) Continuance of a Hearing

25 (1) Prior to the adoption of its written decision on the matter being heard, the Commission on its  
26 own motion, or upon a clear showing of good cause at the request of a party, may continue a  
27 hearing to another time or place. Written notice of the time and place of the continued hearing,  
28 except as provided herein, shall be in accordance with section 1187.1 of these regulations. When  
29 a continuance is ordered during a hearing, oral notice of the time and place of the continued  
30 hearing may also be given to each party present at the hearing.

31 (2) In determining whether there is good cause for a continuance within the meaning of  
32 subdivision (a) the following policy should be taken into consideration: Continuances are not  
33 favored by the Commission. The parties are expected to submit for decision all matters in  
34 controversy at a single hearing and to produce at the hearing all necessary evidence, including  
35 witnesses, documents and all other matters considered essential in the proof of a party’s  
36 allegations. Continuances will be granted only upon a clear showing of good cause.

37 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
38 17527, 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and  
39 17615.9, Government Code; California Rules of Court, Rule 3.1332.

1 **§ 1187.10. Decision; Action on Proposed Decision.**

2 (a) The Commission shall adopt a decision for all matters subject to hearings and decisions under  
3 article 7 of these regulations.

4 (b) If a matter is heard before the Commission itself, the Commission may adopt the proposed  
5 decision on the same day as the hearing.

6 (c) If a matter is heard by a hearing panel or a hearing officer alone, the panel or hearing officer  
7 shall prepare a proposed decision that may be adopted as the decision of the Commission at the  
8 next Commission meeting.

9 (d) A copy of the proposed decision shall be filed by Commission staff as a public record and a  
10 copy of the proposed decision shall be served by Commission staff on each party. The  
11 Commission itself may adopt the proposed decision or decide the case itself, provided that the  
12 Commission itself shall decide no matters provided for in this subdivision without affording the  
13 parties the opportunity to present either oral or written argument before the Commission.

14 (e) If the proposed decision of Commission staff is not adopted by the Commission, as provided  
15 in subsections (b) or (c), the Commission shall direct appropriate modification of the proposed  
16 decision and thereafter adopt it as the Commission's decision.

17 (f) Except as provided for in subdivision (b), the proposed decision shall be prepared within a  
18 reasonable time following submission of the matter to the hearing officer or panel, and within a  
19 reasonable time after the evidentiary hearing. It shall be served on the parties promptly  
20 thereafter.

21 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
22 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,  
23 Government Code.

24 **§ 1187.11. Form of Decision.**

25 (a) Any decision adopted pursuant to evidence introduced at an adjudicatory hearing shall be in  
26 writing, be based on the record, and shall include a statement of reasons for the decision,  
27 findings and conclusions. A copy of the decision shall be served on those identified on the  
28 mailing list established pursuant to section 1181.4 of these regulations. The effective date of the  
29 decision is the date it is first mailed or served.

30 (b) After a decision has been adopted and served, it shall not be changed except to correct  
31 clerical errors, in which case a corrected decision shall be prepared and served on all persons on  
32 the mailing list prepared pursuant to section 1181.4 of these regulations.

33 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
34 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7, 17615.8 and 17615.9,  
35 Government Code.

36 **§ 1187.12. Withdrawal of a Matter.**

37 A matter, or any portion of a matter, other than a test claim, may be withdrawn by written  
38 application of the claimant or requester any time before a decision is adopted, or by oral  
39 application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the  
40 claimant upon written application to the executive director any time before a decision is adopted

1 or after enactment of a legislatively determined mandate on the same statute or executive order  
2 pursuant to Government Code section 17574. The claimant or requester shall file and serve the  
3 written application in accordance with section 1181.3 of these regulations. Dismissal of items  
4 withdrawn pursuant to this section shall be in accordance with the procedures described in  
5 section 1187.15 of these regulations.

6 Note: Authority cited: Sections 17527(g), 17553, 17573 and 17574, Government Code.  
7 Reference: Sections 17530, 17551, 17553, 17557, 17571, 17573, 17574, 17615.1, 17615.4,  
8 17615.7, 17615.8 and 17615.9, Government Code.

9 **§ 1187.13. Abandonment of a Matter.**

10 (a) The executive director may deem a matter "abandoned" if any of the following events occurs:

11 (1) The claimant does not respond, within 60 days of service, to a written notification sent to the  
12 superintendent of the school district or chief administrative officer of the local agency or director  
13 of a state agency that the matter will be deemed "abandoned."

14 (2) The claimant or requester provides written notification to the Commission of its withdrawal  
15 from a test claim.

16 (3) The matter has been postponed or placed on inactive status by the claimant or requester for a  
17 period of more than one year. However, delays or postponements under the following  
18 circumstances will not be considered for purposes of computing whether a matter has been  
19 postponed or placed on inactive status by the claimant for more than one year:

20 (A) Delays or postponements made at the request of the Commission or opposing party to the  
21 claim or request;

22 (B) Delays or postponements, made at the request of the claimant or requesting party, pending  
23 the resolution of a matter currently before the Commission of an issue similar to or related to the  
24 postponed matter; and

25 (C) Delays or postponements, made at the request of the claimant or requesting party, pending  
26 the resolution of litigation of an issue similar to or related to the postponed matter.

27 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
28 17530 and 17553(a), Government Code.

29 **§ 1187.14. Dismissal of a Matter.**

30 (a) A matter, other than a test claim, that has been withdrawn in accordance with 1187.13 or  
31 deemed abandoned in accordance with section 1187.4, may be dismissed by the executive  
32 director. Commission staff shall provide written notice of dismissal to everyone on the mailing  
33 list for the matter to be dismissed.

34 (b) A test claim that has been withdrawn or deemed abandoned may be dismissed by the  
35 Commission on its own motion or by a motion of a party after notice and an opportunity to be  
36 heard has been made to the claimant, parties and interested parties as provided below.

37 (1) For test claims that are withdrawn or deemed abandoned, Commission staff shall serve  
38 written notice to initiate dismissal of the test claim to everyone on the mailing list for the matter.  
39 The notice shall announce that another local agency or school district may take over the claim by  
40 substitution of parties within 60 days of the issuance of the notice. The notice shall also

1 announce the opportunity to provide written comments on the proposed dismissal of the test  
2 claim. A copy of the notice shall also be posted on the Commission’s website.

3 (2)Written comments shall be filed and served in accordance with section 1181.3 of these  
4 regulations.

5 (3) If no other local agency or school district takes over the test claim by substitution of parties  
6 within 60 days of the issuance of the notice, the Commission shall hear the proposed dismissal of  
7 the test claim.

8 (c) The hearing on a dismissal of a matter shall be conducted in accordance with article 7 of  
9 these regulations.

10 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:  
11 Sections 17525, 17527(c), 17532, 17551, 17553(a), 17557(e), 17571, 17615.1, 17615.4, 17615.7,  
12 17615.8 and 17615.9, Government Code.

13 **§ 1187.15. Reconsideration of a Prior Final Decision.**

14 (a) Notwithstanding section 1187.12(b) of these regulations, the Commission may make  
15 substantive changes to a prior final decision under this section or order a reconsideration of all or  
16 part of a matter on petition of any party. The power to order a reconsideration or amend a test  
17 claim decision shall expire 30 days after the statement of decision is delivered or mailed to the  
18 claimant. If additional time is needed to evaluate a petition for reconsideration filed before the  
19 expiration of the 30-day period, the Commission may grant a stay of that expiration for no more  
20 than 30 days, solely for the purpose of considering the petition. A request for reconsideration  
21 shall be deemed automatically stayed for the 30-day period. If no action is taken on a petition  
22 within the time allowed for ordering reconsideration, the petition shall be deemed denied.

23 (b) Except as provided elsewhere in this section, any interested party, affected state agency, or  
24 Commission member may request that the Commission reconsider a decision and change a prior  
25 final decision to correct an error of law.

26 (c) All requests for reconsideration shall be submitted to the Commission in accordance with  
27 section 1181.3 of these regulations and shall contain the following:

28 (1) The name and address of the requesting party;

29 (2) A copy of the Commission's prior final decision;

30 (3) A detailed statement of the reasons for the request, including:

31 (A) An explanation of the reasons for the request for reconsideration; and,

32 (B) All documentation the requester intends to submit to support the request;

33 (4) A description of the proposed change to be made in the prior final decision; and

34 (d) Commission member requests may be made orally during a regularly scheduled Commission  
35 meeting. Commission staff shall prepare the written request, as specified in subsections (c)(1-4)  
36 above.

37 (e) Any signatory to a written agreement that settles a matter may not request reconsideration of  
38 that matter if the matter is settled with prejudice.

1 (f) Before the Commission considers the request for reconsideration, Commission staff shall  
2 prepare a written analysis and recommend whether the request for reconsideration should be  
3 granted. The Commission shall consider the request for reconsideration at a scheduled meeting.  
4 Five affirmative votes shall be required to grant the request for reconsideration.

5 (g) If the Commission grants the request for reconsideration, a hearing shall be conducted to  
6 determine if the prior final decision is contrary to law and to correct an error of law.

7 (1) The following procedures shall govern the Commission's review of the prior final decision:

8 (A) Before the Commission considers whether a prior final decision is contrary to law,  
9 Commission staff shall prepare a written analysis regarding whether the prior final decision is  
10 contrary to law which shall include but not be limited to a review of the written comments filed  
11 by other state agencies, interested parties, and the requester. Commission staff analysis shall  
12 describe the request for reconsideration and assist the Commission in determining whether the  
13 prior final decision is contrary to law.

14 (B) At least eight weeks before the Commission is scheduled to consider whether a prior final  
15 decision is contrary to law, or at another time required by the executive director, Commission  
16 staff shall prepare a draft staff analysis and distribute it to the requester, interested parties,  
17 affected state agencies, and any person who requests a copy.

18 (C) Written comments may be filed with Commission staff concerning the draft proposed  
19 decision. All representations of fact shall be supported by documentary evidence in accordance  
20 with section 1187.5 of these regulations. Written comments shall be filed and served in  
21 accordance with section 1181.3 of these regulations. A three-week period for comments shall be  
22 given, subject to the executive director's authority to expedite all matters pursuant to  
23 Government Code section 17530. All written comments timely filed shall be reviewed by  
24 Commission staff and may be incorporated into the written analysis regarding whether the prior  
25 final decision is contrary to law and presented to the Commission before the scheduled meeting.

26 (2) The procedures set forth in article 7 shall govern the Commission's hearings and decisions  
27 process, except that five affirmative votes shall be required to change a prior final decision.

28 (h) If the Commission changes a prior final decision, the procedures set forth in Sections 1183.7  
29 through 1183.14 of these regulations shall govern the adoption of parameters and guidelines and  
30 the statewide cost estimate, if applicable.

31 (i) Failure to seek Commission reconsideration of a prior final decision shall not affect a  
32 claimant's or state agency's right to seek judicial review pursuant to Government Code section  
33 17559 (b).

34 (j) This section only applies to reconsiderations requested pursuant to Government Code section  
35 17759 (a); it does not apply to remands or reconsiderations directed by the courts or by statute.

36 Note: Authority cited: Sections 17500, 17527(c) and (g), 17553(a) and 17559(a), Government  
37 Code. Reference: Sections 17532, 17551 and 17559, Government Code.

1 **Article 8. Rulemaking and Informational Hearings**

2 **§ 1188.1. Scheduling and Noticing of an Informational Hearing**

3 (a) The Commission may, upon its own motion, set an informational hearing on any subject  
4 within its jurisdiction. Matters subject to informational hearings under article 8 of these  
5 regulations include: a proposed assignment of an article 7 matter to a hearing officer, a  
6 rulemaking proceeding, the adoption of a statewide cost estimate, and any other subject that  
7 meets the definition of "informational hearing" in section 1181.2 of these regulations and is not  
8 subject to hearings under article 7 of these regulations.

9 (b) An article 8 matter is set for hearing when Commission staff issues its notice and agenda  
10 providing the date, time, and place of the hearing to everyone on the mailing list described in  
11 section 1181.4 of these regulations.

12 (c) Commission staff shall provide notice of an informational hearing in accordance with  
13 Government Code section 11120 et seq. The notice shall include the following:

14 (1) A statement of the authority pursuant to which the hearing is ordered, and a reference to any  
15 code sections or other provisions of law pursuant to which the information is to be gathered or  
16 disseminated;

17 (2) A statement of the nature and purpose of the proceedings;

18 (3) A statement requiring the presence and participation of any persons the Commission may  
19 direct, consistent with the nature and purpose of the proceedings;

20 (4) A statement indicating the time during which written comments will be received and the  
21 manner by which the comments shall be filed;

22 (5) A statement that any person may make oral comments on the subject of the hearing; and

23 (6) A statement setting forth additional procedures deemed necessary by the Commission and not  
24 inconsistent with these regulations.

25 Note: Authority cited: Sections 17527(c) and 17527(g), Government Code. Reference: Sections  
26 17525, 17527(c), 17532, Government Code.

27 **§ 1188.2. Rulemaking.**

28 (a) Petitions:

29 (1) Any person may petition the Commission to request rulemaking hearings. The petition shall  
30 be filed and served in accordance with section 1181.3 of these regulations and shall include:

31 (A) The name, address, and telephone number of the petitioner;

32 (B) The substance or nature of the regulation, amendment, or repeal requested;

33 (C) The reasons for the request; and

34 (D) Reference to the authority of the Commission to take the action requested.

35 (2) The petition shall be filed with the executive director who shall, within seven days after its  
36 filing, determine whether the petition contains the information specified in subsection (1).

1 (A) If the executive director determines that the petition is complete, it shall be certified in  
2 writing as complete and the petitioner shall be so notified.

3 (B) If the executive director determines that the petition is not complete, it shall be returned to  
4 the petitioner accompanied by a statement of its defects. The petitioner may correct the petition  
5 and resubmit it at any time.

6 (3) Upon certification by the executive director, the Commission shall, within 60 days from the  
7 filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the  
8 petition, directing staff to prepare an appropriate order pursuant to subdivision (b) of this section.

9 (b) Commission Order to Institute a Rulemaking Proceeding. The Commission may, upon its  
10 own motion or upon granting a petition filed pursuant to subdivision (a) of this section, adopt an  
11 order to institute a rulemaking proceeding in accordance with the procedures of Government  
12 Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

13 (c) Notice.

14 (1) Notice of a rulemaking proceeding shall be given in accordance with Government Code  
15 section 11346.4.

16 (2) At least 10 days prior to the first hearing in a proceeding ordered pursuant to subdivision (b)  
17 of this section, the executive director shall cause notice of the hearing to be mailed to every  
18 person requested to participate in the proceedings, and to any person who the executive director  
19 determines to be concerned with the subject matter of the proceeding, and shall post a copy of  
20 the notice on the Commission's website.

21 (3) In addition to the requirements of subsections (c)(1) and (2) of this section, notice of  
22 additional hearing shall be required at least 10 days prior to the commencement of the hearing  
23 unless continuation is orally announced in a public hearing.

24 (4) Nothing in this section shall preclude the Commission from publishing notice in additional  
25 forms or media as the executive director may prescribe.

26 (5) A copy of the order adopted pursuant to subdivision (b) of this section shall accompany the  
27 initial notice prepared and mailed pursuant to this section, unless a copy of the order has been  
28 previously mailed to those persons who would receive the notice.

29 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11340.6,  
30 11340.7, 11347, 11347.1, 17527(c) and (g), 17530, 11346.4, and 17551, Government Code.

## 31 **Article 10. Mandate Redetermination Process**

### 32 **§ 1190.1 Filing a Request to Adopt a New Test Claim Decision.**

33 (a) A local agency or a school district, statewide association of local agencies or school districts,  
34 the Department of Finance, Office of the State Controller, or other affected state agency, may file  
35 a request to adopt a new test claim decision to supersede a previously adopted test claim decision  
36 by making a showing that the state's liability pursuant to Article XIII B, section 6 (a) of the  
37 California Constitution for the previously adopted test claim decision has been modified based  
38 on a "subsequent change in law" as defined by Government Code section 17570(a)(2). Such a  
39 request is known as a "request for mandate redetermination."

40 (b) All requests for mandate redetermination shall be filed on a form developed by the executive

1 director and shall contain a detailed analysis of how and why the state's liability for mandate  
2 reimbursement has been modified pursuant to article XIII B, section 6(a) of the California  
3 Constitution and all of the elements and accompanying documents required by the form and  
4 Government Code section 17570(d).

5 (c) The detailed analysis of how and why the state's liability for mandate reimbursement has  
6 been modified pursuant to article XIII B, section 6 (a) of the California Constitution based on a  
7 "subsequent change in law" as defined by Government Code section 17570 requires more than a  
8 written narrative or simple statement of the facts and law. It requires the application of the law  
9 (Gov. Code § 17570 (a) and (b)) to the facts (i.e. the alleged subsequent change in law)  
10 discussing, for each activity addressed in the prior test claim decision, how and why the state's  
11 liability for that activity has been modified. Specific references shall be made to statutes and  
12 chapters, articles, sections, and page numbers that are alleged to impose or not impose a  
13 reimbursable state-mandated program.

14 (d) The requester shall file a request for mandate redetermination and accompanying documents  
15 with the Commission in accordance with section 1181.3 of these regulations.

16 (e) Within 10 days of receipt of a request for mandate redetermination, Commission staff shall  
17 notify the requester if the request is complete or incomplete and refer the requester to these  
18 regulations. Requests for mandate redetermination shall be considered incomplete if any of the  
19 elements required in subdivisions (b), (c), or (d) of this section are illegible or are not included. If  
20 a complete request for mandate redetermination is not received within 30 calendar days from the  
21 date the incomplete request was returned, the executive director shall disallow the original  
22 request filing date. New requests for mandate redetermination may be accepted on the same  
23 subsequent change in law alleged to modify the state's liability pursuant to article XIII B, section  
24 6(a) of the California Constitution.

25 (f) A request for mandate redetermination shall be filed on or before June 30 following a fiscal  
26 year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal  
27 year.

28 (g) A requester may not add a new subsequent change in law to a request for mandate  
29 redetermination after the request has been deemed complete.

30 (h) Any request for mandate redetermination that fails to allege a "subsequent change in law," as  
31 defined by Government Code section 17570, shall be returned by the executive director with a  
32 written notice stating the reason that the request is being returned. These filings may include, but  
33 are not limited to, requests that meet the requirements for a proposed parameters and guidelines  
34 amendment or a new test claim filing.

35 Note: Authority cited: Sections 17527(g) and 17570(d) Government Code. Reference: Sections  
36 17530 and 17570 Government Code.

37 **§ 1190.2. Review and Response.**

38 (a) Within 10 days of receipt of a complete request for mandate redetermination, Commission  
39 staff shall send a written notice to the Department of Finance, Office of the State Controller, any  
40 affected state agency, the original test claimant, and any known interested party, that:

41 (1) A copy of the request for mandate redetermination has been posted on the Commission's  
42 website, and



1 (2) Written comments concerning the request for mandate redetermination may be filed within  
2 30 days and evidence may also be presented at the hearing on the request for mandate  
3 redetermination.

4 (b) Content and Form. Written comments on the request for mandate redetermination shall  
5 contain the following documentary evidence, if applicable:

6 (1) If representations of fact are made, they must be supported by documentary evidence which  
7 shall be submitted with the response. All documentary evidence shall be authenticated by  
8 declarations under penalty of perjury signed by persons who are authorized and competent to do  
9 so and must be based on the declarant's personal knowledge or information or belief.

10 (2) A copy of relevant portions of state constitutional provisions, state and federal statutes, and  
11 executive orders, and a copy of administrative decisions and court decisions that may impact the  
12 alleged mandate, unless the authorities are also cited in the request to adopt a new test claim  
13 decision. The specific statutes and chapters, articles, sections, and page numbers must be  
14 identified. Published court decisions arising from state mandate determinations by the Board of  
15 Control and the Commission, article XIII B, section 6 of the California Constitution, and  
16 Government Code sections 17500 et seq. are exempt from the requirements of this subsection.  
17 When an omnibus bill is relevant to the response, only the relevant pages of the statute, including  
18 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

19 (c) The written comments and supporting documentation shall be signed at the end of the  
20 document, under penalty of perjury by an authorized representative, with the declaration that it is  
21 true and complete to the best of the representative's personal knowledge or information or belief.  
22 The date of signing, the representative's title, address, telephone number and e-mail address shall  
23 be included.

24 (d) Filing. Written comments and supporting documentation concerning a request for mandate  
25 redetermination shall be filed and served in accordance with Section 1181.3 of these regulations.  
26 Any representations of fact shall be supported by documentary evidence, submitted with the  
27 comments, in accordance with section 1187.5 of these regulations.

28 Note: Authority cited: Sections 17527(g), 17570(d), Government Code. Reference: Sections  
29 17530, and 17570, Government Code.

30 **§ 1190.3. Rebuttal.**

31 (a) Parties and interested parties shall be given an opportunity to rebut written comments  
32 concerning a request for mandate redetermination by filing written rebuttals within 30 days of  
33 service of the comments.

34 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if  
35 applicable:

36 (1) If new representations of fact are made, they must be supported by documentary evidence  
37 which shall be submitted with the rebuttal in accordance with section 1187.5 of these regulations.

38 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive  
39 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,  
40 unless the authorities are also cited in the request to adopt a new test claim decision or any  
41 response thereto. The specific statutes and chapters, articles, sections, and page numbers shall be  
42 identified. Published court decisions arising from state mandate determinations by the Board of

1 Control and the Commission, article XIII B, section 6 of the California Constitution, and  
2 Government Code sections 17500 et seq. are exempt from the requirements of this subsection.  
3 When an omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including  
4 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

5 (c) The rebuttal to a comment concerning a request for mandate redetermination shall be filed  
6 with Commission staff and served in accordance with section 1181.3 of these regulations.

7 (d) The rebuttal shall be signed at the end of the document, under penalty of perjury, with the  
8 declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge  
9 or information or belief. The date of signing, the declarant's title, address, and telephone number  
10 and e-mail address shall be included. Note: Authority cited: Sections 17527(g) and 17570(d),  
11 Government Code. Reference: Sections 17530 and 17570, Government Code.

12 **§ 1190.4. Executive Director's Authority to Consolidate Requests for Mandate**  
13 **Redetermination.**

14 (a) The executive director may consolidate two or more requests for mandate redetermination for  
15 the second hearing, if some or all of the same statutes, regulations or executive orders are at  
16 issue, if necessary to ensure the complete, fair, or timely consideration of any request for  
17 mandate redetermination.

18 (b) At least 10 days before the action is taken, the executive director shall serve on the parties  
19 and interested parties on the mailing list described in section 1181.4 of these regulations, and  
20 post on the Commission's website, a notice of any proposed action to consolidate.

21 Note: Authority cited: Section 17527(g) and 17570(d), Government Code. Reference: Sections  
22 17530, 17570, Government Code.

23 **§ 1190.5. Hearing Process and Form of Decision.**

24 Notwithstanding any other provision of these regulations, mandate redetermination process  
25 hearings and decisions shall be subject to article 7 of these regulations. There shall be a two-step  
26 hearing process for requests to adopt a new test claim decision as follows:

27 **(a) The First Hearing:**

28 (1) The first hearing shall be limited to the issue of whether the requester has made an adequate  
29 showing which identifies a subsequent change in law as defined by Government Code section  
30 17570, material to the prior test claim decision, that may modify the state's liability pursuant to  
31 article XIII B, section 6 (a) of the California Constitution. The Commission shall find that the  
32 requester has made an adequate showing if it finds that the request, when considered in light of  
33 all of the written comments and supporting documentation in the record of this request, has a  
34 substantial possibility of prevailing at the second hearing.

35 (2) At least eight weeks before the hearing or at another time required by the executive director  
36 or stipulated to by the parties, Commission staff shall prepare a staff analysis and distribute it to  
37 the parties, interested parties, and any person who requests a copy, and shall post it on the  
38 Commission's website. A request for mandate redetermination is set for the first hearing when  
39 Commission staff issues its draft staff analysis. A written notice of the date, time, and place of  
40 the first hearing shall be served on everyone on the mailing list described in section 1181.4 of  
41 these regulations and posted on the Commission's website.

1 (3) Written comments concerning the staff analysis may submitted to Commission staff. Written  
2 comments shall be filed and served as described in section 1181.3 of these regulations, by the  
3 date determined and publicized by the executive director. A three-week period for comments  
4 shall be given, subject to the executive director's authority to expedite all matters pursuant to  
5 Government Code section 17530. All written comments timely filed shall be reviewed by  
6 Commission staff and may be incorporated into the final written analysis of the request to adopt  
7 a new test claim decision.

8 (A) It is the Commission's policy to discourage the introduction of late comments, exhibits, or  
9 other evidence filed after the three-week comment period described in subdivision (a)(3) of this  
10 section. The Commission need not rely on, and staff need not respond to, late comments,  
11 exhibits, or other evidence submitted in response to a draft proposed decision.

12 (4) Before the first hearing on the request for mandate redetermination, Commission staff shall  
13 prepare a proposed decision limited to the issue of whether the requester has made a showing  
14 that identifies a subsequent change in law, material to the prior test claim decision, which may  
15 modify the state's liability pursuant to article XIII B, section 6(a) of the California Constitution.  
16 This proposed decision shall consider the request, written comment, rebuttals and supporting  
17 documentation filed by the parties and interested parties. The proposed decision for the first  
18 hearing shall find that the requester has made an adequate showing if staff finds that the request,  
19 when considered in light of all of the written comments and supporting documentation in the  
20 record of this request, has a substantial possibility of prevailing at the second hearing.

21 (5) If, at the first hearing, the Commission finds that:

22 (A) The requester has not made an adequate showing, when considered in light of all of the  
23 written comments, rebuttals and supporting documentation in the record and testimony at the  
24 hearing, that the request for mandate redetermination has a substantial possibility of prevailing at  
25 the second hearing, the Commission shall publish a decision denying the request for mandate  
26 redetermination.

27 (B) The requester has made an adequate showing, when considered in light of all of the written  
28 comments, rebuttals and supporting documentation in the record and testimony at the hearing,  
29 the Commission shall publish a decision finding that an adequate showing has been made and  
30 setting the second hearing on whether the Commission shall adopt a new test claim decision to  
31 supersede the previously adopted test claim decision.

32 (6) Everyone on the mailing list described in section 1181.4 of these regulations shall be  
33 provided written notice that the Commission's decision has been posted on the Commission's  
34 website and, if applicable, that the date, time, and place of the second hearing have also been  
35 posted on the Commission's website.

36 (b) The Second Hearing:

37 (1) If the Commission proceeds to the second hearing, it shall consider whether the state's  
38 liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified  
39 based on the subsequent change in law alleged by the requester, thus requiring adoption of a new  
40 test claim decision to supersede the previously adopted test claim decision. If the Commission  
41 finds that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution  
42 has been modified based on the subsequent change in law alleged by the requester, it shall adopt  
43 a new decision that reflects the modified liability of the state.

1 (2) Before the second hearing, Commission staff shall prepare a proposed decision. At least  
2 eight weeks before the hearing or at another time required by the executive director or stipulated  
3 to by the parties, Commission staff shall prepare a draft proposed decision and distribute it to  
4 everyone on the mailing list described in section 1181.4 of these regulations and post it on the  
5 Commission’s website. The proposed decision shall consider the request, and any written  
6 comments and rebuttals and supporting documentation filed.

7 (3) Any party or interested party may file written comments concerning the draft proposed  
8 decision with Commission staff. Written comments shall be filed and served as described in  
9 Section 1181.3 of these regulations, by the date determined and publicized by the executive  
10 director. A three-week period for comments shall be given, subject to the executive director's  
11 authority to expedite all matters pursuant to Government Code section 17530. All written  
12 comments timely filed shall be reviewed by Commission staff and may be incorporated into the  
13 proposed decision.

14 (A) It is the Commission’s policy to discourage the introduction of late comments, exhibits, or  
15 other evidence filed after the three-week comment period described in subdivision (b)(3) of this  
16 section. The Commission need not rely on, and staff need not respond to, late comments,  
17 exhibits, or other evidence submitted in response to a draft proposed decision.

18 (4) If, at the second hearing, the Commission finds that the state’s liability pursuant to article  
19 XIII B, section 6(a) of the California Constitution:

20 (A) has not been modified based on a subsequent change in law as defined by Government Code  
21 section 17570 (a)(2), the Commission shall publish a decision denying the request.

22 (B) has been modified based on a subsequent change in law, as defined by Government Code  
23 section 17570 (a)(2) the Commission shall adopt a new decision to supersede the prior decision.  
24 The new decision shall be prepared in writing, based on the record, and shall include a statement  
25 of reasons for the decision, findings, and conclusions.

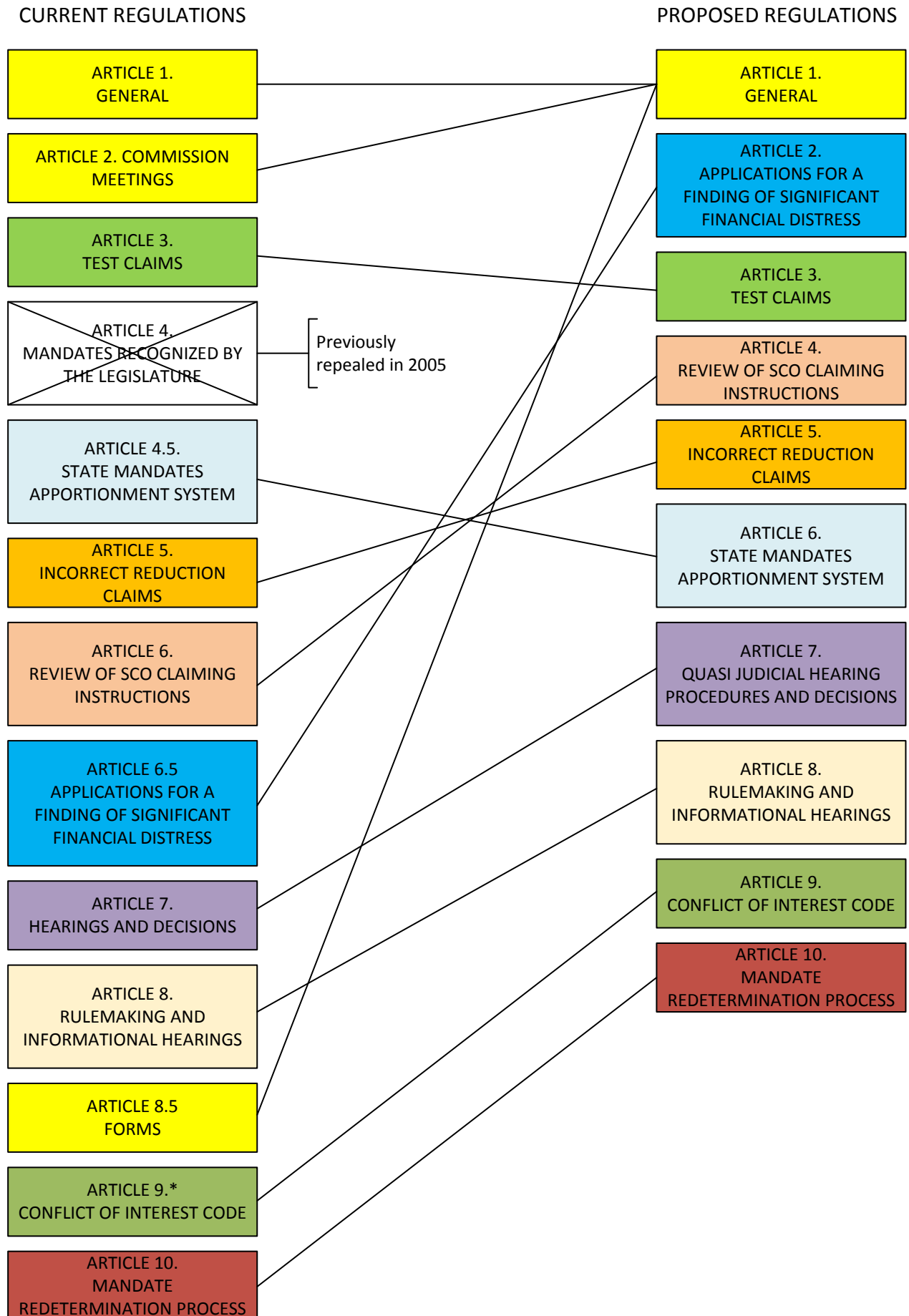
26 (5) Everyone on the mailing list described in section 1181.4 of these regulations shall be  
27 provided written notice that a copy of the decision has been posted on the Commission’s  
28 website.

29 (6) After a decision or proposed decision has been served or posted on the Commission’s  
30 website, it shall not be changed except to correct clerical errors, in which case a corrected  
31 decision or proposed decision shall be prepared and posted on the Commission’s website.  
32 Everyone on the mailing list described in section 1181.4 of these regulations shall be provided  
33 written notice that a copy of the revised decision has been posted on the Commission’s website.

34 (7) If a new decision is adopted which finds that there are costs mandated by the state pursuant to  
35 article XIII B, section 6 (a) of the California Constitution, the amount and method of  
36 reimbursement shall be redetermined in accordance with article 3 of these regulations.

37 Note: Authority cited: Section 17527(g) and 17570(d), Government Code. Reference: Sections  
38 17530, 17570, Government Code.

ARTICLE REORGANIZATION IN PROPOSED REGULATIONS



| <b>Current Regulations</b>   | <b>Proposed Action</b>                                      | <b>Proposed Regulations</b>  |
|--|---|--|
| <b>Article 1. General</b>  |   | <b>Article 1. General</b>  |
| §1181. Delegation of Certain Functions; Executive Director Appeals.  | → Renumber/Minor Edits                                      | → §1181.1 Delegation of Certain Functions; Executive Director Appeals.   |
| §1181.1. Definitions.  | → Modify Definitions  | → §1181.2. Definitions.  |
| §1181.2. Filing and Service of Written Materials.                    | → Clarify Commission Processes, Split into Two New Sections | → §1181.3. Filing and Service of Written Materials and New Filings.      |
| §1181.3. Submissions of Written Materials in Other Media. [Repealed] | → Section Repealed in 2010                                  | → §1181.4. Mailing Lists and Numbering of Matters                        |
| §1181.4. Designees and Officers.                                     | → Renumber/Minor Edits                                      | → §1181.5. Appointment of Designees and Election and Duties of Officers. |
|  | [moved from Article 8.5]                                    | → §1181.6. Development and Approval of Commission Forms.                 |
|  | [moved from Article 8.5]                                    | → §1181.7. Waiver of Requirement to Use Forms.                           |
| <b>Article 2. Commission Meetings</b>                                | → Combine in Article 1                                      |  |
| §1182. Quorum and Voting Requirements.                               | → Renumber/Minor Edits                                      | → §1181.8. Commission Meeting Quorum and Voting Requirements.            |
| §1182.1. Notice and Agenda.  | → Renumber/Minor Edits, New Language in (c)                 | → §1181.9. Commission Meeting Notice, Agenda, and Consent Calendar.      |
| §1182.2. Meetings.   | → Renumber/Minor Edits                                      | → §1181.10. Commission Meeting Procedures.                               |
| §1182.3. Permanent Record.   | → Renumber/Minor Edits                                      | → §1181.11. Permanent Record of Commission Meetings.                     |
| §1182.4. Default Rules.  | → Renumber/Minor Edits                                      | → §1181.12. Default Rules of Commission Meetings.                        |
| §1182.5. Teleconference.   | → Renumber/Minor Edits                                      | → §1181.13. Commission Meeting by Teleconference.                        |
| <b>Article 3. Test Claims</b>  |   | <b>Article 3. Test Claims</b>  |
| §1183. Test Claim Filing.  | → Renumber/Minor Edits, Refer to §1181.3 for filing         | → §1183.1 Test Claim Filing.   |

| Current Regulations  | Proposed Action  | Proposed Regulations  |
|--|--|---|
| §1183.01. Timelines.   | → Moved to the end of Article 3, Language under (c) in current regulations consolidated in §1187.9 of proposed regulations | → §1183.18. Timelines.  |
| §1183.02. Review of Test Claim.  | → Renumber/Minor Edits   | → §1183.2. Review of Test Claim.  |
| §1183.03. Claimant's Rebuttal.   | → Renumber/Minor Edits   | → §1183.3. Claimant's Rebuttal.   |
| §1183.04. Informal Conference.   | → Consolidated in Article 7  | → §1187.4. Informal Conference.   |
| §1183.05. Claimant's Motion to Consolidate or Sever Test Claims.                               | → Renumber/Minor Edits   | → §1183.4. Claimant's Motion to Consolidate or Sever Test Claims.                               |
| §1183.06. Executive Director's Authority to Consolidate Test Claims.                           | → Renumber/Minor Edits   | → §1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.                  |
| §1183.07. Review of Completed Test Claim and Preparation of Staff Analysis.                    | → Renumber/Minor Edits   | → §1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.                 |
| §1183.08. Withdrawal of Test Claims.   | → Consolidated in Article 7  | → §1187.12. Withdrawal of a Matter.   |
| §1183.081. Local Agency or School District "Abandonment" of Test Claim.                        | → Consolidated in Article 7  | → §1187.13. Abandonment of a Matter.  |
| §1183.09. Dismissal of Test Claims.  | → Consolidated in Article 7  | → §1187.14. Dismissal of a Matter.  |
| §1183.1. Content of Parameters and Guidelines.   | → Renumber/Minor Edits   | → §1183.7. Content of Parameters and Guidelines.  |
| §1183.11. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments. | → Renumber/Minor Edits   | → §1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments. |
| § 1183.12. Alternate Process for Proposed Parameters and Guidelines.                           | → Renumber/Minor Edits   | → §1183.9. Expedited Process for Proposed Parameters and Guidelines.                            |
| §1183.13. Reasonable Reimbursement Methodology.  | → Renumber/Minor Edits   | → §1183.10. Reasonable Reimbursement Methodology.   |
| §1183.131. Reasonable Reimbursement Methodology, Included in Parameters and Guidelines.        | → Renumber/Minor Edits   | → §1183.12. Reasonable Reimbursement Methodology, Included in Parameters and Guidelines.        |
| §1183.14. Adoption of Parameters and Guidelines.   | → Renumber/Minor Edits   | → §1183.13. Adoption of Parameters and Guidelines.  |
| §1183.2. Amendments to Parameters and Guidelines.  | → Renumber/Minor Edits   | → §1183.17. Amendments to Parameters and Guidelines.  |

| Current Regulations  | Proposed Action                                     | Proposed Regulations  |
|--|---|---|
| §1183.21. Dismissal of Requests for Amendments to Parameters and Guidelines.   | → Consolidated in Article 7                         | → §1187.14. Dismissal of a Matter.  |
| §1183.25. Statewide Cost Estimate.   | → Renumber/Minor Edits                              | → §1183.14. Statewide Cost Estimate.  |
| §1183.3. Statewide Cost Estimate. [Renumbered]   | → Delete - Section Has No Content                   | →   |
| §1183.30. Reasonable Reimbursement Methodology and Statewide Estimate of Costs Developed by the Test Claimant and Department of Finance. | → Renumber/Minor Edits                              | → §1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs              |
| §1183.31. Joint Request for Early Termination of Reasonable Reimbursement Methodology.   | → Renumber/Minor Edits                              | → §1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology. |
| §1183.32. Expiration of Reasonable Reimbursement Methodology.  | → Renumber/Minor Edits, New Language in (i)         | → §1183.16. Expiration of Reasonable Reimbursement Methodology.                                     |
| <b>Article 4. Mandates Recognized by the Legislature [Repealed]</b>  | Previously Repealed in 2005                         | See Article 4 Below   |
| <b>Article 4.5. State Mandates Apportionment System</b>  | → Renumber to Article 6                             | → <b>Article 6. State Mandates Apportionment System</b>   |
| §1184.5. Definitions: State Mandates Apportionment System.   | → Renumber/Minor Edits                              | → §1186.1. Definitions: State Mandates Apportionment System.  |
| §1184.6. Request for Inclusion.  | → Renumber/Minor Edits                              | → §1186.2. Request for Inclusion.   |
| §1184.7. Adoption of Finding for Request for Inclusion.  | → Renumber/Minor Edits                              | → §1186.3. Adoption of Finding for Request for Inclusion.   |
| §1184.8. Request for Removal.  | → Renumber/Minor Edits                              | → §1186.4. Request for Removal.   |
| §1184.9. Adoption of Finding for Request for Removal.  | → Renumber/Minor Edits                              | → §1186.5. Adoption of Finding for Request for Removal.   |
| §1184.10. Reviewing an Apportionment or Base Year Entitlement.   | → Renumber/Minor Edits                              | → §1186.6. Reviewing an Apportionment or Base Year Entitlement.                                     |
| §1184.11. Adjustment to Apportionment.   | → Renumber/Minor Edits                              | → §1186.7. Adjustment to Apportionment.   |
| <b>Article 5. Incorrect Reduction Claims</b>   |   | <b>Article 5. Incorrect Reduction Claims</b>  |
| §1185. Incorrect Reduction Claim Filing.   | → Renumber/Minor Edits, Refer to §1181.3 for filing | → §1185.1. Incorrect Reduction Claim Filing.  |



| Current Regulations  | Proposed Action                 | Proposed Regulations  |
|--|---------------------------------|---|
| §1185.01. Review of Incorrect Reduction Claims. [Renumbered]   | → Renumbered in 2007 to §1185.1 |   |
| §1185.02. Review of Completed Incorrect Reduction Claims and Preparation of Staff Analysis. [Renumbered] | → Renumbered in 2007 to §1185.5 |   |
| §1185.03. Withdrawal of Incorrect Reduction Claims. [Renumbered]   | → Renumbered in 2007 to §1185.6 |   |
| §1185.1. Review of Incorrect Reduction Claims.   | → Renumber/Minor Edits          | → §1185.2. Review of Incorrect Reduction Claims.  |
| §1185.2. Consolidation of Claims Initiated by an Individual Claimant.                                    | → Renumber/Minor Edits          | → §1185.3. Consolidation of Claims Initiated by an Individual Claimant.                         |
| §1185.21. Joining a Consolidated Incorrect Reduction Claim.  | → Renumber/Minor Edits          | → §1185.4. Joining a Consolidated Incorrect Reduction Claim.                                    |
| §1185.3. Opting Out of a Consolidated Incorrect Reduction Claim.   | → Renumber/Minor Edits          | → §1185.5. Opting Out of a Consolidated Incorrect Reduction Claim.                              |
| §1185.4. Executive Director's Authority to Consolidate Incorrect Reduction Claims.                       | → Renumber/Minor Edits          | → §1185.6. Executive Director's Authority to Consolidate or Sever Incorrect Reduction Claims.   |
| §1185.5. Review of Completed Incorrect Reduction Claims and Preparation of Staff Analysis.               | → Renumber/Minor Edits          | → §1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed Decision. |
| §1185.6. Withdrawal of Incorrect Reduction Claims.   | → Renumber/Minor Edits          | → §1185.8. Withdrawal of Incorrect Reduction Claims.  |
| §1185.7. Reinstatement of Costs.   | → Renumber/Minor Edits          | → §1185.9. Reinstatement of Costs.  |
| <b>Article 6. Review of Office of State Controller's Claiming Instructions</b>                           | → Renumber to Article 4         | → <b>Article 4. Review of Office of State Controller's Claiming Instructions</b>                |
| §1186. Review of Office of State Controller's Claiming Instructions.                                     | → Renumber/Minor Edits          | → §1184.1. Review of Office of State Controller's Claiming Instructions.                        |
| <b>Article 6.5. Applications for a Finding of Significant Financial Distress</b>                         | → Renumber to Article 2         | → <b>Article 2. Applications for a Finding of Significant Financial Distress</b>                |
| §1186.5. Reduction in Aid Levels; Definitions.   | → Renumber/Minor Edits          | → §1182.1. Reduction in Aid Levels; Definitions.  |
| 1186.51. Filing of an Application for a Finding of Significant Financial Distress.                       | → Renumber/Minor Edits          | → §1182.2. Filing of an Application for a Finding of Significant Financial Distress.            |

| Current Regulations  | Proposed Action                                   | Proposed Regulations  |
|--|---|---|
| §1186.52. Extension of Period for Preliminary and Final Decision and Current Period of Financial Distress.                   | → Renumber/Minor Edits                            | §1182.3. Extension of Period for Preliminary and Final Decision and Current Period of Financial Distress.                   |
| §1186.53. Notice.  | → Renumber/Minor Edits                            | → §1182.4. Notice.  |
| §1186.54. Pre-Hearing Conference.  | → Renumber/Minor Edits                            | → §1182.5. Pre-Hearing Conference.  |
| §1186.55. Assignment to Hearing Panels/Hearing Officers.   | → Renumber/Minor Edits                            | → §1182.6. Assignment to Hearing Panels/Hearing Officers.   |
| §1186.6. Request for Supplemental Information.   | → Renumber/Minor Edits                            | → §1182.7. Request for Supplemental Information.  |
| §1186.61. Review of Completed Application for a Finding of Significant Financial Distress and Preparation of Staff Analysis. | → Renumber/Minor Edits                            | §1182.8. Review of Completed Application for a Finding of Significant Financial Distress and Preparation of Staff Analysis. |
| §1186.62. Written Comments.  | → Renumber/Minor Edits                            | → §1182.9. Written Comments.  |
| §1186.63. Conduct of Hearing.  | → Renumber/Minor Edits, Clarified language in (e) | → §1182.10. Conduct of Hearing.   |
| §1186.64. Representation at Hearing.   | → Renumber/Minor Edits                            | → §1182.11. Representation at Hearing.  |
| §1186.65. Continuance of Hearings and Further Hearings.  | → Renumber/Minor Edits                            | → §1182.12. Continuance of Hearings and Further Hearings.   |
| §1186.7. Preliminary and Final Decisions; Action on Decisions.   | → Renumber/Minor Edits                            | → §1182.13. Preliminary and Final Decisions; Action on Decisions.   |
| §1186.71. Form of Decision.  | → Renumber/Minor Edits                            | → §1182.14. Form of Decision.   |
| §1186.72. Reapplications.  | → Renumber/Minor Edits                            | → §1182.15. Reapplications.   |
| §1186.73. Withdrawal of Applications.  | → Renumber/Minor Edits                            | → §1182.16. Withdrawal of Applications.   |
| <b>Article 7. Hearings and Decisions</b>   | → Renamed   | <b>Article 7. Quasi-Judicial Hearing Procedures and Decisions</b>   |
| §1187. Scheduling and Noticing the Hearing.  | → Renumber/Minor Edits                            | → §1187.1. Scheduling and Noticing the Hearing.   |
| §1187.1. Notice of Hearing. [Repealed]   | → Section Repealed in 2005                        |   |
| §1187.2. Assignment to Hearing Panels/Hearing Officers.  | → Minor Edits                                     | → §1187.2. Assignment to Hearing Panels/Hearing Officers.   |
| §1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.  | → Minor Edits                                     | → §1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.   |

| Current Regulations                                      | Proposed Action  | Proposed Regulations  |
|--|--|---|
| §1187.4. Pre-Hearing Conference.                         | → Renamed & consolidated with "Informal Conference" to increase clarity and remove duplication in Articles 3 and 10                      | → §1187.4. Informal Conference.   |
| §1187.5. Evidence Submitted to the Commission.           | → Minor Edits, Additional language in (b) to clarify "under oath" for both oral and written testimony                                    | → §1187.5. Evidence Submitted to the Commission.  |
| §1187.6. Conduct of Hearing.                             | → Minor Edits, Moved language on written testimony (f) to §1181.10   | → §1187.6. Conduct of Hearing.  |
| §1187.7. Witnesses and Subpoenas.                        | → Minor Edits  | → §1187.7. Witnesses and Subpoenas.   |
| §1187.8. Representation at Hearing.                      | → Minor Edits  | → §1187.8. Representation at Hearing.   |
| §1187.9. Continuance of Hearings and Further Hearings.   | → Significant clarifying language, consolidation of language previously in Article 3   | → §1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and Continuances of Hearings. |
| 1188. Oral and Written Arguments.                        | → Delete, Redundant to Article 3 and other sections of Article 7   |   |
| §1188.1. Decision; Action on Proposed Decision.          | → Minor Edits  | → §1187.10. Decision; Action on Proposed Decision.  |
| §1188.2. Form of Decision.                               | → Minor Edits  | → §1187.11. Form of Decision.   |
| §1188.3. Withdrawal of a Matter.                         | → Clarifying language  | → §1187.12. Withdrawal of a Matter.   |
|  | Add New Section, Language moved from current regulations §1183.081 and 1183.09(f) and clarified for application to all Article 7 matters | → §1187.13. Abandonment of a Matter.  |
| §1188.31. Dismissal of Matters.                          | → Clarifying language, consolidated with language in 1183.09 of current regulations  | → §1187.14. Dismissal of a Matter.  |
| §1188.4. Reconsideration of a Prior Final Decision.      | → Minor Edits  | → §1187.15. Reconsideration of a Prior Final Decision.  |
| §1188.5. Amendment of a Prior Final Decision. [Repealed] | → Section Repealed in 2003   |   |

| Current Regulations  | Proposed Action                                     | Proposed Regulations   |
|--|---|--|
| <b>Article 8. Rulemaking and Informational Hearings</b>  |   | <b>Article 8. Rulemaking and Informational Hearings</b>  |
| §1189. Assignment of Matter to a Hearing Panel or Hearing Officer.                                   | → Consolidated in Article 7                         | → §1187.2. Assignment to Hearing Panels/Hearing Officers.                                      |
| §1189.1. Petitions.  | → Consolidated in section 1188.2                    | → §1188.2. Rulemaking.   |
| §1189.2. Commission Orders.  | → Consolidated in section 1188.1                    | → §1188.1. Scheduling and Noticing of an Informational Hearing                                 |
| §1189.3. Notice.   | → Consolidated in section 1188.2                    | → §1188.2. Rulemaking.   |
| §1189.4. Use of Testimony. [Repealed]  | → Section Repealed in 2010                          |  |
| §1189.5. Questioning. [Repealed]   | → Section Repealed in 2010                          |  |
| <b>Article 8.5. Forms</b>  | → Consolidated in Article 1                         | → See Article 1 Above  |
| §1189.6. Development and Approval of Commission Forms.   | → Move to Article 1                                 | → §1181.6. Development and Approval of Commission Forms.                                       |
| §1189.61. Waiver of Forms Requirement.   | → Move to Article 1                                 | → §1181.7. Waiver of Requirement to Use Forms.   |
| <b>Article 9. Conflict of Interest Code</b>  | NO CHANGES  | NOT INCLUDED IN THIS REVISION  |
| <b>Article 10. Mandate Redetermination Process</b>   |   | <b>Article 10. Mandate Redetermination Process</b>   |
| §1190. Filing a Request to Adopt a New Test Claim Decision.  | → Renumber/Minor Edits, Refer to §1181.3 for filing | → §1190.1 Filing a Request to Adopt a New Test Claim Decision.                                 |
| §1190.01. Review and Response.   | → Renumber/Minor Edits                              | → §1190.2. Review and Response.  |
| §1190.02. Rebuttal.  | → Renumber/Minor Edits                              | → §1190.3. Rebuttal.   |
| §1190.03. Informal Conference.   | → Consolidated in Article 7                         | → §1187.4. Informal Conference.  |
| §1190.04. Executive Director's Authority to Consolidate Requests to Adopt a New Test Claim Decision. | → Renumber/Minor Edits                              | → §1190.4. Executive Director's Authority to Consolidate Requests for Mandate Redetermination. |
| §1190.05. Hearing Process and Form of Decision.  | → Renumber/Minor Edits                              | → §1190.5. Hearing Process and Form of Decision.   |

TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES

### **NOTICE OF PROPOSED RULEMAKING**

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### **PUBLIC HEARING**

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Commission will conduct a public hearing on this proposed action on March 28, 2014, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on February 3, 2014**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Written comments may be submitted electronically via the Commission website "Drop Box" at <http://www.csm.ca.gov/dropbox.shtml>

#### **AUTHORITY AND REFERENCE**

Government Code section 17527 (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to: (1) clarify and streamline Commission regulations; (2) eliminate duplicative language; and (3) improve the overall navigation and readability of the Commission's regulations by reorganizing and renumbering articles and sections.

Reference citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6). The purpose of this rulemaking is to: (1) clarify and streamline Commission regulations; (2) eliminate duplicative language; and (3) improve the overall navigation and

readability of the Commission's regulations by reorganizing and renumbering articles and sections.

Therefore, the Commission proposes to repeal and replace articles 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, and 10 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date of July 1, 2014.

## **I. New and Clarified Definitions**

Deleting §1181.1(c) and (h) and adding new and amended definitions in §1181.2(e), (f), (h), (i), (k), (l), (m), (s), and (t) as described below:

- §1181.2(e) is a clarified definition of "Completed" to explicitly include each type of matter before the Commission.
- §1181.2(f) is a clarified definition of "Filing date" to align with the new language in §1181.3.
- §1181.2(h) replaces the definition of "Informational proceeding" with "Informational hearing" for consistency with Article 8.
- §1181.2(i) is an amended definition of "Interested party" intended to further clarify the roles of different entities in Commission processes.
- §1181.2(k) is the addition of "New filing" in support of the clarified processes described in §1181.3.
- §1181.2(l) is an amended definition clarifying "Parties" for each different matter before the Commission.
- §1181.2(m) is the addition of "Real Party in Interest."
- §1181.2(s) is the addition of "Test claim" as defined in Gov. Code 17521 but not currently defined in the Commission's regulations.
- §1181.2(t) is an amended definition of "Written material" to support the distinction from "New filing" in the processes described in §1181.3.

The proposed regulations remove the definition for "Claim" (found in current regulations §1181.1(c)) as it is more appropriately covered in relevant sections pertaining to each different type of matter. Additionally, the proposed regulations remove the definition of "good cause" (found in current regulations §1181.1(h)) and instead include the good cause factors in article 7 for consideration under §1187.9 *Extensions of Time to File Comments or Rebuttals and Postponements and Continuances of Hearings*.

## **II. Filing Date of Written Material**

Adding new language in §1181.3 to clarify that, beginning on the effective date of these regulations, the filing date of written material is when it is received at the Commission office, regardless of the method of filing (electronic or hard copy, hand delivered or mailed). Due to the availability of E-filing, the former mail-box rule is obsolete.

## **III. Consent Calendar**

Adding new language in §1181.9(c) describing the purpose of the consent calendar and how items may be added to or removed from the calendar before or during a meeting of the Commission.

#### **IV. Late Comments Submitted Prior to or During a Commission Meeting**

Adding new language in §1181.10(b)(1) to indicate that Commission staff will transmit late comments submitted between 15 and five days prior to a meeting to the Commissioners if possible. However, comments submitted less than five days prior to a meeting or at the meeting, will not be included in the Commissioners' hearing binders and the commenter shall provide 12 paper copies of the comments at the meeting. Current regulations (§1182.2 and §1187.6) require that any comments submitted less than 15 days prior to a Commission meeting shall be included in the Commissioners' hearing binders, if possible or shall be provided to the members when the item is called.

#### **V. Late Submission of Comments or Evidence**

Adding new language in §1183.6(d), 1183.13(c), 1183.17(k), 1184.1(j), 1185.7(e), 1190.5(a)(3)(A), 1190.5(b)(3)(A) to clarify that: 1) it is the Commission's policy to discourage the late submission of comments, exhibits, or other evidence after a deadline; and 2) the Commission need not rely on late comments or evidence submitted in response to a draft staff analysis. The new language is proposed for inclusion in the sections of Commission regulations pertaining to comment periods on new filings and draft proposed decisions.

#### **VI. Evidence to Support a Finding That Activities are Reasonably Necessary**

Adding new language in §1183.7(d) and 1183.9(b)(2) to clarify the meaning of reasonably necessary activities and to assist claimants in determining what is required to support a claim alleging that such activities are reimbursable.

#### **VII. Expiration of a Jointly Proposed Reasonable Reimbursement Methodology**

Adding new language in §1183.16(i). Government Code 17577.2(f) requires the Commission to notify claimants and Department of Finance one year before a joint RRM is set to expire. Current regulations are silent as to what happens if the joint RRM expires without comments or request for action from the parties. New language in §1183.16(i) would specify the Commission proceed with the adoption of parameters and guidelines pursuant to the established expedited parameters and guidelines process.

#### **VIII. Technical and Non-Substantive Proposed Changes**

After several years and several amendments, the Commission's regulations have become difficult to navigate, include clerical errors, and have inconsistent numbering, structure and internal references. In an effort to "clean-up" the Commission's regulations, staff will reorganize sections primarily for improved navigation and for elimination of duplicative language. These changes fall generally into the categories listed below.

##### **A. Reorganize and Renumber Articles and Sections to Simplify Navigation**

The proposed regulations will repeal and replace all articles of the Commission's current regulations except for article 9, which is not a part of this proposed regulatory package. Articles have been renumbered and combined to eliminate the current ".5" numbering of articles and for consolidation of like information in relevant sections. Sections within the articles have been renumbered sequentially, using a consistent decimal style. Article 7 is proposed to be renamed to more clearly identify the quasi-judicial nature of these Commission hearings.

**B. Eliminate Duplication and Consolidate Like Information/Processes**

Language describing the process for filing and serving written materials and new filings is proposed for consolidation within article 1, §1181.3 and is referenced throughout the proposed regulations rather than being restated for every matter heard by the Commission, as current regulations do.

Regulations governing an “Informal Conference” are proposed to be moved from articles 3 and 10 to article 7 and consolidated there with current regulations on a “Pre-Hearing Conference”.

Language describing the Commission's existing rules of evidence is proposed for consolidation in article 7 (§1187.5) and is consistently referenced throughout the regulations.

Rules governing requests for extensions of time and postponements of hearings are clarified and consolidated with rules for continuances in article 7, §1187.9. This includes the clarification and relocation of language concerning extensions and postponements found in §1183.01(c) of the current regulations.

Rules governing withdrawal and dismissal of all article 7 matters are consolidated in article 7, §1187.12 through 1187.14.

In the proposed article 8, several sections pertaining to informational hearings and rulemaking are proposed for consolidation into fewer sections, resulting in a clearer presentation of the procedural information.

**C. Clerical Changes of Capitalization, Punctuation and Style**

Minor and non-substantive changes in capitalization, punctuation and style are proposed to improve the readability and clarity of the regulations. For example, the consistent use of the word "matter" where before the term "claim" was often used leaving room for confusion on other matters also subject to an article 7 hearing. The proposed regulations also include general stylistic changes to improve readability and to ensure that "plain English" is used throughout the Commission's regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Commission has made the following initial determinations:

|  |      |
|--|------|
| Mandate on local agencies and school district:   | None |
| Cost or savings to any state agency:   | None |
| Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:                                  | None |
| Other non-discretionary cost or savings imposed on local agencies:   | None |
| Cost or savings in federal funding to the state:   | None |
| Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: | None |
| Significant effect on housing costs:   | None |



Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Small Business Determination:* Because the Commission has no jurisdiction over small businesses, and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5 (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(heidi.palchik@csm.ca.gov)

The backup contact person for these inquiries is:

Jason Hone, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(jason.hone@csm.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Heidi Palchik at the above address or download it from the Commission's website at <http://csm.ca.gov/rulemaking.shtml>.

**AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Heidi Palchik at the address or phone number listed above. All persons on the Commission's interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission's website and providing notice of how to locate it.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Heidi Palchik at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Heidi Palchik at the above address.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission's website at <http://csm.ca.gov/rulemaking.shtml>.

**INITIAL STATEMENT OF REASONS  
CALIFORNIA CODE OF REGULATIONS**

**TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES**

**REPEAL AND REPLACE ARTICLES 1, 2, 3, 4.5, 5, 6, 6.5, 7, 8, 8.5, AND 10**

**SPECIFIC PURPOSE OF THE REGULATIONS**

The Commission on State Mandates (Commission) is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of the proposed regulations is to: (1) clarify and streamline Commission regulations; (2) eliminate duplicative language; and (3) improve the overall navigation and readability of the Commission's regulations by reorganizing and renumbering articles and sections.

The proposed rulemaking includes a complete reorganization and renumbering of the Commission's existing regulations, except for article 9 Conflict of Interest Code. The substantive proposed changes that clarify and streamline Commission regulations are described immediately below. The main elements of the renumbering and reorganization are described under the *technical and non-substantive proposed changes* heading below. A more detailed account of the renumbering and reorganization can be found in Exhibits A and B.

**I. New and Clarified Definitions**

Section 1181.2. Definitions.

*Specific Purpose of the Regulation*

This section defines terms used throughout the Commission's regulations.

*Proposed Changes*

The proposed regulations contain new and clarified definitions, aligned with statute as described below:

- §1181.2(e) is clarified definition of "Completed" to explicitly include each type of matter before the Commission.
- §1181.2(f) is a clarified definition of "Filing date" to align with the new language in §1181.3.
- §1181.2(h) replaces the definition of "Informational proceeding" with "Informational hearing" for consistency with Article 8.
- §1181.2(i) is an amended definition of "Interested party" intended to further clarify the roles of different entities in Commission processes.
- §1181.2(k) is the addition of "New filing" in support of the clarified processes described in §1181.3.

- §1181.2(l) is a clarification of “Parties” for each different matter before the Commission.
- §1181.2(m) is the addition of "Real Party in Interest."
- §1181.2(s) is the addition of “Test claim” as defined in Gov. Code 17521 but not currently defined in the Commission’s regulations.
- §1181.2(t) is an amended definition of "Written material" to support the distinction from "New filing" in the processes described in §1181.3.

Deleted §1181.1(c) and (h) from current regulations:

- §1181.1(c) is the current definition for "claim."
- §1181.1(h) is the current definition for "good cause." Instead, language is included to describe the good cause factors in article 7 for consideration under §1187.9 *Extensions of Time to File Comments or Rebuttals and Postponements and Continuances of Hearings*.

### *Necessity*

Clearly defined terms in this section are necessary to understand the meaning of terms used throughout the Commission's entire regulations. When a term is not used throughout the regulations, it is more appropriate to define it in the context of the relevant section. Accordingly, the current definition of "claim" is not useful since it creates ambiguity with regard to other types of matters before the Commission. Similarly, "good cause" is described in the section of the regulations where it is most relevant and is a balancing test rather than a true definition.

## **II. Filing Date of Written Material**

### Section 1181.3. Filing and Service of Written Materials and New Filings.

#### *Specific Purpose of the Regulation*

The purpose is to clarify that, beginning on the effective date of these regulations, the filing date of written material is when it is received at the Commission office, regardless of the method of filing (electronic or hard copy, hand delivered or mailed). Due to the availability of E-filing, the former mail-box rule is obsolete.

#### *Proposed Changes*

Adding new language in §1181.3(a) stating that "filing is complete upon receipt by the Commission."

#### *Necessity*

Current regulations describe various different filing dates dependent upon manner in which the written comments are submitted. This clarification and simplification of the Commission's regulations is necessary to ensure that parties, interested parties, and interested persons are provided with clear and consistent expectations and to reduce the possibility for disputes over when a document was filed. It is also necessary to further encourage the use of the Commission's e-filing system which is the most convenient and least costly method of filing.

### **III. Consent Calendar**

#### Section 1181.9. Commission Meeting Notice, Agenda, and Consent Calendar.

##### *Specific Purpose of the Regulation*

Current regulations do not address the consent calendar. The purpose of the proposed language is to describe the purpose of the consent calendar and how items may be added to or removed from the calendar before or during a meeting of the Commission.

##### *Proposed Changes*

Adding new language in §1181.9(c) describing the purpose of the consent calendar and how items may be added to or removed from the calendar before or during a meeting of the Commission.

##### *Necessity*

Without this clarifying language in the Commission's regulations, there is opportunity for confusion among parties, interested parties, and interested persons participating in the Commission's hearing process. It is in the best interest of the public and participants in the Commission's processes to eliminate such ambiguities.

### **IV. Late Comments Submitted Prior to or During a Commission Meeting**

#### Section 1181.10. Commission Meeting Procedures.

##### *Specific Purpose of the Regulation*

The proposed regulations include language to discourage last-minute submission of comments, which imposes a significant burden on Commission staff and prevents the Commission and Commission staff from being able to provide full consideration to the points raised.

##### *Proposed Changes*

Current regulations (§1182.2 and §1187.6) require that any comments submitted less than 15 days prior to a Commission meeting shall be included in the Commissioners' hearing binders, if possible or shall be provided to the members when the item is called. The new language in §1181.10(b)(1) indicates that Commission staff will transmit late comments submitted between 15 and five days prior to a meeting to the Commissioners if possible. However, comments submitted less than five days prior to a meeting or at the meeting, will not be included in the Commissioners' hearing binders and the commenter shall provide 12 paper copies of the comments at the meeting.

##### *Necessity*

Current regulations are not clear as to when late comments must be provided at the hearing. The proposed changes clarify when staff will transmit copies to the Commission members and when the commenter is responsible for presenting the written comments at the hearing. Clarification of this matter will ensure that the commenter is afforded due process and that their comments will receive the most consideration practicable.

### **V. Late Submission of Comments or Evidence**

#### Section 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.

#### Section 1183.13. Adoption of Parameters and Guidelines

Section 1183.17. Amendments to Parameters and Guidelines

Section 1184.1. Review of Office of State Controller's Claiming Instructions

Section 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed Decision.

Section 1190.5 Hearing Process and Form of Decision.

*Specific Purpose of the Regulation*

The purpose is to clarify that: 1) it is the Commission's policy to discourage the late submission of comments, exhibits, or other evidence after a deadline; and 2) the Commission need not rely on late comments or evidence submitted in response to a draft proposed decision.

*Proposed Changes*

Adding new language in §1183.6(d), 1183.13(c), 1183.17(k), 1184.1(j), 1185.7(e), 1190.5(a)(3)(A), 1190.5(b)(3)(A) stating that it is the Commission's policy to discourage the introduction of late comments, exhibits, or other evidence filed after the comment period; and the Commission need not rely on, and staff need not respond to, late comments, exhibits, or other evidence submitted in response to a draft proposed decision.

*Necessity*

The intent of this revision is to prevent unnecessary delays in hearing matters and to facilitate the timely resolution of matters before the Commission while respecting the time and effort of all parties involved. Though this is already the rule, the current regulations could state it more clearly so that all participants, including those new to the mandates process, are on notice of the importance of filing timely comments.

**VI. Evidence to Support a Finding That Activities are Reasonably Necessary**

Section 1183.7. Content of Parameters and Guidelines.

Section 1183.9. Expedited Process for Proposed Parameters and Guidelines.

*Specific Purpose of the Regulation*

To clarify the meaning of reasonably necessary activities and that regulations and statutes not pled in the test claim may be relied on for the purpose of defining such activities, and to assist claimants in determining what is required to support a claim alleging that such activities are reimbursable.

*Proposed Changes*

Adding new language in §1183.7(d) and 1183.9(b)(2) as follows:

“Reasonably necessary activities” are those activities necessary to comply with the statutes, regulation and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by

documentary evidence submitted in accordance with section 1187.5 of these regulations."

*Necessity*

Parties must be aware of the evidentiary requirements of a quasi-judicial hearing and decision. To that end, this proposed language will clarify what is necessary to support a finding, in the Commission's decision parameters and guidelines, that an alleged activity is "reasonably necessary".

**VII. Expiration of a Jointly Proposed Reasonable Reimbursement Methodology**

Section 1183.16. Expiration of Reasonable Reimbursement Methodology.

*Specific Purpose of the Regulation*

Government Code 17577.2(f) requires the Commission to notify claimants and Department of Finance one year before a joint reasonable reimbursement methodology (RRM) is set to expire. Current regulations are silent as to what happens if the joint RRM expires without comments or request for action from the parties.

*Proposed Changes*

New language in §1183.16(i) would specify the Commission proceed with the adoption of parameters and guidelines pursuant to the established expedited parameters and guidelines process.

*Necessity*

If a joint RRM expires and there are no parameters and guidelines in place for a state-mandated program, eligible claimants would not be able to file claims for reimbursement. This scenario would be in violation of statute and the California constitution.

**VIII. Technical and Non-Substantive Proposed Changes**

*Specific Purpose of the Regulation*

After several years and several amendments, the Commission's regulations have become difficult to navigate, include clerical errors, and have inconsistent numbering, structure and internal references. In an effort to "clean-up" the Commission's regulations, the proposed rulemaking reorganizes sections primarily for improved navigation and for elimination of duplicative language.

*Proposed Changes*

Reorganize and Renumber Articles and Sections to Simplify Navigation

The proposed regulations will repeal and replace all articles of the Commission's current regulations except for article 9, which is not a part of this proposed regulatory package. Articles have been renumbered and combined to eliminate the current ".5" numbering of articles and for consolidation of like information in relevant sections. Sections within the articles have been renumbered sequentially, using a consistent decimal style. Article 7 is proposed to be renamed to more clearly identify the quasi-judicial nature of these Commission hearings. See the chart attached in Exhibit A and the table attached in Exhibit B for a detailed representation of the renumbering and reorganization and where the content of current sections (whether amended or not) can be found in the proposed new regulations.

### Eliminate Duplication and Consolidate Like Information/Processes

- Language describing the process for filing and serving written materials and new filings is proposed for consolidation within article 1, §1181.3 and is referenced throughout the proposed regulations rather than being restated for every type of matter heard by the Commission, as current regulations do.
- Regulations governing an “Informal Conference” are proposed to be moved from articles 3 and 10 to article 7 and consolidated there with current regulations on a “Pre-Hearing Conference”. The new, consolidated section, 1187.4, is entitled “Informal Conference”.
- Language describing the existing rules for submitting evidence to the Commission is proposed for consolidation in article 7 (§1187.5) and is consistently referenced throughout the regulations.
- Rules governing extensions of time and postponements of hearings are clarified and consolidated with the section on continuance of hearings in article 7, §1187.9. This includes the clarification and relocation of language concerning extensions and postponements found in §1183.01(c) of the current regulations.
- Rules governing withdrawal, abandonment and dismissal of all article 7 matters are consolidated in article 7, §1187.12 through 1187.14.
- In the proposed article 8, several sections pertaining to informational hearings and rulemaking are proposed for consolidation into fewer sections, resulting in a clearer presentation of the procedural information.

### Clerical Changes of Capitalization, Punctuation and Style

Minor and non-substantive changes in capitalization, punctuation and style are proposed to improve the readability and clarity of the regulations. For example, the consistent use of the word "matter" where before the term "claim" was often used leaving room for confusion on other matters also subject to an article 7 hearing. The proposed regulations also include general stylistic changes to improve readability and to ensure that "plain English" is used throughout the Commission's regulations.

#### *Necessity*

The Commission's regulations instruct parties, interested parties and interested persons on the processes and procedures of the Commission. These technical and non-substantive proposed changes are necessary in order to present a great deal of information in a clear and well-organized manner to a diverse audience.

### **MATERIAL RELIED UPON TO DEVELOP REGULATIONS**

Commission staff did not rely on any technical, theoretical, or empirical studies or reports in proposing the adoption of these regulations. The Commission relied upon the statutes and cases cited in the authority and reference sections for the regulations.

Commission staff did review the regulations in an informal workshop with parties, interested parties and interested persons who expressed an interest in developing the regulations. This meeting took place on September 26, 2013.



**REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives have been presented to or considered by the Commission.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON SMALL OR OTHER BUSINESSES**

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore there is no adverse impact on small or other businesses.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

There are no businesses that are parties or interested parties in matters before the Commission.

**FINAL STATEMENT OF REASONS****NO COMMENTS WERE RECEIVED DURING THE INITIAL NOTICE  
PERIOD OF DECEMBER 20, 2013, THROUGH FEBRUARY 3, 2014**

The proposed text was made available to the public from December 20, 2013, through February 3, 2014. The Commission did not receive any comments on the proposed text.

**ALTERNATIVES DETERMINATION**

The Commission has determined that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.