

March 11, 2005

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814

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

RE: **Staff Analysis and Proposed Statewide Cost Estimate**
Differential Pay and Reemployment, 99-TC-02
Palmdale School District, Claimant
Education Code Sections 44977 and 44978.1
Statutes 1998, Chapter 30

Dear Mr. Miyashiro:

The final staff analysis and proposed statewide cost estimate are complete and enclosed for your review.

Commission Hearing

The hearing on this matter is set for Wednesday, **March 30, 2005**, at 9:30 a.m. at the **Department of Social Services Building, 744 P Street, First Floor, Auditorium**, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance of the hearing if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear.

Special Accommodations

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

If you have any questions, please contact Tina Poole at (916) 323-8220.

Sincerely,

PAULA HIGASHI
Executive Director

Enclosure

ITEM 11

PROPOSED STATEWIDE COST ESTIMATE FINAL STAFF ANALYSIS

Education Code Sections 44977 and 44978.1
Statutes 1998, Chapter 30

Differential Pay and Reemployment (99-TC-02)

Palmdale School District, Claimant

EXECUTIVE SUMMARY

On July 31, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Differential Pay and Reemployment* program. The Commission found that Education Code sections 44977 and 44978.1 constitute a new program or higher level of service and impose a state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. The *Differential Pay and Reemployment* program requires school districts to engage in new activities including calculating and paying sick leave differential pay to certificated employees (teachers) in a manner different than the manner required under prior law; and for developing and maintaining reemployment lists for teachers out for illness or injury for an extended time period.

The claimant, Palmdale School District, filed the test claim on August 23, 1999. The Commission adopted the Statement of Decision on July 31, 2003, and the parameters and guidelines on May 27, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 2, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

The SCO provided unaudited claims totals to the Commission on February 17, 2005. The claims data included 16 claims filed by five of the 1,086 districts. Only two of the five school districts filed reimbursement claims each year for fiscal years 1998-1999 through 2003-2004. The remaining three districts filed reimbursement claims for one or two of those fiscal years.

Therefore, based on the data provided by the SCO, staff made the following assumptions:

- The statewide cost estimate is based on 16 unaudited claims filed by five school districts.¹
- The actual amount claimed will increase if late or amended claims are filed. Only five of the 1,086 school districts filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until December 2, 2005.

¹ Claims data reported by the SCO as of February 17, 2005.

- It is unlikely that more claims will be filed. The cost to perform the reimbursable activities for *Differential Pay and Reemployment* are minimal and most school districts are unable to meet the \$1,000 minimum filing threshold.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

The proposed statewide cost estimate includes seven fiscal years for a total of \$192,033. This averages to \$27,433 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	2	\$25,960
1999-2000	3	\$33,094
2000-2001	2	\$17,153
2001-2002	3	\$22,863
2002-2003	3	\$27,041
2003-2004	3	\$32,490
2004-2005 (estimated)	N/A	\$33,432
Total	16	\$192,033

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$192,033** for costs incurred in complying with the *Differential Pay and Reemployment* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

STAFF ANALYSIS

Background and Summary of the Mandate

On July 31, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Differential Pay and Reemployment* program. The Commission found that Education Code sections 44977 and 44978.1 constitute a new program or higher level of service and impose a state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- When calculating differential pay, the sick leave, including accumulated sick leave, and the five-month period of differential pay shall run consecutively. (One-time administrative activity for shifting the calculation of differential pay from running concurrently to consecutively with accumulated sick leave.) (Ed. Code, § 44977.)
- When a certificated employee is not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period described in Education Code section 44977 has been exhausted, place the employee, if not placed in another position, on a reemployment list for 24 months for probationary employees, or 39 months for permanent employees. (This activity includes the one-time activity of establishing a reemployment list for this purpose, and ongoing activities of maintaining the list.) (Ed. Code, § 44978.1.)
- When the employee is medically able, return the employee to a position for which he or she is credentialed and qualified. (This activity includes the administrative duties required to process the re-employment paperwork, but not reimbursement of salary and benefits for the employee once they return to work.) (Ed. Code, § 44978.1.)

The claimant, Palmdale School District, filed the test claim on August 23, 1999. The Commission adopted the Statement of Decision on July 31, 2003, and the parameters and guidelines on May 27, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 2, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. One-Time Activities

1. Change the process for calculating the five-month differential pay period from running concurrently to consecutively with accumulated sick leave. Reimbursement for this activity is solely for the administrative modification of existing policies, procedures, and forms, and modification of computer programs to compute differential pay.
2. Establish a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period.² Reimbursement for this activity is solely for

² Education Code section 44978.1.

the administrative modification of existing policies, procedures, and forms, and modification of computer programs to establish and track reemployment lists.³

B. On-going Activities⁴

1. Maintain a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period. Reimbursement for this activity is limited to minimal staff time for periodically updating the reemployment lists.
2. Process the reemployment paperwork for a “medically able” certificated employee to return to an available position for which he or she is credentialed and qualified. Salary and benefits for the employee upon return to work are not reimbursable.

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by December 2, 2004, and were provided to the Commission on February 17, 2005. Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The claims data included 16 claims filed by five of the 1,086 districts. Only two of the five school districts filed reimbursement claims each year for fiscal years 1998-1999 through 2003-2004. The remaining three districts filed reimbursement claims for one or two of those fiscal years.

Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff’s assumptions and methodology will be reported to the Legislature.

Staff made the following assumptions:

Assumptions

- The actual amount claimed will increase if late or amended claims are filed. Only five of the 1,086 school districts filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until December 2, 2005.
- It is unlikely that more claims will be filed. The cost to perform the reimbursable activities for *Differential Pay and Reemployment* are minimal and most school districts are unable to meet the \$1,000 minimum filing threshold.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1998-1999 through 2003-2004 Projected Costs

- The proposed statewide cost estimate for fiscal years 1998-1999 through 2003-2004 was developed based on the 16 unaudited, actual reimbursement claims.

³ Education Code section 44977.

⁴ Education Code section 44978.1.

2004-2005 Projected Costs

- Staff projected the total for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.

The proposed statewide cost estimate includes seven fiscal years for a total of \$192,033. This averages to \$27,433 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

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