

ITEM 10D
FINAL STAFF ANALYSIS
PROPOSED AMENDMENT TO PARAMETERS AND GUIDELINES

Pupil Suspensions, Expulsions and Expulsion Appeals
05-PGA-65

Consolidation of:

Pupil Suspensions from School – CSM 4456

Education Code Section 48911, Subdivisions (b) and (e)
Statutes 1977, Chapter 965, Statutes 1978, Chapter 668,
Statutes 1980, Chapter 73, Statutes 1983, Chapter 498,
Statutes 1985, Chapter 856, Statutes 1987, Chapter 134

Pupil Expulsions from School – CSM-4455

Education Code Sections 48915, Subdivisions (a) and (b),
48915.1, 48915.2, 48916 and 48918
Statutes 1975, Chapter 1253, Statutes 1977, Chapter 965,
Statutes 1978, Chapter 668, Statutes 1982, Chapter 318,
Statutes 1983, Chapter 498, Statutes 1984, Chapter 622,
Statutes 1987, Chapter 942, Statutes 1990, Chapter 1231,
Statutes 1992, Chapter 152, Statutes 1993, Chapters 1255, 1256, and 1257
Statutes 1994, Chapter 146,

Pupil Expulsion Appeals – CSM-4463

Education Code Sections 48919, 48921-48924
Statutes 1975, Chapter 1253, Statutes 1977, Chapter 965,
Statutes 1978, Chapter 668, Statutes 1983, Chapter 498,

State Controller's Office, Requestor

Executive Summary

This is a request filed by the State Controller's Office (SCO) to amend the parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program, (05-PGA-65) to add language regarding source documentation, and record retention requirements during the period a claim is subject to an audit. If the Commission on State Mandates (Commission) approves the SCO's request, the amendments would be effective for costs incurred beginning on July 1, 2005.

In 2003, upon recommendation from the Bureau of State Audits, direction from the Legislature, and an SCO request, the Commission adopted amendments to parameters and guidelines that clarified what source documentation claimants are required to retain to support the claims they file to obtain reimbursement for mandated programs, and

records retention language that identifies the records that must be retained to support an audit initiated by the SCO. The adopted language, commonly referred to as “boilerplate language,” has been included in all parameters and guidelines adopted since 2003. In addition, section 1183 of the Commission’s regulations require parameters and guidelines to include instruction on claim preparation, notice of the SCO’s authority to audit claims, and the amount of time documentation must be retained during the audit period.

The SCO is now requesting that parameters and guidelines adopted prior to 2003 be amended to also include the source documentation and records retention language.

This analysis pertains only to the request to amend the *Pupil Suspensions, Expulsions and Expulsion Appeals* program. The staff analyses for the other 48 programs will be presented separately.

There is one issue for the Commission’s consideration:

- **Should the parameters and guidelines be amended to add the current “boilerplate language”?**

The SCO requested amendment to these parameters and guidelines on April 7, 2006. These parameters and guidelines were consolidated on August 20, 1998, and amended on July 28, 2006. The 1998 consolidated parameters and guidelines are effective for 1993-1994 through 2005-2006, and do not include the boilerplate language. The 2006 amendments are effective for 2006-2007 through the present, and do include the boilerplate language. Since the period of reimbursement for the SCO’s request begins with the 2005-2006 fiscal year, the SCO is requesting that the 1998 consolidated parameters and guidelines be amended to include the boilerplate language.

Inserting the source documentation and records retention boilerplate language would conform the consolidated parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program consolidated in 1998 with the amended parameters and guidelines adopted in 2006, and with parameters and guidelines adopted for other programs. The proposed amendments are also consistent with section 1183.1 of the Commission’s regulations. Therefore, staff included the language requested by the SCO.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the SCO’s proposed amendments to the parameters and guidelines for the *Pupil Suspensions, Expulsions, and Expulsion Appeals* program, beginning on page 10.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Requestor

State Controller's Office

Chronology

12/19/1996	Commission on State Mandates (Commission) adopts Statement of Decision for <i>Pupil Suspensions from School</i> program
03/27/1997	Commission adopts Statement of Decision for <i>Pupil Expulsion Appeals</i> program
05/29/1997	Commission adopts Statement of Decision for <i>Pupil Expulsions</i> program
08/20/1998	Commission consolidates parameters and guidelines for the three programs
01/23/2003	The Commission, upon the recommendation of the Bureau of State Audits, direction from the Legislature, and upon request from the State Controller's Office (SCO), adopts amendments to the <i>School Bus Safety II</i> parameters and guidelines to include "boilerplate language" that details the documentation necessary to support reimbursement claims. After this date, all adopted parameters and guidelines contain this language
04/07/2006	SCO requests the parameters and guidelines for 49 mandated programs adopted prior to 2003 also be amended to include boilerplate language, including the <i>Pupil Suspensions, Expulsions, and Expulsion Appeals</i> program analyzed here
04/27/2006	Commission deems SCO's request for amendment of parameters and guidelines complete and issues for comment
10/04/2006	Commission amends parameters and guidelines
07/23/2009	Commission reissues SCO's request for amendment of parameters and guidelines for comment
08/18/2009	Department of Finance files comments
04/19/2010	Commission issues draft staff analysis
05/06/2010	Department of Finance files comments

Background

This is a request filed by the State Controller's Office (SCO) to amend the parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program, (05-PGA-65) to add language regarding source documentation, and record retention requirements during the period a claim is subject to an audit. If the Commission approves the SCO's request, the amendments would be effective for costs incurred beginning on July 1, 2005.

Test Claim Decision and Parameters and Guidelines

In 1996 and 1997, three test claims were approved that established procedures for suspensions and expulsions for students who have committed certain crimes, and for an expulsion appeals process.

On August 20, 1998, the Commission consolidated the parameters and guidelines for these three programs into one set of parameters and guidelines titled “*Pupil Suspensions, Expulsions, and Expulsion Appeals*.”¹ The Commission amended the parameters and guidelines in 2006.²

Boilerplate Language

On March 28, 2002, the Bureau of State Audits (BSA) issued an audit report on the *School Bus Safety II* program, stating that the parameters and guidelines do not impose sufficient requirements regarding the documentation required to support reimbursement claims, and thus, insufficient documentation was being submitted to support claims.³ The report recommended, among other things, that the Commission work with the SCO, other affected state agencies, and interested parties to make sure the language in the parameters and guidelines and the claiming instructions for the *School Bus Safety II* program reflects the Commission’s intentions as well as the SCO’s expectations regarding supporting documentation. On June 10, 2002, the SCO proposed that parameters and guidelines be amended to clarify what documentation is necessary to support reimbursement claims and what records must be retained to support audits initiated by the SCO.

Based on BSA’s audit findings and recommendations, the Legislature enacted Statutes 2002, chapter 1167 (AB 2781) to direct the Commission to amend the parameters and guidelines in *School Bus Safety II*, to detail the documentation necessary to support reimbursement claims.

On January 23, 2003, upon recommendation from BSA, direction from the Legislature, and the SCO’s request, the Commission adopted the following language regarding source documentation and records retention to the *School Bus Safety II* parameters and guidelines:⁴

IV. Reimbursable Activities

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

⁴ The Commission also adopted other boilerplate language that is not relevant to this request.

activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

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

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

VI. Record Retention

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.*

The Commission has included this language, commonly referred to as "boilerplate language," in all parameters and guidelines adopted on or after January 23, 2003.

SCO Request to Amend Parameters and Guidelines

On April 7, 2006, the SCO requested that the parameters and guidelines for 49 mandated programs that were adopted prior to 2003 be amended to also include the boilerplate language regarding source documentation and records retention that was adopted by the Commission in 2003.⁵

The parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program is one of the 49 programs the SCO is requesting be amended.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

⁵ Exhibit D.

Comments on the Proposal

On April 27, 2006, the Commission issued the SCO's request to amend the parameters and guidelines for comment. No comments were filed. On July 23, 2009, the Commission reissued the proposal for comment. On August 18, 2009, Department of Finance submitted comments.⁶

In its comments, Finance stated it was neutral on the proposal, because the request to include boilerplate language in the parameters and guidelines for the 49 programs would allow the Controller to complete audit related tasks more efficiently, and provide the claimant with more information and record retention requirements, as well as the statute of limitations for audits.

Commission staff issued the draft staff analysis on April 19, 2010.⁷ On May 6, 2010, the Department of Finance submitted comments concurring with staff's recommendation to approve the request because changes provide claimants with clear instructions regarding documentation and record retention requirements.⁸

Related Litigation (*Clovis Unified School Dist., et al. v. State Controller*)

This case involves a challenge by school districts and community college districts on reductions made by the State Controller's Office to reimbursement claims for several mandated programs.⁹ The school districts argue that reductions made on the ground that school districts do not have contemporaneous source documents are invalid.

Trial Court Ruling. On January 2, 2009, the Sacramento County Superior Court (Case No. 06CS00748) issued a clarification of ruling and on February 19, 2009, issued a Judgment and Writ, finding that reductions made by the Controller on the ground that claimants did not have contemporaneous source documents supporting their reimbursement claims were invalid as an underground regulation *if* the contemporaneous source document requirement was not in the Commission's parameters and guidelines. The court held that the Controller has no authority to reduce a claim on the ground that a claimant did not maintain contemporaneous source documents to support their claim, absent statutory or regulatory authority to require contemporaneous source documents, or language in the parameters and guidelines requiring it. Pursuant to Government Code section 17558, the Controller's claiming instructions shall be derived from the test claim decision and the adopted parameters and guidelines. Thus, the court granted declaratory relief and a writ of mandate requiring the Controller to set aside the reduction and pay the school district plaintiffs the amounts reduced on two mandated programs that did not have parameters and guidelines language requiring claimants to maintain contemporaneous source documents.

Court of Appeal Filings (Third District Court of Appeal, Case No. C061696). Notices of appeal and cross-appeal have been filed by the SCO, the community college districts, and

⁶ Exhibit E.

⁷ Exhibit F.

⁸ Exhibit G.

⁹ The Commission is not a party to this action.

the school districts, and opening briefs have been filed. The appeal on the issue of the validity of the contemporaneous source documentation requirement remains pending.

Discussion

The proposed amendments to the parameters and guidelines raise the following issue for determination by the Commission:

Issue: Should the parameters and guidelines be amended to add the Commission’s current “boilerplate language”?

In 2003, following recommendation from the BSA and direction from the Legislature, the SCO requested, and the Commission adopted amendments to parameters and guidelines that clarify what source documentation claimants are required to retain to support the claims they file to obtain reimbursement for mandated programs, and records retention language that identifies the records that must be retained to support an audit initiated by the SCO.

The adopted language, as detailed on pages 4 and 5 of this analysis, has been included in all parameters and guidelines adopted since 2003.

In addition, section 1183.1, subdivision (a) (5) and (6) require that the parameters and guidelines contain, among other things, the following:

- Claim preparation. Instruction on claim preparation, including instruction for direct and indirect cost reporting, or application of a reasonable reimbursement methodology.
- Record retention. Notice of the Office of the State Controller’s authority to audit claims and the amount of time supporting documents must be retained during period subject to audit.

The SCO is now requesting that parameters and guidelines adopted prior to 2003 be amended to also include the source documentation and records retention language. This analysis pertains to the parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program.¹⁰

The SCO requested amendment to these parameters and guidelines on April 7, 2006. These parameters and guidelines were consolidated on August 20, 1998, and amended on July 28, 2006. The 1998 consolidated parameters and guidelines are effective for 1993-1994 through 2005-2006, and do not include the boilerplate language. The 2006 amendments are effective for 2006-2007 through the present, and do include the boilerplate language. Since the period of reimbursement for the SCO’s request begins

¹⁰ The SCO only requested that the portions of the boilerplate language regarding source documentation and records retention be added to the parameters and guidelines for the 49 programs. There are other sections of the boilerplate language regarding the remedies available before the Commission, and the legal and factual basis for the parameters and guidelines. Staff did not include these sections because the SCO did not request that they be included.

with the 2005-2006 fiscal year, the SCO is requesting that the 1998 consolidated parameters and guidelines be amended to include the boilerplate language.

Inserting the source documentation and records retention boilerplate language would conform the consolidated parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program consolidated in 1998 with the amended parameters and guidelines adopted in 2006, and with parameters and guidelines adopted for other programs. The proposed amendments are also consistent with section 1183.1 of the Commission's regulations.

Therefore, staff finds that it is appropriate to approve the SCO's request, and made the following modifications to the 1998 consolidated parameters and guidelines:

V. *Reimbursable Activities*

Staff inserted the following boilerplate language regarding source documentation, as requested by the SCO:

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

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

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

VII. *Records Retention*

At the request of the SCO, staff removed the existing language regarding supporting data, and replaced it with the following boilerplate language regarding records retention.

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last*

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed amendments to parameters and guidelines for the *Pupil Suspensions, Expulsions and Expulsion Appeals* program, beginning on page 10.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Adopted: August 20, 1998
Proposed Amendment: May 27, 2010

**PROPOSED AMENDMENT TO PARAMETERS AND GUIDELINES
PUPIL SUSPENSIONS, EXPULSIONS, AND EXPULSIONS APPEALS
05-PGA-65**

Consolidation of:

Pupil Suspensions from School – CSM 4456

Education Code Section 48911, Subdivisions (b) and (e)
Statutes 1977, Chapter 965, Statutes 1978, Chapter 668,
Statutes 1980, Chapter 73, Statutes 1983, Chapter 498,
Statutes 1985, Chapter 856, Statutes 1987, Chapter 134

Pupil Expulsions from School -CSM-4455

Education Code Sections 48915, Subdivisions (a) and (b),
48915.1, 48915.2, 48916 and 48918
Statutes 1975, Chapter 1253, Statutes 1977, Chapter 965,
Statutes 1978, Chapter 668, Statutes 1982, Chapter 318,
Statutes 1983, Chapter 498, Statutes 1984, Chapter 622,
Statutes 1987, Chapter 942, Statutes 1990, Chapter 1231,
Statutes 1992, Chapter 152, Statutes 1993, Chapters 1255, 1256, and 1257
Statutes 1994, Chapter 146,

Pupil Expulsion Appeals - CSM-4463

Education Code Sections 48919, 48921-48924
Statutes 1975, Chapter 1253, Statutes 1977, Chapter 965,
Statutes 1978, Chapter 668, Statutes 1983, Chapter 498,

**This amendment is effective for claims filed for the
July 1, 2005 through June 30, 2006 period of reimbursement**

I. SUMMARY OF THE SOURCE OF THE MANDATES

A. Pupil Suspensions from School

Chapter 965, Statutes of 1977, added former Education Code section 48903, subdivision (b) and imposed a new requirement for the teacher or supervisor who referred the pupil to the principal for suspension from school to participate in the pre-suspension conference between the pupil and the principal (or the principal's designee), whenever practical. Chapter 668, Statutes of 1978 and Chapter 73, Statutes of 1980, amended former Education Code section 48903, subdivision (b) and added "school employee" to the list of potential participants in the pre-suspension conference. Education Code section 48903 was repealed by Chapter 498, Statutes of 1983, and substantially the same requirements were moved to new Education Code section 48911, subdivision (b). The 1983 amendment authorized the school superintendent to suspend pupils from school and to conduct the informal conference. In 1985, Chapter 856, Statutes of 1985 added a definition for the principal's designee.

Chapter 134, Statutes of 1987, amended Education Code section 48911, subdivision (e), to add a new requirement for a school district employee to report the cause of a pupil's suspension to the school district governing board or superintendent.

Chapter 1255, Statutes of 1993, amended Education Code section 48915, subdivision (b), to add a new requirement for the principal or superintendent of a school district to immediately suspend "any pupil found to be in possession of a firearm, knife of no reasonable use to the pupil, or explosive at school or at a school activity off school grounds." Chapter 1256, Statutes of 1993, amended Education Code section 48918, subdivision (b), limiting the requirement for immediate suspensions to "any pupil found to be in possession of a firearm at school or at a school activity off school grounds."

B. Pupil Expulsions

Chapter 498, Statutes of 1983 added and Chapters 1255 and 1256, Statutes of 1993 amended Education Code section 48915, subdivisions (a) and (b), which imposed a new requirement for school district principals and superintendents to recommend expulsion of pupils to their governing boards if the pupil committed one of the following offenses:

- Causing serious physical injury to another person, except in self defense;
- Possession of any firearm, knife, explosive, or other dangerous device of no reasonable use to the pupil at school or at a school activity off school grounds;
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis;
- Robbery or extortion.

Chapter 1255, Statutes of 1993 amended Education Code section 48915 adding a new requirement for governing boards to either expel or recommend admission to an alternative education program if a pupil was found to be in possession of a firearm, knife of no reasonable use to the pupil, or explosive at school or at a school activity off school grounds. This provision was in effect from October 11, 1993 through December 31, 1993. Chapter 1256, Statutes of 1993 amended Education Code section 48915, subdivision (b), to limit expulsion or recommendation of an alternative education program to any pupil in possession of a firearm at school or at a school activity off school grounds. Chapter 1256 became effective on January 1, 1994.

Chapter 1253, Statutes of 1975, Chapter 965, Statutes of 1977, Chapter 668, Statutes of 1978, Chapter 318, Statutes of 1982, Chapter 498, Statutes of 1983, Chapter 1231, Statutes of 1990, and Chapter 146, Statutes of 1994, added or amended the new requirement found in Education Code section 48918 for school district governing boards to adopt rules and regulations for the expulsion of pupils, which must include the specific procedures set forth in section 48918.

Chapter 1253, Statutes of 1975, Chapter 965, Statutes of 1977, and Chapter 1231, Statutes of 1990, added or amended the new requirement found in Education Code section 48918, subdivision (b) for the school district to include in the written expulsion hearing notice to the pupil and the pupil's parent or guardian:

- (1) a copy of the disciplinary rules of the district that relate to the alleged violation;
- (2) notice of the parent's, guardian's or pupil's obligation pursuant to Education Code section 48915.1, subdivision (b), upon the pupil's enrollment in a new school district, to inform that district of the expulsion; and
- (3) notice of the right of the pupil or pupil's parent or guardian to inspect and obtain copies of all documents to be used at the expulsion hearing.

Chapter 1253, Statutes of 1975, and Chapter 1231, Statutes of 1990, added or amended the new requirement found in Education Code section 48918, subdivision (i) for school districts to send to the pupil or the pupil's parent or guardian:

- (1) written notice of any decision to expel or suspend enforcement of an expulsion order during a period of probation;
- (2) notice of the right to appeal the expulsion to the county board of education; and
- (3) notice of the parent's, guardian's or pupil's obligation pursuant to Education Code section 48915.1, subdivision (b), upon the pupil's enrollment in a new school district, to inform that district of the expulsion.

Chapter 965, Statutes of 1977 amended former Education Code section 48914, subdivision (g) to add a new requirement for the governing board to maintain a record of each expulsion, including the cause thereof. Chapter 498, Statutes of 1983 moved this provision to new Education Code section 48915, subdivision (j), and added a new requirement that the expulsion order and the causes therefore be recorded in the pupil's mandatory interim record and that this record be forwarded, upon request, to any school in which the pupil subsequently enrolls.

Chapter 489, Statutes of 1983, added Education Code section 48916, which imposed a new requirement for school district governing boards to set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when an expelled pupil may apply for readmission. Section 48916 also requires school districts to adopt rules and regulations for the readmission procedure, and to make these rules and regulations available to the pupil and the pupil's parent or guardian when the expulsion order is entered.

Chapter 942, Statutes of 1987, added Education Code section 48915.1, which imposed a new requirement that school boards conduct a hearing if a pupil who was expelled from another school district poses a continuing threat to the school district's pupils or employees. This section also required the expelling school district to respond to a request for information regarding a recommendation for expulsion by the receiving school district. Chapter 1231, Statutes of 1990 and Chapter 1257, Statutes of 1993, amended Education Code section 48915.1 and Chapter 1257, Statutes of 1993 moved the hearing requirements for pupils expelled for certain offenses from Education Code section 48915.1 to new Education Code section 48915.2.

C. Pupil Expulsion Appeals

Chapter 1253, Statutes of 1975 added former Education Code sections 10609 through 10609.4 regarding expulsions and expulsion appeals. Chapter 1010 of the Statutes of 1976 reenacted the Education Code and renumbered these sections as Education Code sections 48915 through 48920. These sections were amended by Chapter 965 of the Statutes of 1977 and by

Chapter 668 of the Statutes of 1978. Chapter 498, Statutes of 1983 repealed all previous Education Code sections regarding expulsions and expulsion appeals and added new sections 48919 through 48924. These sections require county boards of education to: adopt rules and regulations establishing procedures for expulsion appeals; notify persons of the requirements for filing the appeal, notify the parties of the acceptance of the filed appeal, the date of the hearing, the requirement for the appellant to provide transcript of the school district expulsion hearing record, and the procedures for the conduct of the hearing; conduct the hearing within 20 schooldays and render a decision within 3 schooldays; remand the matter to the school district governing board, or conduct a hearing de novo if the county board of education determines that there is relevant and material evidence which should be considered; and notify the parties of the final and binding order. School districts are required participate in the county board appeal process.

II. COMMISSION ON STATE MANDATES DECISIONS

A. Pupil Suspensions

The Commission on State Mandates, in the Statement of Decision adopted at the December 19, 1996 hearing, determined that, limited to suspensions based upon (1) possession of a firearm (October 11, 1993 to present), and (2) possession of a knife or explosive October 11, 1993 to December 31, 1993), certain provisions of Education Code section 48911, subdivisions (b) and (e) impose a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution.

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

B . Pupil Expulsions

The Commission on State Mandates, in the Statement of Decision adopted at the May 26, 1997 hearing, found that certain provisions of the following Education Code sections impose a new program or higher level of service for school districts within the meaning of section 6, article XIII B of the California Constitution:

- Education Code section 48915, subdivision (a), as added by Chapter 498/1983 and amended by Chapter 1255/1993 and Chapter 1256/1993;
- Education Code section 48915, subdivision (b), as amended by Chapter 1255/1993 and Chapter 1256/1993;
- Education Code section 48918 [opening paragraph and subdivisions (b), (i) and (j)] and its predecessor statutes as added by Chapter 1253/1975 and amended by Chapter 965/1977, Chapter 668/1978, Chapter 318/1982, Chapter 498/1983, Chapter 1231/1990, and Chapter 146/1994;
- Education Code section 48916, as added by Chapter 498/1983 and amended by Chapter 152/1992;

- Education Code section 48915.1, as added by Chapter 943/1987 and amended by Chapter 1231/1990 and Chapter 1257/1993;
- Education Code section 48915.2, as added by Chapter 1257/1993.

The Commission further determined that certain of the foregoing sections imposed a new program or higher level of service only with respect to expulsion procedures instituted for the certain specified offenses.

C. Expulsion Appeals

The Commission on State Mandates, in the Statement of Decision adopted at the March 27, 1997 hearing, found that certain provisions of Education Code sections 48919 and 48921 through 48924 impose a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution, for school districts and county boards of education to hear and decide pupil expulsion appeals.

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

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

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

- Provide copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil or the pupil's parent or guardian, as follows:
- If the requesting party is a pupil less than 18 years of age or the parent or guardian of a pupil who is 18 years of age or older, all documents; or
- If the requesting party is the parent or guardian of a pupil under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).¹

¹The Federal Education Rights and Privacy Act of 1974 ("FERPA") defines "education records" as those records, files, documents and other materials which (i) contain information directly

- Participate in the initial appeal hearing at the county board of education, if the county board decides in such hearing to grant a trial de novo.
- If the county board of education remands the matter to the school district, send notice of hearing, conduct the hearing and render a decision in the remand hearing.
- If ordered by the county board of education, expunge the district's and the pupil's records of the expulsion.

III. ELIGIBLE CLAIMANTS

Any "school district", as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement

IV. PERIOD OF REIMBURSEMENT

This amendment is effective for claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a fiscal year to establish eligibility for that fiscal year. The test claims for these mandates were submitted on March 9, 1994, March 9, 1994 and September 22, 1994, respectively. Therefore, costs incurred on or after July 1, 1993 for compliance with the test claim statutes are eligible for reimbursement.

Actual costs for one fiscal year should be included in each reimbursement claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561(d)(3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of release of claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise provided for by Government Code section 17564.

V. REIMBURSABLE ACTIVITIES

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training

related to a student, and (ii) are maintained by the school district or a person acting for the school district. 20 U.S.C. section 1232g(a)(4)(B)) provides certain exceptions to the general definition (for example, records maintained by a law enforcement unit of a school district that were created by that law enforcement unit for the purpose of law enforcement).

packets, and declarations. Declarations must include a certification or declaration stating, “I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge.” Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

For each eligible school district and county office of education, the direct and indirect costs of labor, materials and supplies, travel, and services incurred for the following mandate components are eligible for reimbursement:

A. ADOPTION AND REVISION OF RULES AND PROCEDURES

1. County Boards of Education

- (a) Adopting rules and procedures for expulsion appeal hearings and revising those rules and procedures to conform to amendments of the statutory hearing requirements.
- (b) Printing and disseminating rules and procedures to each school district in the county.

2. School Districts and County Boards of Education

- (a) Adopting rules and procedures pertaining to pupil expulsions and revising those rules and procedures to conform to amendments of the statutory requirements.
- (b) Adopting rules and regulations establishing the procedure for the filing and processing of requests for readmission pursuant to Education Code section 48916.
- (c) Printing and disseminating rules and procedures to each school site.

B. SUSPENSION CONFERENCE AND REPORT

If the suspension is for one of the following offenses and the offense occurred within the following dates:

Date of Offense	Offense
October 11, 1993 to December 31, 1993	Possession of a firearm, knife of no reasonable use to the student or explosive.
January 1, 1994 to Present	Possession of a firearm. ²

² Note that Chapter 972, Statutes of 1995 (effective January 1, 1996) re-lettered section 48915, subdivision (b) as section 48915, subdivision (c) and added activities for which suspensions are required. This Chapter is the subject of another test claim.

Then the following activities are reimbursable:

1. Attendance at Informal Conference

The attendance of the teacher, supervisor or other school district employee who referred the pupil to the principal for suspension in the pre-suspension conference between the principal (or principal's designee) or superintendent and the pupil.

2. Reporting the Cause to the District Office

Reporting the cause of the suspension to the school district's superintendent or governing board in accordance with the regulations of the school district's governing board. Such report may be oral or written.

C. RECOMMENDATION OF EXPULSION

The preparation of a report to the school district governing board concerning the principal's or superintendent's recommendation to expel a pupil for the following offenses:

- Causing serious physical injury to another person, except in self defense;
- Possession of any firearm, knife, explosive, or other dangerous device of no reasonable use to the pupil at school or at a school activity off school grounds;
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or
- Robbery or extortion.

D. EXPULSION HEARING PROCEDURAL REQUIREMENTS

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

- Causing serious physical injury to another person, except in self defense;
- Possession of any firearm, knife, explosive, or other dangerous device of no reasonable use to the pupil at school or at a school activity off school grounds;
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 1053) of Division 10 of Health and Safety Code, except for the first offense for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or
- Robbery or extortion.

Then the following activities are reimbursable:

1. Including in the notice of hearing to the pupil:

- (a) a copy of the disciplinary rules of the district that relate to the alleged violation;
- (b) a notice of the parent's, guardian's or pupil's obligation, pursuant to Education Code section 48915.1, subdivision (b), to notify a new school district, upon enrollment, of the pupil's expulsion; and

- (c) notice of the opportunity for the pupil or the pupil's parent or guardian to inspect and obtain copies of all documents to be used at the hearing.
- 2. Allowing a pupil or pupil's parent or guardian to inspect and obtain copies of documents to be used at the expulsion hearing, as follows:
 - (a) If the requesting party is a pupil less than 18 years of age or the parent or guardian of a pupil who is 18 years of age or older, all documents; or
 - (b) If the requesting party is the parent or guardian of a pupil under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).

E. POST-EXPULSION PROCEDURES

If the expulsion hearing is for one of the following offenses and the offense occurred within the following dates:

Date of Offense	Offense
October 11, 1993 to December 31, 1993	Possession of a firearm, knife of no reasonable use to the student or explosive.
January 1, 1994 to Present	Possession of a firearm. ³

Then the following activities are reimbursable:

1. Sending written notice to the pupil or the pupil's parent or guardian of: (a) any decision by the governing board to expel or suspend the enforcement of an expulsion order during a period of probation; (b) the right to appeal the expulsion to the county board of education, and (c) the obligation of the pupil, parent or guardian under Education Code section 48915.1 to notify a new school district, upon enrollment, of the pupil's expulsion. Costs of postage for mailing the notice is reimbursable under this activity.
2. Maintaining a record of the expulsion, including the cause of the expulsion;
3. Recording the expulsion order and the cause of the expulsion in the pupil's mandatory interim record; and
4. Forwarding the student's mandatory interim record to any school in which the pupil subsequently enrolls upon the request of such school.

F. READMISSION PROCEDURES

If the governing board expelled a pupil for one of the following offenses and the offense occurred within the following dates:

³ Note that Chapter 972, Statutes of 1995 (effective January 1, 1996) re-lettered section 48915, subdivision (b) as section 48915, subdivision (c) and added activities for which suspensions are required. This Chapter is the subject of another test claim

Date of Offense	Offense
October 11, 1993 to December 31, 1993	Possession of a firearm, knife of no reasonable use to the student or explosive.
January 1, 1994 to Present	Possession of a firearm. ⁴

Then the following activities are reimbursable:

1. Setting a date when the pupil may apply for readmission to a district school; and
2. Providing a description of the procedure for readmission to the pupil and the pupil's parent or guardian.

G. APPLICATION BY EXPELLED PUPIL TO ATTEND NEW DISTRICT

If a pupil ("applicant") seeking application to a school district (the "receiving school district") has been expelled by another school district and the receiving school district does not have a voluntary interdistrict transfer agreement with the expelling district, then the following activities associated with the receiving district's hearing are reimbursable: ADD REFERENCE to 1/1/94 for ANY OFFENSE

1. Including in the notice of hearing to the applicant: (a) a copy of the hearing procedure rules of the receiving district; and (b) notice of the opportunity for the applicant or the applicant's parent or guardian to inspect and obtain copies of all documents to be used at the hearing.
2. Allowing an applicant or applicant's parent or guardian to inspect and obtain copies of documents to be used at the admission hearing, as follows:
 - (a) If the requesting party is an applicant less than 18 years of age or the parent or guardian of an applicant who is 18 years of age or older, all documents; or
 - (b) If the requesting party is the parent or guardian of an applicant under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).⁵
3. Determination by the governing board whether a pupil expelled by another school district would pose a danger to the pupils and employees of the receiving district and whether to admit, deny admission, or conditionally admit the pupil during or after the period of expulsion.
4. Maintaining a record of each admission denial, including the cause of the denial.
5. Notifying the applicant and the applicant's parent or guardian of the governing board's determination of whether the applicant poses a potential danger to the

⁴ Note that Chapter 972, Statutes of 1995 (effective January 1, 1996) re-lettered section 48915, subdivision (b) as section 48915, subdivision (c) and added activities for which suspensions are required. This Chapter is the subject of another test claim

⁵ See footnote 1.

pupils or employees of the receiving district and whether to admit, deny admission, or conditionally admit the applicant during or after the period of expulsion.

H. RESPONDING TO REQUESTS FOR RECOMMENDATIONS

If the governing board expelled a pupil for one of the following offenses and the offense occurred within the following dates:

Date of Offense	Offense
October 11, 1993 to December 31, 1993	Possession of a firearm, knife of no reasonable use to the student or explosive.
January 1, 1994 to Present	Possession of a firearm. ⁶

and the expelled student applies for admission to another school district (the "receiving district") then, unless the expelling district entered into a voluntary interdistrict transfer agreement with the receiving district, the activities of the expelling district in responding to the receiving district's request for a recommendation regarding the admission of the applicant are reimbursable.

I. EXPULSION APPEAL HEARINGS

1. County Boards of Education (applicable to all student expulsion appeals)

(a) Providing Notice to the Parties

- (1) Notifying the pupil and the pupil's parent(s) or guardian(s) of the procedures for the appeal.
- (2) Notifying the school district and pupil in writing of the final order of the county board of education, either by personal service or certified mail.

(b) Review of Hearing Record

Reviewing the filed appeal and the transcript and record of the hearing conducted by the school district governing board.

(c) Conducting Hearings

Conducting the initial appeal hearing and rendering a decision. Reimbursement for this component is limited to appeals for which the county board of education decides to grant a hearing de novo.

(d) Preserving Records

Preserving the record of appeal.

⁶ Note that Chapter 972, Statutes of 1995 (effective January 1, 1996) re-lettered section 48915, subdivision (b) as section 48915, subdivision (c) and added activities for which suspensions are required. This Chapter is the subject of another test claim

2 School Districts

If the governing board expelled a pupil for one of the following offenses and the offense occurred within the following dates:

Date of Offense	Offenses
October 11, 1993 to December 31, 1993	Possession of a firearm, knife of no reasonable use to the student or explosive.
January 1, 1994 to Present	Possession of a firearm. ⁷

Then the following activities are reimbursable:

(a) Providing Copies of Documents

- (1) Providing copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is less than 18 years of age.
- (2) Providing copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is 18 years of age or older, or to the parent or guardian of a pupil who is less than 18 years of age, if the documents or records are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).⁸

(b) Participation In Hearings

Participation by a school district in the county board of education's hearing on appeal if the county board of education grants a hearing de novo.

(c) Remand Hearing

If the county board of education remanded the expulsion to the school district's governing board following an appeal, sending notice of the hearing, conducting a hearing on remand, and rendering a decision in the remand hearing.

(d) Expunging Records

Expunging the school district's and pupil's records concerning the expulsion, when ordered by the county board of education.

J. TRAINING.

Training school district personnel about the mandated suspension, expulsion, and expulsion appeal activities. This reimbursable component includes the labor time of administrators and other school district personnel involved with preparation of training sessions and the labor time of administrators and other school district personnel who

⁷ Note that Chapter 972, Statutes of 1995 (effective January 1, 1996) re-lettered section 48915, subdivision (b) as section 48915, subdivision (c) and added activities for which suspensions are required. This Chapter is the subject of another test claim

⁸ See footnote 1.

conduct or attend training sessions. Labor time for teachers is not reimbursable. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

VI. CLAIM PREPARATION

Each reimbursement claim for costs incurred to comply with these mandates must be timely filed and set forth a listing of each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable component/activity identified in Section V. of this document.

SUPPORTING DOCUMENTATION

Claimed costs should be supported by the following information:

A. Direct Costs

Direct costs are defined as costs that can be specifically traced to goods, services, units, programs, activities, or functions.

(1.) Employee Salaries and Benefits

Identify the employee(s) and their job classification, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

Reimbursement for personal services includes compensation paid for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g. annual leave, sick leave) and employer's contribution for social security, pension plans, insurance, and workers' compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

(2.) Materials and Supplies

Only expenditures which can be identified as a direct cost of these mandates can be claimed. List cost of materials and supplies which have been consumed or expended specifically for the purposes of these mandates. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimants. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

(3.) Contracted Services

Give the name(s) of the contractor(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities. Show the inclusive dates when services were performed and itemize all costs for those services.

(4.) Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are reimbursable in accordance with the rules of the local jurisdiction. Provide the name(s)

of the traveler(s), purpose of the travel, inclusive dates and time of travel, destination points, and travel costs.

B. Indirect Costs

- (1.) School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
- (2.) County offices of education must use the J-580 (or subsequent replacement) non restrictive indirect cost rate provisionally approved by the California Department of Education.

VII. SUPPORTING DATA RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

~~For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. These documents must be made available on the request of the State Controller.~~

VIII. DATA FOR DEVELOPMENT OF THE STATEWIDE COST ESTIMATE

The State Controller is directed to include in her claiming instructions the request for claimants to send an additional copy of the completed test claim specific form for each of the initial years' reimbursement claims by mail or facsimile to the Commission on State Mandates, 1300 I Street, Suite 950, Sacramento, CA 95814, Facsimile Number: (916) 445-0278. Although providing this information to the Commission on State Mandates is not a condition of reimbursement, claimants are encouraged to provide this information to enable the Commission to develop a statewide cost estimate.

IX. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from

⁹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

any source, e.g., service fees collected, federal funds, other state funds, etc., shall be identified and deducted from this claim.

X. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.