

ITEM 10
FINAL STAFF ANALYSIS
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, and 60641

Statutes 1997, Chapter 828

California Code of Regulations, Title 5, Sections 851, 852, 853, 855,
857, 858, 859, 861, 862, 863, 864, 865, 867, and 868

National Norm-Referenced Achievement Test, 08-PGA-01 (amending 05-PGA-03)
(formerly Standardized Testing and Reporting (STAR), 04-RL-9723-01)

Department of Finance, Requestor

Executive Summary

The Department of Finance requests amendments to the parameters and guidelines to limit reimbursement for the *National Norm-Referenced Achievement Test, 08-PGA-01 (amending 05-PGA-03) (formerly Standardized Testing and Reporting)*.

On July 28, 2005, on reconsideration, the Commission found, effective July 1, 2004, that administering the California Achievement Tests, Sixth Edition Survey (CAT/6) in grades 3 and 7 imposes a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution. The parameters and guidelines amendment was adopted on December 9, 2005.¹

Statutes 2008, chapter 757, effective September 30, 2008, deleted the CAT/6 mandate in Education Code section 60640, subdivision (b), thus ending the state-mandated program for administration of the CAT/6 tests in grades 3 and 7.

Proposed Amendments

Section I. Summary of the Mandate

DOF proposes adding the following paragraph to Section I. Summary of the Mandate:

Statutes of 2008, Chapter 757 (Assembly Bill No. 519, eff. Sep. 30, 2008) repealed the requirement of school districts to administer the CAT/6 in grades 3 and 7. The Commission will consider revising or repealing its final statement of decision in the future.

¹ See Exhibit A.

Staff recommends adoption of the first sentence which provides the legal authority for limiting the period of reimbursement. However, staff recommends striking DOF's proposed second sentence because it is unnecessary and the Commission does not have statutory authority to revise or repeal its final Statement of Decision.

Section III. Period of Reimbursement

DOF proposes amending the first sentence of this section to read:

The period of reimbursement for the activities in this parameters and guidelines amendment begins on July 1, 2004 and ends on September 30, 2008.

Staff recommends changing the date to September 29, 2008, because the effective date of the repeal was September 30, 2008.

Staff further recommends that the remaining language in this section be updated to conform to 2008 amendments to Government Code section 17560, which eliminated filing estimated reimbursement claims and changed filing dates.

Section IV. Reimbursable Activities

DOF proposes technical amendments to limit reimbursement for IV. A. Training, Policies, and Procedures, and B. Pretest and Post-test Coordination on September 30, 2008.

Staff recommends denial of the first proposed change because it is unnecessary:

A. 2. Developing internal policies, procedures, and forms to implement the CAT/6 test. (One-time activity for school districts created after July 1, 2004 and before September 30, 2008.)

For the changes to activity B.2 and B.3, staff recommends changing the date to September 29, 2008, because the effective date of the repeal was September 30, 2008.

Conclusion

Staff recommends the Commission:

- Adopt the proposed amendments to the Parameters and Guidelines, as modified by staff, beginning on page 3.
- Authorize staff to make technical non-substantive changes or corrections upon adoption.

PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Education Code Sections 60607, subdivision (a), 60609,
60615, 60630, 60640, and 60641

Statutes 1997, Chapter 828

California Code of Regulations, Title 5, Sections 851, 852, 853, 855,
857, 858, 859, 861, 862, 863, 864, 865, 867, and 868

National Norm-Referenced Achievement Test, 05-PGA-03
(formerly *Standardized Testing and Reporting (STAR), 04-RL-9723-01*)

I. SUMMARY OF THE MANDATE

On August 24, 2000, the Commission on State Mandates (Commission), adopted a Statement of Decision finding that the test claim legislation and regulations impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, and costs mandated by the state pursuant to Government Code section 17514. This decision was limited to a national norm-referenced achievement test and foreign language test enacted by Statutes 1997, chapter 828.

Statutes 2004, chapter 216, section 34 (Sen. Bill No. 1108, eff. Aug. 11, 2004) and Statutes 2004, chapter 895, section 19 (Assem. Bill No. 2855, eff. Jan. 1, 2005) directed the Commission to reconsider the prior final decision and parameters and guidelines for the STAR program. On July 28, 2005, the Commission found, effective July 1, 2004, that administering the California Achievement Tests, Sixth Edition Survey (CAT/6)¹ in grades 3 and 7 imposes a reimbursable state mandate on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556. The Commission found that all the other activities were either federally mandated, and thus not reimbursable, or no longer required.

Statutes 2008, Chapter 757 (Assembly Bill No. 519, eff. Sep. 30, 2008) repealed the requirement of school districts to administer the CAT/6 in grades 3 and 7. ~~The Commission will consider revising or repealing its final statement of decision in the future.~~

II. ELIGIBLE CLAIMANTS

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

¹ Reference to the CAT/6 herein would apply to any successor national norm-referenced achievement test selected by the California Department of Education.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities in this parameters and guidelines amendment begins on July 1, 2004 and ends on September 29, 2008.

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

~~1.~~ A local agency may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).

~~2.~~1. A local agency school district may, by January February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

~~3.~~2. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October November 15 and January February 15, a local agency school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. ~~Estimated costs for the subsequent year may be included on the same claim, if applicable.~~ Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant 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 claimant, the following activities are reimbursable:

A. Training, Policies, and Procedures

1. Reviewing the requirements of the CAT/6 and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site.)
2. Developing internal policies, procedures, and forms to implement the CAT/6. (One-time activity for school districts created after July 1, 2004 ~~and before September 30, 2008.~~)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

B. Pretest and Posttest Coordination

1. Processing requests for exemption from the CAT/6 test filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
2. Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, & 868.) *This activity is reimbursable only to the extent that it applies to the CAT/6 test.*
 - Beginning July 1, 2004 and ending September 29, 2008, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district CAT/6 testing.
3. Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, & 868.) *This activity is reimbursable only to the extent that it applies to the CAT/6.*
 - Beginning July 1, 2004 and ending September 29, 2008, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports related to the CAT/6 test.

STAR Program District Coordinator

Reimbursable activities performed by the STAR program district coordinator are limited to (only as applied to the CAT/6):

1. Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, § 857, subd. (b).)

2. Determining school district and individual CAT/6 and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
3. Overseeing the acquisition and distribution of CAT/6 tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b).)
4. Providing a signed receipt to the test publisher upon receipt of the CAT/6 testing materials. (Cal. Code Regs., tit. 5, § 865, subd. (a).)
5. Coordinating CAT/6 testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
6. Maintaining security over CAT/6 test material and test data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
7. Overseeing the administration of the CAT/6 to eligible students. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
8. Overseeing the collection and return of all CAT/6 test materials and tests to the publisher. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
9. Resolving any discrepancies in the quantity of CAT/6 test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, § 857, subd. (b), & 868.)
10. Certifying information with respect to the CAT/6 test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, § 857, subd. (c).)
11. Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)

STAR Program Test Site Coordinator

Reimbursable activities performed by the STAR test site coordinator are limited to (*only as applied to the CAT/6*):

1. Determining CAT/6 site test and test material needs. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
2. Overseeing the acquisition and distribution of CAT/6 tests and test materials at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
3. Cooperating with the STAR program district coordinator to provide the CAT/6 testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
4. Maintaining security over CAT/6 test material and test data. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
5. Overseeing the administration of the CAT/6 to eligible students at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
6. Overseeing the collection and return of all CAT/6 testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, § 858, subd. (b).)

7. Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the CAT/6 test information and materials. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
8. Certifying CAT/6 information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
9. Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)

C. CAT/6 Test Administration

1. Conducting and monitoring the CAT/6 test to all pupils in grades 3 and 7. (Ed. Code, §§ 60640, subds. (b) & (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, & 855.)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

D. Reporting and Record Keeping

1. Inclusion of CAT/6 test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), & 60641, subd. (a).)
2. Preparing and mailing reports of the individual results of the CAT/6 test to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subd. (a)(2); Cal. Code Regs., tit. 5, § 863.)
3. Reporting the results of the CAT/6 test to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (a)(3); Cal. Code Regs., tit. 5, § 864.)
4. Submitting to the Superintendent of Public Instruction a report on the CAT/6 test. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
5. Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the CAT/6 test. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

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

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

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

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.

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 chapter² 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 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.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

In any fiscal year in which school districts are legally required to, they must reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from state and federal Title VI funds appropriated for STAR administration. School districts are not required to use Title I funds to offset administration of the CAT/6 exam.

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

VIII. STATE CONTROLLER'S REVISED CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised claiming instructions shall be derived from the test claim decision and the revised parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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