

ITEM 7

FINAL STAFF ANALYSIS PROPOSED PARAMETERS AND GUIDELINES

Education Code Sections 48201 and 49079

Statutes 2000, Chapter 345 (AB 29)

*Pupil Discipline Records,
Notification to Teachers: Pupils Subject to Suspension or Expulsion II*
00-TC-10/00-TC-11

Carpinteria Unified School District, Sweetwater Union High School District,
and Grant Joint Union High School District, Co-Claimants

and

PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES

Education Code Section 49079

Statutes 1989, Chapter 1306; Statutes 1993, Chapter 1257

Notification to Teachers: Pupils Subject to Suspension or Expulsion
(CSM 4452)

Education Code Sections 48201 and 49079

Statutes 2000, Chapter 345 (AB 29)

*Pupil Discipline Records,
Notification to Teachers: Pupils Subject to Suspension or Expulsion II*
(00-TC-10/00-TC-11)

EXECUTIVE SUMMARY

Background

This test claim (*Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II*, 00-TC-10/00-TC-11), addresses legislation that requires school districts to inform teachers of new specified acts (sexual harassment; hate violence; harassment, threats or intimidation; and terroristic threats) a pupil has engaged in, or is reasonably suspected to have engaged in, for which a pupil can be suspended or expelled from school. (Ed. Code, § 49079.) The test claim also addresses a statute that requires school districts, when receiving a pupil that transferred from another school district, to request from the former school district in which the pupil was last enrolled, records the district maintains in the ordinary course of business or receives from a law

enforcement agency regarding acts committed by the pupil that resulted in the pupil's suspension or expulsion from school. (Ed. Code, § 48201.)

On April 16, 2007, the Commission found that the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514 and 17556, for the following activities:

- For a school district into which a pupil is transferring to request from the school district in which the pupil was last enrolled, any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district, upon receipt of a pupil's transfer record, to inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and to inform the teacher of the act that resulted in that action. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district to inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2;¹ 48900.3;² 48900.4;³ and 48900.7;⁴ that the pupil has engaged in or is reasonably suspected to have engaged in those acts, based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency. (Ed. Code, § 49079, subd. (a), as amended by Stats. 2000, ch. 345.) According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years.

Reimbursement for this claim begins January 1, 2001.

Several draft staff analyses and proposed parameters and guidelines have been issued on this claim for comment. The last draft staff analysis was issued on June 19, 2008, and no comments were received. Thus, this item is proposed for the Commission's consent calendar.

Furthermore, no party or interested party has requested a reasonable reimbursement methodology for claiming the costs of this program. Thus, the proposed parameters and guidelines require that reimbursement claims be based on actual costs.

¹ Education Code section 48900.2 refers to sexual harassment, as specified.

² Education Code section 48900.3 refers to hate violence, as specified.

³ Education Code section 48900.4 refers to harassment, threats or intimidation, as specified.

⁴ Education Code section 48900.7 refers to terroristic threats against school officials or school property, or both, as specified.

Staff Analysis

Education Code Section 49079, Consolidation for Future Years with CSM 4452

The claimant requests that the parameters and guidelines for the current test claim be merged and consolidated with existing parameters and guidelines adopted in 1995 on *Notification to Teachers: Pupils Subject to Suspension or Expulsion* (CSM 4452). CSM 4452 was approved by the Commission in 1995 and addresses Education Code section 49079, as added by Statutes 1989, chapter 1306, and amended by Statutes 1993, chapter 1257. At that time, the statute required school districts to inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in Education Code section 48900 that could lead to suspension or expulsion of the pupil, except for the act described in subdivision (h) (possession of tobacco). The district was required to provide the information to the teacher based on any records that the district maintains in its ordinary course of business or receives from a law enforcement agency.

Staff recommends that the parameters and guidelines for the current test claim be consolidated with the parameters and guidelines for CSM 4452 for future years, beginning July 1, 2008, because both programs involve Education Code section 49079 and claims will not be filed for the 2008-2009 fiscal year until February 15, 2009. However, staff recommends that the two programs be tracked separately in the consolidated parameters and guidelines for the following reasons: (1) some of the activities in the first *Notification to Teachers* program (CSM 4452), including maintaining separate records or information about pupils and adopting cost effective methods of maintaining information, are not mandated by the plain language of the statute and go beyond the scope of the mandate determined in the current test claim, and (2) the Commission does not have jurisdiction to amend the existing parameters and guidelines for CSM 4452.

Education Code Section 48201

With respect to Education Code section 48201, the Commission found that, when a pupil transfers from one school district to another, the activity of “requesting” from the school district in which the pupil was last enrolled, any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district, is reimbursable. This was based on the plain language of the test claim statute. The claimant also requests reimbursement for “providing” the suspension and expulsion records to the receiving district. Staff finds that “providing” *expulsion* records when a pupil transfers to a new school district is required by other Education Code statutes (Ed. Code, §§ 48915.1, 48918) and, thus, the request goes beyond the scope of the mandate here. However, there are no existing statutes that require a school district to provide *suspension* records when a pupil transfers. Since the activity of requesting suspension records is mandated by the test claim statute and the purpose of the statute is to obtain accurate information about the transferring pupil, staff finds that “providing” suspension records is a reasonable method of carrying out the mandate of Education Code section 48201 and recommends that the Commission approve reimbursement for this activity.

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the parameters and guidelines listed below. Staff also recommends that the Commission authorize staff to make non-substantive, technical corrections to the parameters and guidelines following the hearing.

- Proposed parameters and guidelines for 00-TC-10/00-TC-11 for the costs incurred during the initial claiming period from January 1, 2001, through June 30, 2008. (Yellow)
- Proposed amendment to the existing parameters and guidelines for CSM 4452 for costs incurred through June 30, 2008, and directing eligible claimants to file claims under the consolidated parameters and guidelines beginning July 1, 2008. (Green)
- Proposed consolidated parameters and guidelines for CSM 4452 and 00-TC-10/00-TC-11, for costs incurred beginning July 1, 2008. (Blue)

STAFF ANALYSIS

Claimants

Carpenteria Unified School District, Sweetwater Union High School District, and Grant Joint Union High School District

Chronology

- 04/16/07 Commission hears test claim and adopts Statement of Decision
- 04/24/07 Commission staff issues Statement of Decision, draft parameters and guidelines (00-TC-10, 00-TC-11), and draft consolidated parameters and guidelines (CSM 4452, 00-TC-10, 00-TC-11)
- 05/16/07 Sweetwater Union High School District files comments on draft parameters and guidelines
- 04/18/08 Commission staff issues draft staff analysis and revised draft parameters and guidelines
- 05/01/08 Claimant Sweetwater Union High School District files comments on the draft staff analysis and revised parameters and guidelines
- 06/19/08 Commission staff issues second revised draft staff analysis
- 07/15/08 Commission staff issues final staff analysis and revised parameters and guidelines

BACKGROUND

Summary of the Mandate

This test claim (*Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II*, 00-TC-10/00-TC-11), addresses legislation that requires school districts to inform teachers of specified acts a pupil has engaged in, or is reasonably suspected to have engaged in, for which a pupil can be suspended or expelled from school. (Ed. Code, § 49079.) The test claim also addresses a statute that requires school districts, when receiving a pupil that transferred from another school district, to request from the former school district in which the pupil was last enrolled, records the district maintains in the ordinary course of business or receives from a law enforcement agency regarding acts committed by the pupil that resulted in the pupil's suspension or expulsion from school. (Ed. Code, § 48201.)

On April 16, 2007, the Commission found that the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514 and 17556, for the following activities:⁵

- For a school district⁶ into which a pupil is transferring to request from the school district in which the pupil was last enrolled, any records the district maintains in

⁵ Exhibit A.

⁶ These activities also apply to a county office of education that acts as a school district.

its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)

- For a school district, upon receipt of a pupil's transfer record, to inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and to inform the teacher of the act that resulted in that action. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district to inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2;⁷ 48900.3;⁸ 48900.4;⁹ and 48900.7;¹⁰ that the pupil has engaged in or is reasonably suspected to have engaged in those acts, based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency. (Ed. Code, § 49079, subd. (a), as amended by Stats. 2000, ch. 345.) According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years.

The Commission also found that providing the transfer pupil's records is not mandated by the statute (Ed. Code, § 48201, subd. (b)(1)), but that the Commission has the authority to determine at the parameters and guidelines phase whether providing the records is the most reasonable method to comply with the mandate to request the records, based on Government Code section 17557 and California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

Procedural Background

On April 24, 2007, draft parameters and guidelines for the costs incurred during the initial claiming period (from January 1, 2001, through fiscal year 2007-2008) were issued. Staff also recommended that, beginning July 1, 2008, the parameters and guidelines for this test claim be consolidated with existing parameters and guidelines for *Notification to Teachers: Pupils Subject to Suspension or Expulsion* (CSM 4452) since CSM 4452 addressed an earlier version of Education Code section 49079, one of the test claim code sections included in this test claim. Staff issued a proposed consolidated draft for costs incurred beginning July 1, 2008. (Exhibit A.)

On May 16, 2007, claimant Sweetwater Union High School District filed comments on staff's proposed parameters and guidelines and the proposed consolidated parameters and

⁷ Education Code section 48900.2 refers to sexual harassment, as specified.

⁸ Education Code section 48900.3 refers to hate violence, as specified.

⁹ Education Code section 48900.4 refers to harassment, threats or intimidation, as specified.

¹⁰ Education Code section 48900.7 refers to terroristic threats against school officials or school property, or both, as specified.

guidelines. The claimant requested clarification to the reimbursable activity language. The claimant also requested that the Commission approve reimbursement for the activity of a school district “providing” suspension and expulsion records of a transfer pupil when requested by a receiving school district pursuant to Education Code section 48201. The claimant argues that this activity is a reasonable method of complying with the mandate for the receiving district to request these records. Claimant also raised objections to the boilerplate language regarding source documents, contemporaneous documents and corroborating evidence; indirect cost rates; and record retention. Claimant also indicated that “[u]nless there is some interest by the Commission to revisit these issues, the parameters and guidelines can proceed since the boilerplate is consistent with past Commission decisions.” (Exhibit B.)

On April 18, 2008, staff issued a draft staff analysis and revised draft parameters and guidelines. Based on further review of the previous test claim (CSM 4452) and the Commission’s Statement of Decision for 00-TC-10/00-TC-11, staff recommended that the two parameters and guidelines not be consolidated for future years because the two decisions on Education Code section 49079 are not consistent as follows:

- The prior Statement of Decision and parameters and guidelines for CSM 4452 include activities that go beyond the plain language of the statute.
- The claimants did not request that other activities, in addition to the activity of informing the teacher, be included in the parameters and guidelines for 00-TC-10/00-TC-11, as activities that may be reasonable methods to comply with the mandate imposed by Education Code section 49079, subdivision (a), as amended in 2000.
- Separate statutes in the Education Code that have not been pled as part of this test claim require the identification of pupils that have been suspended or expelled, and the maintenance of such records.

The draft staff analysis also recommended limiting language and clarifying language to the reimbursable activity section of the parameters and guidelines with respect to both test claim statutes, Education Code sections 49079 and 48201. (Exhibit C.)

Claimant comments on the draft staff analysis (Exhibit D)

On May 1, 2008, claimant Sweetwater Union High School District filed comments on the draft staff analysis and revised draft parameters and guidelines.

Education Code Section 49079

With respect to Education Code section 49079, claimant argues that the parameters and guidelines for this test claim and the previous test claim in CSM 4452 should be consolidated for future years. The claimant raises the following points:

- The changes to section 49079, subdivision (a), as a result of Statutes 2000, chapter 345, should be merged into the existing parameters and guidelines for CSM 4452 for consistency and economy of cost accounting and claiming.
- The prior mandate decision in CSM 4452 determined that school districts were eligible to receive reimbursement for maintaining a “three-year database,”

pursuant to Education Code section 49079, subdivision (d). That provision requires that the information provided to the teacher shall be from the previous three school years. “There is no reason to ‘re-plead’ the old mandate. The requirement to reimburse the three-year database has already been made and is not subject to review in subsequent parameters and guidelines.”

- The amendments to Education Code section 49079 by Statutes 2000, chapter 345 do not increase the three-year database assembly and maintenance process. “The subdivision (a) reasons for notification are specified information extracted from the universe of the database, not additional inputs of information into the database. The database consists of all records received or maintained in the ordinary course of business. The districts will now be providing more information and notifications from the same database” and this “‘informing process’ was approved by the statement of decision for these two test claims.”

Education Code Section 48201

Claimant further argues that the activity of providing expulsion records when a student transfers to a new school district pursuant to Education Code section 48201 should be reimbursable even though other statutes in the Education Code require the activity. Claimant argues that the other Education Code statutes cited require the provision of records that are different in content, scope, and time. Alternatively, claimant contends that there is no Government Code statute or regulation that precludes a finding of costs mandated by the state for potentially the same activities from more than one statute. Claimant suggests one option to limit reimbursement to provide expulsion records by providing reimbursement only to the extent that pupil expulsion records have not already been provided under other statutes; Education Code sections 48915.1 and 48918.

Objections to “boilerplate” language in sections IV, V, and VI of the parameters and guidelines

Claimant restates its objection to the boilerplate language regarding source documentation standards, indirect cost rate language, and record retention requirements that were initially raised in its May 16, 2007 letter (Exhibit B), and requests a response to these objections. Regarding source documentation language, claimant states the following:

For the record and preservation of appeal rights, the test claimant objects to the boilerplate language regarding source documents, contemporaneous documents and corroborating evidence. It is a standard of general application without independent statutory or regulatory basis. It is a standard which generally exceeds the documentation methods utilized in the usual course of business for local agencies and the standard required for substantiation of the use of, or application for, other state funds by local agencies. It is a standard imposed retroactively upon claimants without prior notice. These and other objections were made before by local agency representatives in previous Commission proceedings. Notwithstanding, the standard has been adopted by the Commission as boilerplate for parameters and guidelines. Unless there is some interest by

the Commission to revisit these issues, the parameters and guidelines can proceed since the boilerplate is consistent with past decisions.

Similar arguments are raised about the record retention requirements. Regarding the indirect cost rate language, claimant states that the first two paragraphs are “surplusage” and that K-12 claimants are required to use the rate developed on the annual school district reporting forms established and controlled by the Department of Education.

Second Revised Draft Staff Analysis, Revised Draft Parameters and Guidelines, and Proposed Consolidated Parameters and Guidelines (Exhibit E)

On June 18, 2008, a second revised draft staff analysis and proposed parameters and guidelines were issued, addressing the claimant’s comments. In this analysis, staff recommended that the parameters and guidelines for the current test claim should be consolidated with the parameters and guidelines for CSM 4452 for future years, beginning July 1, 2008, because both programs involve Education Code section 49079 and claims will not be filed for the 2008-2009 fiscal year until February 15, 2009. However, since some of the activities in the first *Notification to Teachers* program (CSM 4452) go beyond the scope of the mandate determined in 00-TC-10, 00-TC-11, and the Commission does not have jurisdiction to amend the existing parameters and guidelines for CSM 4452, staff recommends that the two programs be tracked separately in the consolidated parameters and guidelines.

No comments were received on the second revised staff analysis.

DISCUSSION

Consolidation of Parameters and Guidelines for Education Code Section 49079

The claimant requests that the parameters and guidelines for the current test claim be merged into the activities in the existing parameters and guidelines for CSM 4452 for consistency and economy of cost accounting and claiming. For the reasons below, staff agrees that the parameters and guidelines should be consolidated for future years, beginning July 1, 2008, because both programs involve Education Code section 49079 and claims will not be filed for the 2008-2009 fiscal year until February 15, 2009. However, since some of the activities in the first *Notification to Teachers* program (CSM 4452) go beyond the scope of the mandate determined in 00-TC-10, 00-TC-11, and the Commission does not have jurisdiction to amend the existing parameters and guidelines for CSM 4452, staff recommends that the two programs be tracked separately in the consolidated parameters and guidelines.

The first *Notification to Teachers: Pupils Subject to Suspension or Expulsion* program (CSM 4452) was approved by the Commission in 1995 and addresses Education Code section 49079, as added by Statutes 1989, chapter 1306, and amended by Statutes 1993, chapter 1257. At that time, the statute required school districts to inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in Education Code section 48900 that could lead to suspension or expulsion of the pupil, except for the act described in subdivision (h) (possession of tobacco). The district was required to provide the information to the teacher based on any records that the district maintains in its ordinary course of business or receives from a

law enforcement agency. Subdivision (d) of the statute required, and still requires, that for the 1994-95 school year, the information provided shall be from the previous two school years. For the 1996-97 school year and each school year thereafter, the information provided shall be from the previous three school years.

The current claim, *Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II* (00-TC-10/00-TC-11), was filed on Education Code section 49079, as amended in 2000. This program requires school districts to inform teachers when a pupil engages in, or is reasonably suspected to have engaged in the following additional acts: sexual harassment; hate violence; harassment, threats, or intimidation; or terroristic threats.

Education Code section 49079 states the following (with the new language added by the test claim statute underlined):

- (a) A school district shall ***inform*** the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Section 48900.2 , 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged in, those acts. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.
- (b) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this section unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity.
- (c) An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision (a) is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or both.
- (d) For the 1994-95 school year, the information provided shall be from the previous two school years. For the 1996-97 school year and each school year thereafter, the information provided shall be from the previous three school years.
- (e) Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Emphasis added.)

The Statement of Decision in the first *Notification to Teachers* (CSM 4452, Exhibit F) test claim states the following:

The Commission observed that Education Code section 49079, subdivisions (a) and (d), requires school districts to, from records maintained in the ordinary course of business or received from law enforcement agencies, *identify* pupils who have, during the previous three years, engaged in, or are reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of section 48900. The Commission noted that subdivision (d) specifies that the time frame of the “previous three years” commences with the 1992-1993 school year and continues for each school year thereafter.

The Commission observed that Education Code section 49079 does not explicitly require school districts to establish and maintain an information file or data base of such pupils, but simply requires that such pupils be identified and their teachers notified. The requirement contained in Education Code section 49079, subdivision (d), to maintain this information for a period of three years implies that, once the pupils have been identified, the information identifying them must be recorded, and the *Commission therefore found that school districts are implicitly required to adopt cost effective methods of assembling and maintaining this information* ... (Emphasis added.)

The Statement of Decision in CSM 4452 concludes that Education Code section 49079, subdivisions (a) and (d), impose a reimbursable state-mandated program by requiring school districts to perform the following activities:

- From records maintained in the ordinary course of business or received from law enforcement agencies, identify pupils who have, during the previous three years, engaged in, or reasonably suspected to have engaged in, any of the acts described in Education Code section 48900, except for subdivision (h).
- To maintain this information for three years, commencing with the 1992-1993 school year and continuing for each school year thereafter.
- To adopt cost effective methods of assembling and maintaining this information.
- To provide the specified information to teachers on a routine and timely basis.
- To adopt cost effective methods of assembling and disseminating this information to teachers.

The parameters and guidelines for CSM 4452 (Exhibit F) include the following reimbursable costs:

1. Identifying pupils. For identifying pupils from records received from law enforcement agencies or otherwise maintained in the ordinary course of business, who have during the previous three years engaged in or are reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except (h), of section 48900.¹¹
2. Information Maintenance. For maintaining the information regarding the identified pupils for a period of three years, and a one-time cost for adopting a cost effective method of assembling, maintaining and disseminating the information to teachers.
3. Notifying teachers. For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.

By contrast, the Statement of Decision for the current claim adopted in April 2007 (00-TC-10, 00-TC-11, Exhibit A), concludes that Education Code section 47079 mandates school districts to “*inform*” the teacher of the acts described in the Education Code that are subject to a suspension or expulsion of the pupil. The Statement of Decision approves reimbursement for the following activity to “inform” the teacher:

For a school district to inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts described in sections 48900.2; 48900.3; 48900.4; and 48900.7; that the pupil has engaged in or is reasonably suspected to have engaged in those acts, based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency. (Ed. Code, §49079, subd. (a), as amended by Stats. 2000, ch. 345.) According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years. [Footnotes omitted.]

The claimant requests that the parameters and guidelines for the current test claim be merged into the activities in the existing parameters and guidelines for CSM 4452. Staff agrees that the parameters and guidelines should be consolidated, beginning July 1, 2008, because both programs involve the same Education Code section. However, as described below, some of the activities in the first *Notification to Teachers* program (CSM 4452) go beyond the scope of the mandate determined in 00-TC-10, 00-TC-11, and the language in the parameters and guidelines for CSM 4452 does not track the statutory language in Education Code section 49079. The Commission does not have jurisdiction to amend the existing parameters and guidelines in CSM 4452, since the Commission’s Statement of Decision in CSM 4452, which authorizes reimbursement for the activities listed in the parameters and guidelines, is final. And Government Code section 17557, subdivision (d), authorizes only a local agency, school district, or the state to request an

¹¹ Section 48900, subdivision (h), authorizes suspension or expulsion for possession or use of tobacco or nicotine products, excluding the pupil’s own prescription products.

amendment consistent with the decision. Thus, staff recommends that the activities eligible for reimbursement under CSM 4452 and 00-TC-10/00-TC-11 not be merged, but claimed separately in the proposed consolidated parameters and guidelines.

Accordingly, based on the recommendation to consolidate CSM 4452 and the current test claim, the following documents are proposed for adoption to provide reimbursement during the initial reimbursement period and for future years:

- Proposed parameters and guidelines for 00-TC-10/00-TC-11 for the costs incurred during the initial reimbursement period from January 1, 2001, through June 30, 2008.
- Proposed amendment to the existing parameters and guidelines for CSM 4452 for costs incurred through June 30, 2008, and directing eligible claimants to file claims under the consolidated parameters and guidelines beginning July 1, 2008.
- Proposed consolidated parameters and guidelines for CSM 4452 and 00-TC-10/00-TC-11, for costs incurred beginning July 1, 2008.

The analysis of the activities is below.

Reimbursable activities for Education Code section 49079, as amended by test claim statute, Statutes 2000, chapter 345

Section 1183.1 of the Commission’s regulations describes the content of parameters and guidelines. Pursuant to section 1183.1, subdivision (a)(4), the reimbursable activities shall consist of the activities approved by the Commission in the Statement of Decision as reimbursable state-mandated activities, and activities found to constitute the most reasonable methods of complying with the mandate. “The most reasonable methods of complying with the mandate” are those methods not specified in statute that are necessary to carry out the mandated program.

In this case, the Commission found that Education Code section 49079, subdivision (a), as amended in 2000, required school districts “to inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts described in sections 48900.2; 48900.3; 48900.4; and 48900.7; that the pupil has engaged in or is reasonably suspected to have engaged in those acts, based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency.” The existing parameter and guidelines for CSM 4452 phrases the activity as follows: “For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.”

Staff finds that the activity to “inform” the teacher is the same as “notifying” the teacher, as stated in the parameters and guidelines in CSM 4452. Staff recommends, however, that the language “to inform” be used in the parameters and guidelines for the current claim instead of “notify” since “inform” tracks the statutory language of Education Code section 49079 and was found by the Commission to be reimbursable. Staff further finds the language in CSM 4452 requiring that the notification “shall be in a manner designed to maintain confidentiality of this information” is consistent with the requirements of Education Code section 49079, subdivision (e). That section states that “[a]ny

information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided.” Finally, the language in CSM 4452 requiring that the notification be “on a regular and timely basis” is also consistent with the purpose of the test claim statute and, thus, is a reasonable method of complying with the statute. According to the Assembly Floor Analysis dated August 18, 2000 on AB 29 (the bill that enacted the test claim statute), “[t]he purpose of this bill is to address the need for accurate information to be available to schools and teachers relative to the pattern of potentially harmful behavior on the part of the student.”¹² Thus, staff recommends the following language for the activity “to inform”:

Inform teachers on a regular and timely basis of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts listed below during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, ~~any of the following acts:~~

- a. Sexual harassment, as defined in Education Code section 48900.2.
- b. Hate violence, as defined in Education Code section 48900.3.
- c. Harassment, threats, or intimidation, as defined in Education Code section 48900.4.
- d. Terroristic threats against school officials or school property, or both, as defined in Education Code section 48900.7.

The information provided to teachers pursuant to Education Code section 49079 shall be made in a manner designed to maintain confidentiality of this information.

Staff further finds that the activity stated in CSM 4452 to identify the pupil, while not expressly required by Education Code section 49079, is a reasonable method of complying with the mandate to inform the teacher of the specified acts, pursuant to section 1183.1, subdivision (a)(4) of the Commission’s regulations. The test claim statute was enacted 2000, and became effective January 1, 2001. On January 1, 2001, the information required to be provided to teachers “shall be from the previous three school years” pursuant to Education Code section 49079, subdivision (d). In order to comply with the statute when it became effective in January 2001, students that engaged in or were reasonably suspected to have engaged in the new specified acts during the prior three school years had to be identified so that the pupil’s teachers could be informed. Moreover, when pupils change teachers, the pupils would have to be identified by the district in order to comply with the mandate to inform the new teachers. Thus, the proposed parameters and guidelines include the following activity:

Identify each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2 (sexual harassment), 48900.3 (hate violence), 48900.4 (harassment, threats, or intimidation), and 48900.7 (terroristic threats against school

¹² Exhibit G.

officials or school property) during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, and identify the pupils' teachers.

However, staff finds that the activity of maintaining information about the pupil for a period of three years, as listed in the parameters and guidelines for CSM 4452, is not mandated by Education Code section 49079 and goes beyond the scope of the Commission's Statement of Decision for this test claim. As determined by the Commission in its decision, the only activity mandated by the state is to inform the teacher of the specified acts of the previous three school years. Education Code section 49079, subdivision (a), requires that the information shall be provided to the teacher from records "maintained in the ordinary course of business." The statute does not require school districts to maintain new records for the purpose of providing information to a teacher. Subdivision (a) states the following:

The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.

The acts specified in Education Code section 49079 that trigger the school district's duty to inform the teacher are all grounds for suspension or expulsion. School districts are required by other statutes in the Education Code to maintain records of any suspension and expulsion in the pupil's official record. These are the records kept by a school district in its "ordinary course of business." For example, Education Code section 48918, subdivision (k), requires school districts to maintain a record of each pupil expulsion, including the cause therefore, in the pupils' mandatory interim record. In addition, Education Code section 48900.8 requires each school district to specifically identify, by offense committed, in all appropriate official records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in 48900, 48900.2, 48900.3, 48900.4, 48900.7, and 48915. These statutes are the subject of other current and prior test claims involving expulsions, suspensions, and expulsion appeals. Even if a school district did not suspend or expel a pupil for an act that the district reasonably suspects the pupil engaged in, or receives information about a pupil engaging in one of the specified acts from a law enforcement agency, such records are kept in the ordinary course of business in the district's "permitted" pupil record. The Statement of Decision for this test claim recognizes that school districts keep "permitted" pupil records that include routine discipline data, verified reports of relevant behavioral patterns, and all disciplinary notices pursuant to section 432 of the Department of Education's regulations. (See, Ex. A, p. 5.) Therefore, staff finds that maintaining records of the pupil goes beyond the scope of the mandate and is not eligible for reimbursement here. The following language has been included in the parameters and guidelines for 00-TC-10/00-TC-11: "*Maintaining separate records or information about pupils engaged in or reasonably suspected to have engaged in the acts described in Education Code sections 48900.2, 48900.3, 48900.4, and 48900.7 is not reimbursable.*"

Education Code Section 48201

Education Code section 48201, subdivision (b)(1), states the following:

Upon a pupil's transfer from one school district to another, the school district in which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

With respect to Education Code section 48201, the Commission found that, when a pupil transfers from one school district to another, the activity of "requesting" from the school district in which the pupil was last enrolled, any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district, is reimbursable. This was based on the plain language of the test claim statute.

The Statement of Decision, on pages 11 and 12, also addressed the activity of the transferring district "providing" these records to the receiving district. The Commission found that this activity was not mandated by the test claim statute, but agreed to consider it at the parameters and guidelines phase. The Statement of Decision states the following:

In addition to requesting pupil records, claimant SUHSD requests reimbursement for responding to requests from all receiving school districts for any records maintained in the ordinary course of business or records received from law enforcement agencies regarding acts committed by the transferring pupil that resulted in the pupil's suspension from the sending school and/or expulsion from the sending school district. Subdivision (b)(1) states:

Upon a pupil's transfer from one school district to another, *the school district* into which the pupil is transferring *shall request* that the school district in which the pupil was last enrolled *provide* any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district.
[Emphasis added.]

The legislative history of Statutes 2001, chapter 345 states that its purpose is "to address the need for accurate information to be available to schools and teachers relative to the pattern of potentially harmful behavior on the

part of the pupil.”¹³ Moreover, subdivision (b)(2), which was added in the same test claim statute as subdivision (b)(1), absolves the school district or its employees from civil or criminal liability “for providing information under this subdivision unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false or the information was provided with a reckless disregard for its truth or falsity.”

In its January 2, 2007 comments on the draft staff analysis, Finance disagrees that providing pupil records is a mandate, arguing that the statute is silent as to whether the school district is required to respond to a district’s request for the suspension/expulsion records. According to Finance, the statute requires the ‘request’ for information, leaving the pupil’s former district discretion as to whether it will respond. Finance also disagrees for the need to look to the legislative history of the statute, stating that it is unnecessary because the statute is unambiguous.

In comments submitted March 2007, claimant states that Finance’s position is “contrary to the clear intent of the Legislature that school districts must inform personnel of pupil behavior problems and that they (quote cont’d) would be shielded from liability absent a reckless disregard for the truth of the information provided.” Claimant also comments:

Since the sending district is the only repository of the specific record of the behavior for which the pupil was disciplined, the particular behavior that the statute requires to be noticed to the personnel of the receiving district, there is no other way for the mandate to be accomplished except for the sending district to provide the information. To reduce the statute otherwise is to make absurd the action of the Legislature. ... [T]he [court] cases require that the plain meaning be read to further the work of the Legislature.

The San Diego Unified School District’s March 2007 comments state:

Since the rationale of this legislation is to ‘address the need for accurate information to be available to schools and teachers relative to the pattern of potentially harmful behavior on the part of the pupil,’ it is unlikely the legislature intended to give the ‘sending’ district an option to disregard the request. Staff’s argument in the original [draft staff] analysis furthers this position by pointing out that Education Code section 49079 (e) ‘states that it is a misdemeanor for an officer or employee of the school

¹³ Senate Committee on Education, Analysis of Senate Bill No. 29 (1999-2000 Reg. Sess.) as amended June 20, 2000, page 2.

district to knowingly fail to provide information.” This part of the law reinforces the seriousness of the legislature’s intent to provide notification to teachers.

The determination whether a statute creates a reimbursable state-mandated program is a question of law based on the plain language of the statute.¹⁴ Although providing the pupil’s records is reciprocal to requesting them, subdivision (b)(1), does not expressly require the school district to provide “any records that the district maintains in the ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil” that resulted in suspension or expulsion. Therefore, the Commission finds it is not state mandated.

The Commission has authority to determine at the parameters and guidelines phase whether providing the records is the most reasonable method to comply with the mandate to request the records, based on Government Code section 17557 and California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).

The claimant requests adding a separate activity “to provide” suspension and expulsion records to a school district when a pupil transfers to a new school district. The claimant argues that the activity to provide these records is necessary to carry out the mandated activity in Education Code section 48201 “to request” these records when a pupil transfers.

For the reasons below, staff finds that “providing” expulsion records when a pupil transfers to a new school district is required by other Education Code statutes and, thus, the request goes beyond the scope of the mandate here. Education Code section 48915.1 addresses the rules for students expelled for acts other than those described in Education Code section 48915, subdivisions (a) or (c), who want to transfer to another school district. Subdivision (a) of section 48915.1 states the following:

A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

Education Code section 48918 addresses expulsion hearings and, in subdivision (k), requires that the expulsion order and the cause of the expulsion for *all* students that are expelled “shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil’s school records.”

The claimant argues that Education Code sections 48915.1 and 48918 require records that are different in content, scope, and time than the records required to be “requested” by a school district pursuant to the test claim statute, Education Code section 48201. Claimant further states that “[t]he records provided upon request pursuant to Section 48918,

¹⁴ *County of San Diego, supra*, 15 Cal.4th 68, 89.

subdivision (k), are the expulsion order and statement of reasons, which ... do not include all behaviors which would subject a pupil to expulsion and only relate to the records for those pupils who complete the expulsion process and only for some expulsions (dangerous behaviors, e.g., firearms).”

The claimant’s interpretation of these statutes is wrong. The records described in section 48201 are not different in scope or content than those in the other code sections described. The plain language of Education Code section 48201, subdivision (a), only requires the request of records maintained in the ordinary course of business that resulted in the pupil’s suspension or expulsion from school:

Upon a pupil’s transfer from one school district to another, the school district in which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district *maintains in its ordinary course of business* or receives from a law enforcement agency regarding acts committed by the transferring pupil *that resulted in the pupil’s suspension from school or expulsion from the school district.*” (Emphasis added.)

Moreover, the requirement to forward expulsion records in Education Code section 48918, subdivision (k), is not for only “some expulsions (dangerous behaviors, e.g., firearms),” as argued by claimant. The plain language of Education Code section 48918, subdivision (k), requires that the expulsion order and the cause of the expulsion for *all* students that are expelled “shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil’s school records.” It is correct, as claimant infers, that the Commission has only approved mandate reimbursement with respect to Education Code section 48918, subdivision (k), for forwarding expulsion records relating to pupils expelled for firearm possession. (*Pupil Suspensions, Pupil Expulsions, and Expulsion Appeals*, CSM 4455, 4456, 4463.) Regardless of the mandate determination in *Pupil Suspensions, Pupil Expulsions, and Expulsion Appeals*, school districts are required by law, pursuant to Education Code section 48918, subdivision (k), to forward all expulsion records upon request.

Thus, staff finds that providing expulsion records to a new school district when a pupil transfers is not reimbursable, nor is it mandated by Education Code section 48201, the test claim statute.

There are no existing statutes that require a school district to provide suspension records when a pupil transfers, however. As noted in the Commission’s Statement of Decision, the purpose of Education Code section 48201 is to address the need for accurate information to be available to schools and teachers relative to the pattern of potentially harmful behavior on the part of the pupil. Since the activity of requesting suspension records is mandated by the statute and the purpose of the statute is to obtain accurate information about a transferring pupil, staff finds that “providing,” suspension records is a reasonable method of carrying out the mandate of Education Code section 48201. The reimbursable activity states the following:

For a sending school district in which the pupil was last enrolled, to provide upon request to the school district in which the pupil is

transferring any suspension records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding the acts committed by the transferring pupil that resulted in the pupil's suspension from school.

Providing expulsion records is not reimbursable under this mandated program.

Period of Reimbursement

Language regarding estimated claims in this section of the parameters and guidelines has also been stricken in the proposed parameters and guidelines. On February 16, 2008, Statutes 2008, chapter 6 (ABX3 8) became effective and repealed the authority for eligible claimants to file and be paid for estimated reimbursement claims.

In addition, language reflecting the periods of reimbursement for the proposed consolidation of the parameters and guidelines for this test claim and the prior test claim in CSM 4452 has been added.

Claim Preparation and Submission

No party or interested party has requested a reasonable reimbursement methodology for claiming the costs of this program. Thus, this section of the parameters and guidelines requires that reimbursement claims be based on actual costs.

Objections to "boilerplate" language in sections IV, V, and VI of the parameters and guidelines

Claimant objects to the boilerplate language regarding source documentation standards, indirect cost rate language, and record retention requirements. Regarding source documentation language, claimant states the following:

For the record and preservation of appeal rights, the test claimant objects to the boilerplate language regarding source documents, contemporaneous documents and corroborating evidence. It is a standard of general application without independent statutory or regulatory basis. It is a standard which generally exceeds the documentation methods utilized in the usual course of business for local agencies and the standard required for substantiation of the use of, or application for, other state funds by local agencies. It is a standard imposed retroactively upon claimants without prior notice. These and other objections were made before by local agency representatives in previous Commission proceedings. Notwithstanding, the standard has been adopted by the Commission as boilerplate for parameters and guidelines.

Similar arguments are raised about the record retention requirements.

Regarding the indirect cost rate language, claimant states that the first two paragraphs are "surplusage" and that K-12 claimants are required to use the rate developed on the annual school district reporting forms established and controlled by the Department of Education.

With respect to these objections, claimant further stated the following: *Unless there is some interest by the Commission to revisit these issues, the parameters and guidelines can proceed since the boilerplate is consistent with past decisions.* (Exhibit B, emphasis added.)

Staff does not suggest any changes to the boilerplate language at this time. There is also a pending request from the State Controller's Office to amend the boilerplate language. Staff recommends that all discussions about parameters and guidelines boilerplate occur at the same time.

Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the parameters and guidelines listed below. Staff also recommends that the Commission authorize staff to make non-substantive, technical corrections to the parameters and guidelines following the hearing.

- Proposed parameters and guidelines for 00-TC-10/00-TC-11 for the costs incurred during the initial claiming period from January 1, 2001, through June 30, 2008.
- Proposed amendment to the existing parameters and guidelines for CSM 4452 for costs incurred through June 30, 2008, and directing eligible claimants to file claims under the consolidated parameters and guidelines beginning July 1, 2008.
- Proposed consolidated parameters and guidelines for CSM 4452 and 00-TC-10/00-TC-11, for costs incurred beginning July 1, 2008.

PROPOSED PARAMETERS AND GUIDELINES

Education Code Sections 48201 and 49079

Statutes 2000, Chapter 345 (AB 29)

*Pupil Discipline Records,
Notification to Teachers: Pupils Subject to Suspension or Expulsion II,
00-TC-10/00-TC-11*

Carpinteria Unified School District, Sweetwater Union High School District,
and Grant Joint Union High School District, Co-Claimants

FOR COSTS INCURRED FROM JANUARY 1, 2001 THROUGH JUNE 30, 2008

I. SUMMARY OF THE MANDATE

On April 16, 2007, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation imposes a reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law. The Commission approved this test claim for the following reimbursable activities:

- For a school district¹ into which a pupil is transferring to request from the school district in which the pupil was last enrolled, any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district, upon receipt of a pupil's transfer record, to inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and to inform the teacher of the act that resulted in that action. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district to "inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in, any of the acts described ... in Section 48900.2,^[2] 48900.3,^[3] 48900.4,^[4] and 48900.7^[5] that the pupil has engaged in, or is reasonably suspected to have engaged in, those acts." This information is based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency. (Ed. Code, § 49079, subd. (a), as amended by Stats. 2000, ch. 345.) According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years.

¹ These activities also apply to a county office of education that acts as a school district.

² Education Code section 48900.2 refers to sexual harassment, as specified.

³ Education Code section 48900.3 refers to hate violence, as specified.

⁴ Education Code section 48900.4 refers to harassment, threats or intimidation, as specified.

⁵ Education Code section 48900.7 refers to terroristic threats against school officials or school property, or both, as specified.

~~The Commission also finds that providing the pupil's records is not mandated by the state (Ed. Code, § 48201, subd., (b)(1)), but the Commission has the authority to determine at the parameters and guidelines phase whether providing the records is the most reasonable method to comply with the mandate to request the records, based on Government Code section 17557 and California Code of Regulations, title 2, section 1183.1, subdivision (a)(4).~~

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Sweetwater Union High School District filed the *Pupil Discipline Records* test claim on May 9, 2001, and the Carpinteria Unified School District and Grant Joint Union High School District filed the *Notification to Teachers: Pupils Subject to Suspension or Expulsion II* test claim on May 11, 2001. While these filing dates establish eligibility for fiscal year 1999-2000, the operative date of the test claim statutes, as enacted by Statutes 2000, chapter 345, is January 1, 2001. Therefore, costs incurred pursuant to Statutes 2000, chapter 345 are reimbursable on or after January 1, 2001, **through June 30, 2008. Costs incurred on or after July 1, 2008, shall be filed on the consolidated parameters and guidelines for *Notification to Teachers: Pupils Subject to Suspension or Expulsion (CSM 4452)* and *Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II (00-TC-10/00-TC-11)*.**

~~Claimants file for reimbursement under these parameters and guidelines until fiscal year 2007-2008, after which claimants file under the consolidated parameters and guidelines for *Notification to Teachers: Pupils Subject to Suspension or Expulsion (CSM 4452)*, *Pupil Discipline Records (00-TC-10)*, and *Notification to Teachers: Pupils Subject to Suspension or Expulsion II (00-TC-11)*.~~

Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs of the subsequent year may be included on the same claim, if applicable.~~ Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the 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.

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 school district, the following activities are reimbursable:

A. ~~For All School Districts~~ Notification to Teachers of Pupils Whose Actions are Grounds for Suspension or Expulsion (Ed. Code, § 49079, as amended by Stats. 2000, ch. 345 (AB 29))

1. Identify pupils who have engaged in or are reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2 (sexual harassment), 48900.3 (hate violence), 48900.4 (harassment, threats, or intimidation), and 48900.7 (terroristic threats against school officials or school property) during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, and identify the pupils' teachers.

± **2. Inform teachers on a regular and timely basis of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts listed below during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, any of the following acts:**

- a. Sexual harassment, as defined in Education Code section 48900.2.
- b. Hate violence, as defined in Education Code section 48900.3.
- c. Harassment, threats, or intimidation, as defined in Education Code section 48900.4.
- d. Terroristic threats against school officials or school property, or both, as defined in Education Code section 48900.7.

The information provided to teachers pursuant to Education Code section 49079 shall be made in a manner designed to maintain confidentiality of this information.

Maintaining separate records or information about pupils engaged in or reasonably suspected to have engaged in the acts described in Education Code sections 48900.2, 48900.3, 48900.4, and 48900.7 is not reimbursable.

~~This information is based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency (Ed. Code, § 49079, subd. (a).) The information provided to teachers pursuant to Education Code section 49079 shall be from the previous three school years.~~

B. ~~For School Districts into which a Pupil is Transferring~~ Transfer Student Notifications (Ed. Code, § 48201, as amended by Stats. 2000, ch. 345 (AB 29))

1. For a receiving school district in which the pupil is transferring, to request from the school district in which the pupil was last enrolled any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district (Ed. Code, § 48201, subd. (b)(1), ~~as amended by Stats. 2000, ch. 345~~).
2. For a sending school district in which the pupil was last enrolled, to provide upon request to the school district in which the pupil is transferring any suspension records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding the acts committed by the transferring pupil that resulted in the pupil's suspension from school.

Providing expulsion records is not reimbursable under this mandated program.

3. Upon receipt of ~~a pupil's transfer record~~ information regarding acts committed by the transferring pupil that resulted in suspension from school or expulsion from the school district, inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and inform the teacher of the act that resulted in that action (Ed. Code, § 48201, subd. (b)(1), ~~as amended by Stats. 2000, ch. 345~~).

~~This information is based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency (Ed. Code, § 49079, subd. (a), as amended by Stats. 2000, ch. 345). According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years.~~

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.

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 chapter⁶ 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

⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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 REVENUES AND REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon 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.

PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES

Education Code Section 49079

Statutes 1989, Chapter 1306; Statutes 1993, Chapter 1257

Notification to Teachers: Pupils Subject to Suspension or Expulsion
(CSM 4452)

and

Education Code Sections 48201 and 49079

Statutes 2000, Chapter 345 (AB 29)

Pupil Discipline Records,
Notification to Teachers: Pupils Subject to Suspension or Expulsion II,
(00-TC-10/00-TC-11)

FOR COSTS INCURRED BEGINNING JULY 1, 2008

I. SUMMARY OF THE MANDATE

Notification to Teachers: Pupils Subject to Suspension or Expulsion (CSM 4452)

On January 19, 1995, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that Education Code section 49079 as added and amended by Statutes 1989, chapter 1306, and Statutes 1993, chapter 1257, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for the following activities:

1. Identifying pupils. For identifying pupils from records received from law enforcement agencies or otherwise maintained in the ordinary course of business, who have during the previous three years engaged in or are reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except (h), of section 48900.¹
2. Information Maintenance. For maintaining the information regarding the identified pupils for a period of three years, and a one-time cost for adopting a cost effective method of assembling, maintaining and disseminating the information to teachers.
3. Notifying teachers. For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.

Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II (00-TC-10/00-TC-11)

On April 16, 2007, the Commission adopted a Statement of Decision finding that Education Code sections 48201 and 49079, as amended by Statutes 2000, chapter 345, impose a reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution, and approved the test claim for the following reimbursable activities:

¹ Section 48900, subdivision (h), authorizes suspension or expulsion for possession or use of tobacco or nicotine products, excluding the pupil's own prescription products.

- For a school district² into which a pupil is transferring to request from the school district in which the pupil was last enrolled, any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district, upon receipt of a pupil's transfer record, to inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and to inform the teacher of the act that resulted in that action. (Ed. Code, § 48201, subd. (b)(1), as amended by Stats. 2000, ch. 345.)
- For a school district to "inform the teacher of each pupil who has engaged in or is reasonably suspected to have engaged in, any of the acts described ... in Section 48900.2,^[3] 48900.3,^[4] 48900.4,^[5] and 48900.7^[6] that the pupil has engaged in, or is reasonably suspected to have engaged in, those acts." This information is based on any records maintained by the district in its ordinary course of business, or received from a law enforcement agency. (Ed. Code, § 49079, subd. (a), as amended by Stats. 2000, ch. 345.) According to preexisting subdivision (d) of section 49079, this information provided to the teacher regarding pupil offenses is from the previous three school years.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

These consolidated parameters and guidelines are for costs incurred beginning July 1, 2008.

Actual costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the 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.

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

² These activities also apply to a county office of education that acts as a school district.

³ Education Code section 48900.2 refers to sexual harassment, as specified.

⁴ Education Code section 48900.3 refers to hate violence, as specified.

⁵ Education Code section 48900.4 refers to harassment, threats or intimidation, as specified.

⁶ Education Code section 48900.7 refers to terroristic threats against school officials or school property, or both, as specified.

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 school district, the following activities are reimbursable:

Notification to Teachers: Pupils Subject to Suspension or Expulsion (Ed. Code, § 49079, Stats. 1989, ch. 1306, and Stats. 1993, ch. 1257 (CSM 4452))

1. Identifying pupils. For identifying pupils from records received from law enforcement agencies or otherwise maintained in the ordinary course of business, who have during the previous three years engaged in or are reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except (h), of section 48900.⁷
2. Information Maintenance. For maintaining the information regarding the identified pupils for a period of three years, and a one-time cost for adopting a cost effective method of assembling, maintaining and disseminating the information to teachers.
3. Notifying teachers. For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.

Pupil Discipline Records, Notification to Teachers: Pupils Subject to Suspension or Expulsion II (Ed. Code, §§ 48201, 49709, Stats. 2000, ch. 345, AB 29 (00-TC-10/00-TC-11))

- A. Notification to Teachers of Pupils Whose Actions are Grounds for Suspension or Expulsion (Ed. Code, § 49079, as amended by Stats. 2000, ch. 345 (AB 29))
1. Identify pupils who have engaged in or are reasonably suspected to have engaged in any of the acts described in Education Code sections 48900.2 (sexual harassment), 48900.3 (hate violence), 48900.4 (harassment, threats, or intimidation), and 48900.7 (terroristic threats against school officials or school property) during the previous three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency, and identify the pupils' teachers.
 2. Inform teachers on a regular and timely basis of each pupil who has engaged in or is reasonably suspected to have engaged in any of the acts listed below during the previous

⁷ Section 48900, subdivision (h), authorizes suspension or expulsion for possession or use of tobacco or nicotine products, excluding the pupil's own prescription products.

three school years from records maintained by the district in its ordinary course of business or received from a law enforcement agency:

- a. Sexual harassment, as defined in Education Code section 48900.2.
- b. Hate violence, as defined in Education Code section 48900.3.
- c. Harassment, threats, or intimidation, as defined in Education Code section 48900.4.
- d. Terroristic threats against school officials or school property, or both, as defined in Education Code section 48900.7.

The information provided to teachers pursuant to Education Code section 49079 shall be made in a manner designed to maintain confidentiality of this information.

Maintaining separate records or information about pupils engaged in or reasonably suspected to have engaged in the acts described in Education Code sections 48900.2, 48900.3, 48900.4, and 48900.7 is not reimbursable.

B. Transfer Student Notifications (Ed. Code, § 48201, as amended by Stats. 2000, ch. 345 (AB 29))

1. For a receiving school district in which the pupil is transferring, to request from the school district in which the pupil was last enrolled any records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district (Ed. Code, § 48201, subd. (b)(1)).
2. For a sending school district in which the pupil was last enrolled, to provide upon request to the school district in which the pupil is transferring any suspension records the district maintains in its ordinary course of business or receives from a law enforcement agency regarding the acts committed by the transferring pupil that resulted in the pupil's suspension from school.

Providing expulsion records is not reimbursable under this mandated program.

3. Upon receipt of information regarding acts committed by the transferring pupil that resulted in suspension from school or expulsion from the school district, inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district, and inform the teacher of the act that resulted in that action (Ed. Code, § 48201, subd. (b)(1)).

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.

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 chapter⁸ 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 REVENUES AND REIMBURSEMENTS

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

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

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

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon 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.

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

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.

Proposed Amendment: August 1, 2008

**PROPOSED AMENDMENT TO
PARAMETERS AND GUIDELINES**

Education Code Section 49079

Chapter 1306, Statutes of 1989

Chapter 1257, Statutes of 1993

*Notification to Teachers:
Pupils Subject to Suspension or Expulsion
CSM 4452*

FOR COSTS INCURRED THROUGH JUNE 30, 2008

I. SUMMARY OF THE SOURCE OF THE MANDATE

Chapter 1306, Statutes of 1989, added Education Code section 49079 to require school districts to report to each teacher the names of every student who has caused, or who has attempted to cause, serious bodily injury or injury to another person. The notification was to be based upon any written records the district maintained or received from a law enforcement agency. No district would be liable for failure to comply as long as a good faith effort was made to notify the teacher. Notifications were to commence in the 1990-91 school year utilizing data from the previous year, with a progression to three prior-years of data to be reported by fiscal year 1992-93.

Chapter 1257, Statutes of 1993, amended Education Code section 49079 to specify for the first time the particular pupil behavior that warrants a teacher notification by including the specific reference to Education Code section 48900. The Section was also amended to immunize school personnel from civil or criminal liability unless the information they provide to the teacher was knowingly false.

II. COMMISSION ON STATE MANDATES' DECISION

The Commission on State Mandates, in the Statement of Decision adopted at the January 19, 1995 hearing found that Education Code section 49079 as added by Chapter 1306, Statutes of 1989 and amended by Chapter 1257, Statutes of 1993 imposes a new program of higher level of service within the meaning of Section 6, Article XIII B of the California Constitution, for school districts and county offices of education.

The Commission determined that the following provisions of Education Code Section 49079 established costs mandated by the state pursuant to Government Code section 17514, by requiring school districts to:

- (1) From records maintained in the ordinary course of business or received from law enforcement agencies, identify pupils who have, during the previous three years, engaged in, or are reasonably suspected to have engaged in, any of the acts described in any of the subdivisions of Education Code section 48900, except subdivision (h).

- (2) Provide this information to teachers on a routine and timely basis.
- (3) Maintain the information regarding the identified pupils for a period of three years, and adopt a cost effective method to assemble, maintain and disseminate the information to teachers.

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 parameters and guidelines amendment is for costs incurred through June 30, 2008. Costs incurred on or after July 1, 2008, shall be filed on the consolidated parameters and guidelines for *Notification to Teachers: Pupils Subject to Suspension or Expulsion (CSM 4452) and Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion II (00-TC-10/00-TC-11)*.

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on February 18, 1994, therefore all mandated costs incurred on or after July 1, 1993, for implementation of Education Code Section 49079 are reimbursable.

Actual costs for one fiscal year should be included in each 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 from the date on which the State Controller's Office issues claiming instructions on funded mandates contained in the claims bill.

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

V. REIMBURSABLE COSTS

A. Scope of the Mandate

School districts and county offices of education shall be reimbursed for the costs incurred to: identify pupils, from records maintained in the ordinary course of business or received from law enforcement agencies who have, during the previous three years engaged in, or are reasonably suspected to have engaged in, any of the acts described in any of the subdivision of Education Code section 48900, except subdivision (h); and provide this information to teachers on a routine and timely basis.

B. Reimbursable Activities

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

1. Identify Pupils

For identifying pupils, from records received from law enforcement agencies or otherwise maintained in the ordinary course of business, who have during the

previous three years engaged in or are reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except (h), of section 48900.

2. Information Maintenance

For maintaining the information regarding the identified pupils for a period of three years, and a one-time cost for adopting a cost effective method of assembling, maintaining and disseminating the information to teachers.

3. Notifying Teachers

For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.

VI. CLAIM PREPARATION

Each claim for a reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under the mandates.

A. Reporting by Components

Claimed costs must be allocated according to the three components of reimbursable activity described in Section V. B.

B. Supporting Documentation

Claimed costs should be supported by the following information.

1. Employee Salaries and Benefits

Identify the employees(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.

2. Materials and Supplies

Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Contracted Services

Give the name(s) of the contractors(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. Allowable Overhead Cost

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

C. Cost Accounting

The State Controller is directed to include in its claiming instructions each year the requirement that claimants report to the State Controller the following statistics for the purpose of establishing a database for potential future reimbursement based on prospective rates:

- a. The average number of pupils for which this information is being maintained (i.e., number of pupils identified) for each year.
- b. The average daily attendance for the district for each year.
- c. The number times each year the notification is routinely made to teachers (e.g., quarterly, each semester, or annually).

VII. SUPPORTING DATA

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 four years after the end of the calendar year in which the reimbursement claim is filed, and made available on the request of the State Controller.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., service fees collected, federal funds, other state funds etc., shall be identified and deducted from this claim. While not specifically researched, the Commission has not identified any specific offsetting savings from state or federal sources applicable to this mandate.

IX. STATE CONTROLLER'S OFFICE 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.