

**ITEM 11**  
**FINAL STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**

Education Code Sections 32242, 32243, 32245, 46010.1; 48904, 48904.3, 48987  
Welfare and Institutions Code Section 18285

Statutes 1983, Chapter 498; Statutes 1984, Chapter 482; Statutes 1984, Chapter 948;  
Statutes 1986, Chapter 196; Statutes 1986, Chapter 332; Statutes 1992, Chapter 445;  
Statutes 1992, Chapter 1317; Statutes 1993, Chapter 589; Statutes 1994, Chapter 1172;  
Statutes 1996, Chapter 1023; Statutes 2002, Chapter 492

California Code of Regulations, Title 5, Section 11523

*Pupil Safety Notices*  
02-TC-13

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**EXECUTIVE SUMMARY**

**Summary of the Mandate**

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Pupil Safety Notices* test claim, which requires(1) school districts to provide notices and information regarding health, safety and legal issues to staff, parents, guardians and students; and (2) for a school district receiving a transfer student, upon notice that the school district from which the student is being transferred has withheld the grades, diploma or transcripts of that student, to continue to withhold the grades, diploma or transcripts of any transfer student, until it receives notice that the district that initiated the decision to withhold, has rescinded that decision. The Commission found that test claim statutes and regulation constitute a new program or higher level of service and impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on February 21, 2003. The Commission adopted a Statement of Decision on December 4, 2006, and the parameters and guidelines on December 6, 2007. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 9, 2008.

**Statewide Cost Estimate**

Staff reviewed the claims data submitted by two school districts, and compiled by the SCO. The actual claims data showed that 12 claims were filed between fiscal years 2001-2002 and 2006-2007 for a total of \$37,296.<sup>1</sup> This program requires school districts to, among other things, disseminate several different notices regarding school site lead risk factors, confidential medical services, the California High School Proficiency Exam, and guidelines for complaint procedures

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<sup>1</sup> Claims data reported as of August 13, 2008.

regarding child abuse committed against a pupil at a school site, including any costs to interpret those guidelines in other languages for the requesting parents or guardians. Staff found that the majority of costs for the two districts that filed reimbursement claims were for disseminating the child abuse guidelines and related interpreter costs.

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

### Assumptions

Staff made the following assumptions:

1. The actual amount claimed may increase if late or amended claims are filed.
2. Non-claiming school districts did not file claims because they did not incur more than \$1000 in increased costs for this program.
3. The Galt Joint Union High School District and Live Oak Unified School District will continue to incur costs over \$1,000 and will continue to file reimbursement claims.
4. The SCO may audit and reduce any reimbursement claim for this program, which could result in the amount of reimbursement being lower than the statewide cost estimate.

### Methodology

#### *Fiscal Years 2001-2002 through 2006-2007*

The proposed statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on the 12 unaudited actual reimbursement claims filed with the SCO for these years.

#### *Fiscal Year 2007-2008*

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

The proposed statewide cost estimate includes seven fiscal years for a total of \$45,668. This averages to \$6,524 annually in costs for the state.

### State Agency Comments

The Department of Finance submitted comments on the draft staff analysis on September 8, 2008, recommending the adoption of the statewide cost estimate be delayed until the reimbursement claims used to develop the cost estimate are audited by the SCO.

Staff disagrees that the cost estimate can be delayed until reimbursement claims are audited.

Government Code section 17551 requires the Commission, if it determines there are costs mandated by the state, to determine the amount to be subvned to local agencies and school districts for reimbursement. Government Code section 17553 requires the Commission, when a determination is made that a mandate exists, to adopt regulations to ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim. Therefore, state law does not allow the Commission to delay adoption of the statewide cost estimate until the claims are audited by the SCO.

Moreover, Department of Finance's recommendation to delay the adoption of the statewide cost estimate is not consistent with the statutory scheme in Government Code section 17500 et seq.

The adoption of a statewide cost estimate triggers other functions that can lead to an appropriation of funds for the mandated program. Government Code section 17600 requires the Commission to report the statewide cost estimate to the Legislature. Once the Commission reports the statewide cost estimates to the Legislature, Government Code section 17562 requires the Legislative Analyst's Office to review the new mandate(s) and make recommendations to the Legislature as to whether the mandate should be repealed, funded, suspended, or modified. The Legislature then has the authority under Government Code section 17612 to amend, modify, or supplement parameters and guidelines, reasonable reimbursement methodologies, and/or the statewide cost estimates of the mandated programs; or can fund the program for costs incurred in prior years in the subsequent Budget Act. Thus, the adoption of the statewide cost estimate is necessary for the Legislature to appropriate funds. Furthermore, a delay in the appropriation of funds can lengthen the audit period of the State Controller's Office. Government Code section 17558.5 provides that a reimbursement claim is subject to the initiation of an audit by the Controller no later than three years after the date that the reimbursement claim is filed or last amended, whichever is later, unless there has been no appropriation or payment to a claimant. "[I]f 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." Accordingly, a delay in adopting a statewide cost estimate is not consistent with the way the Legislature established the mandate reimbursement process.

Therefore, staff finds that the Commission should not delay adoption of this statewide cost estimate.

#### **STAFF RECOMMENDATION**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$45,668** (\$6,524 in annual costs) for costs incurred in complying with the *Pupil Safety Notices* program.



## STAFF ANALYSIS

### Summary of the Mandate

This program requires(1) school districts to provide, for the first time, notices and information regarding health, safety and legal issues to staff, parents, guardians and students; and (2) for a school district receiving a transfer student, upon notice that the school district from which the student is being transferred has withheld the grades, diploma or transcripts of that student, to continue to withhold the grades, diploma or transcripts of any transfer student, until it receives notice that the district that initiated the decision to withhold, has rescinded that decision.

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *Pupil Safety Notices* test claim. The Commission found that test claim statutes and regulation constitute a new program or higher level of service and impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on February 21, 2003. The Commission adopted a Statement of Decision on December 4, 2006, and the parameters and guidelines on December 6, 2007.

Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 9, 2008.

### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

1. For the principal of the school site, within 45 days of receiving lead test survey results from the Department of Health Services, to notify the teachers and other school personnel and parents of the survey results. (Ed. Code, § 32242, subd. (c).)
2. For schools to notify parents of the Childhood Lead Poisoning Prevention Act of 1991 upon receiving a finding that a school site has significant risk factors for lead. (Ed. Code, § 32243, subd. (a).)
3. For schools, within 45 days of receiving a finding by the Department of Health Services that a school subject to the Lead-Safe Schools Act has significant risk factors for lead, to notify the teachers, other personnel, and the parents of the finding. (Ed. Code, § 32243, subd. (a).)
4. For school districts to amend an existing notice sent to pupils in grades 7-12 and their parents or guardians to include the provision that "school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil's parent or guardian." This activity is a one-time activity. (Ed. Code, § 46010.1.)
5. To disseminate guidelines, upon request, that describe complaint procedures, adopted by the State Department of Education, to parents or guardians of minor pupils in the primary language of the parent or guardian which he or she can follow in filing a complaint of child abuse by a school employee or other person committed against a pupil at a school site. (Ed. Code, § 48987.)
6. To provide an interpreter for a parent or guardian, whose primary language is other than English, in the case of any communications concerning the guidelines and procedures for filing child abuse complaints committed against a pupil at a school site. (Ed. Code, § 48987.)

7. For the principal of each school with students in grades 11 and/or 12 to distribute to each pupil in those grades an announcement explaining the California High School Proficiency Exam provided for under Education Code section 48412 in time to meet registration requirements for the fall test of that year. (Cal. Code Regs., tit. 5, § 11523.)
8. To establish rules and regulations governing procedures for withholding grades, transcripts, and diplomas. (Ed. Code, § 48904, subd. (b)(3).)
9. For a transferee school, upon notice that a school district has withheld the grades, diploma or transcripts of any pupil pursuant to Education code section 48904, to continue to withhold the grades, diploma or transcripts of any transfer student as authorized by that section, until such time as it receives notice, from the district that initiated the decision to withhold, that the decision has been rescinded under the terms of that section. (Ed. Code, § 48904.3, subd. (a).)

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by two school districts, and compiled by the SCO. The actual claims data showed that 12 claims were filed between fiscal years 2001-2002 and 2006-2007 for a total of \$37,296.<sup>2</sup> This program requires school districts to, among other things, disseminate several different notices regarding school site lead risk factors, confidential medical services, the California High School Proficiency Exam, and guidelines for complaint procedures regarding child abuse committed against a pupil at a school site, including any costs to interpret those guidelines in other languages for the requesting parents or guardians. Staff found that the majority of costs for the two districts that filed reimbursement claims were for disseminating the child abuse guidelines and related interpreter costs.

Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

#### Assumptions

Staff made the following assumptions:

2. *The actual amount claimed may increase if late or amended claims are filed.*

Only two school districts in California have filed 12 reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining school districts, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims for 2002-2003 through 2006-2007 may be filed until June 2009.

2. *Non-claiming school districts did not file claims because they did not incur more than \$1000 in increased costs for this program.*

Most school districts will be unable to meet the \$1,000 minimum threshold for filing reimbursement claims, because only a portion of this program was approved as a reimbursable state mandate, and there are offsetting revenues available for a portion of the mandate.

3. *The Galt Joint Union High School District and Live Oak Unified School District will continue to incur costs over \$1,000 and will continue to file reimbursement claims.*

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<sup>2</sup> Claims data reported as of August 13, 2008.

5. The SCO may reduce any reimbursement claim for this program.

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

*Fiscal Years 2001-2002 through 2006-2007*

The proposed statewide cost estimate for fiscal years 2001-2002 through 2006-2007 is based on the 12 unaudited actual reimbursement claims filed with the SCO for these years.

*Fiscal Year 2007-2008*

Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2007-2008 (5.5%), as forecast by Department of Finance.

The proposed statewide cost estimate includes seven fiscal years for a total of \$45,668. This averages to \$6,524 annually in costs for the state.

Following is a breakdown of estimated total costs per fiscal year:

**TABLE 1. BREAKDOWN OF ESTIMATED TOTAL COSTS PER FISCAL YEAR**

<b>Fiscal Year</b>	<b>Number of Claims Filed with SCO</b>	<b>Estimated Cost</b>
2001-2002	2	\$ 4,726
2002-2003	2	4,776
2003-2004	2	5,624
2004-2005	2	5,582
2005-2006	2	8,652
2006-2007	2	7,936
2007-2008	N/A	8,372
<b>TOTAL</b>	<b>12</b>	<b>\$45,668</b>

State Agency Comments

The Department of Finance submitted comments on the draft staff analysis on September 8, 2008, recommending the adoption of the statewide cost estimate be delayed until the reimbursement claims used to develop the cost estimate are audited by the SCO.

Staff disagrees that the cost estimate can be delayed until reimbursement claims are audited.

Government Code section 17551 requires the Commission, if it determines there are costs mandated by the state, to determine the amount to be subvended to local agencies and school districts for reimbursement. Government Code section 17553 requires the Commission, when a determination is made that a mandate exists, to adopt regulations to ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim. Therefore, state law does not allow the Commission to delay adoption of the statewide cost estimate until the claims are audited by the SCO.

Moreover, Department of Finance's recommendation to delay the adoption of the statewide cost estimate is not consistent with the statutory scheme in Government Code section 17500 et seq. The adoption of a statewide cost estimate triggers other functions that can lead to an appropriation of funds for the mandated program. Government Code section 17600 requires the Commission to report the statewide cost estimate to the Legislature. Once the Commission reports the statewide cost estimates to the Legislature, Government Code section 17562 requires the Legislative Analyst's Office to review the new mandate(s) and make recommendations to the Legislature as to whether the mandate should be repealed, funded, suspended, or modified. The Legislature then has the authority under Government Code section 17612 to amend, modify, or supplement parameters and guidelines, reasonable reimbursement methodologies, and/or the statewide cost estimates of the mandated programs; or can fund the program for costs incurred in prior years in the subsequent Budget Act. Thus, the adoption of the statewide cost estimate is necessary for the Legislature to appropriate funds. Furthermore, a delay in the appropriation of funds can lengthen the audit period of the State Controller's Office. Government Code section 17558.5 provides that a reimbursement claim is subject to the initiation of an audit by the Controller no later than three years after the date that the reimbursement claim is filed or last amended, whichever is later, unless there has been no appropriation or payment to a claimant. "[I]f 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." Accordingly, a delay in adopting a statewide cost estimate is not consistent with the way the Legislature established the mandate reimbursement process.

Therefore, staff finds that the Commission should not delay adoption of this statewide cost estimate.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$45,668 (\$6,524 in annual costs) for costs incurred in complying with the *Pupil Safety Notices* program.