November 12, 2026

Ms. Anne Kato
State Controller's Office
Local Government Programs
and Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

Mr. Arthur Palkowitz
Law Offices of Arthur M. Palkowitz
12807 Calle de la Siena
San Diego, CA 92130

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Proposed Decision and Parameters and Guidelines**
*Race-Blind Charging,* 24-TC-07
Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section 741(b), effective January 1, 2023
City of Sacramento, County of Santa Clara, and County of Sutter, Claimants

Dear Ms. Kato and Mr. Palkowitz:

The Proposed Decision and Parameters and Guidelines for the above-captioned matter is enclosed for your review.

**Hearing:** This matter is set for hearing on **Friday, December 4, 2026, in person at 10:00 a.m., at The Jesse M. Unruh State Office Building, 915 Capitol Mall, Room 121, The Boardroom, Sacramento, California, 95814 and via Zoom**.

The Commission is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters whether they are physically appearing at the in-person meeting location or participating via Zoom. If you want to speak during the hearing and you are in-person, please come to the table for the swearing in and to speak when your item is up for hearing. If you are participating via Zoom or via telephone, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted.

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**Testimony at the Commission Hearing:** If you plan to address the Commission on an agenda item, please notify the Commission Office **not later than noon on December 1, 2026**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and email addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

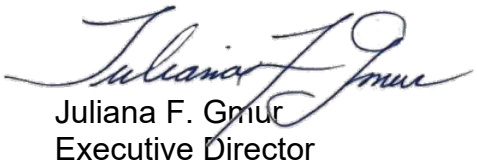
**Time to File Written Comments:** If you plan to file any written document, please note that Commission staff will include written comments filed at least 15 days in advance of the hearing in the Commissioners' hearing binders, a copy of which is available for public viewing at the Commission meeting. Additionally, written comments filed more than five days in advance of the meeting shall be included in the Commission's meeting binders, if feasible, or shall be provided to the Commission when the item is called, unless otherwise agreed by the Commission or the executive director. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(A-B).

However, comments filed less than five days in advance of the meeting, the commenter shall provide 12 copies to Commission staff at the in-person meeting. In the case of participation by teleconference, a PDF copy shall be filed via the Commission's dropbox at https://www.csm.ca.gov/dropbox.shtml at least 24 hours prior to the meeting. Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called or, in the case of participation via teleconference, shall provide an electronic copy to the Commission and post a copy on the Commission's website, and may share the document with the Commission and the public using the "share screen" function. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(C)).

**Postponement**: If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

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

Very truly yours,



Juliana F. Gmur
Executive Director

Hearing Date: December 4, 2026

# ITEM 4

# PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Penal Code Section 741(b)

Statutes 2022, Chapter 806, Section 2 (AB 2778)

*Race-Blind Charging*

24-TC-07

Period of reimbursement begins July 1, 2023

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## EXECUTIVE SUMMARY

### I. Summary of the Mandate

These Parameters and Guidelines address Penal Code section 741(b), added by the test claim statute, to require county and city agencies that prosecute felonies and misdemeanors to develop and implement a process, after the Department of Justice (DOJ) issues guidelines on the program, to perform an initial "race blind" review and evaluation of a case before the prosecutor's ordinary evaluation of the case for potential charging of a crime based on information that has been redacted to remove the direct means of identifying the race of the suspect, victim, or witness. The purpose of the test claim statute is to reduce the potential for unconscious bias in the criminal charging process.[1]

On August 14, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for counties and cities, beginning July 1, 2023.

On August 18, 2026, Commission staff issued the Draft Expedited Parameters and Guidelines.[2] The Controller filed comments indicating it has no comments.[3] The County of Santa Clara, co-claimant on the Test Claim, filed comments requesting reimbursement for the costs of conducting activities related to (1) the ongoing execution of a redaction and review process; (2) providing training and other forms of instruction to staff; and (3) receiving electronic police reports by prosecution agencies.[4] Commission

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[1] Exhibit A, Test Claim Decision, page 2; Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[2] Exhibit B, Draft Expedited Parameters and Guidelines.

[3] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

[4] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 1.

staff issued the Draft Proposed Decision and Parameters and Guidelines on September 29, 2026.[5] The claimants and the State Controller's Office filed comments on the Draft Proposed Decision and Parameters and Guidelines, offering no additional comments and indicating agreement with the staff recommendation.[6]

## II. Proposed Parameters and Guidelines

### A. Eligible Claimants (Section II. of the Parameters and Guidelines)

Any city, county, or city and county, subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes and incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

### B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(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 claimant filed the Test Claim on June 10, 2025, establishing eligibility for reimbursement for the 2023-2024 fiscal year.[7] Therefore, costs incurred are reimbursable on or after July 1, 2023.

### C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

The Proposed Parameters and Guidelines include the reimbursable activities approved by the Commission in the Test Claim Decision.

As explained below, the claimant also requests clarifying language be added and reimbursement for additional activities that are reasonably necessary to comply with the mandate.[8]

#### 1. The Claimant's Request to Add the Word "Execute" in Section IV.A.1. Is Duplicative of Sections IV.A.2. and 3., and Potentially Inconsistent with the Commission's Test Claim Decision, and Staff Recommends the Commission Deny this Request.

Sections IV.A.1.-3. of the Parameters and Guidelines identify the state-mandated requirements to independently develop a redaction and review process, to redact the narrative portion of the police report, and to then evaluate the redacted information to determine whether the case should be charged.

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[5] Exhibit E, Draft Proposed Decision and Parameters and Guidelines.

[6] Exhibit F, Claimants' Comments on the Draft Proposed Decision and Parameters and Guidelines; Exhibit G, Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines.

[7] Exhibit H (1), Test Claim, page 1.

[8] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 1.

The claimant alleges that activity A.1. (developing a redaction and review process) should also include the activity to "*execute"* versions of the redaction and review process developed by the local agency in accordance with Penal Code section 741(b). The claimant requests that the Section IV.A.1., of the Parameters and Guidelines include the following italicized language: "Independently develop *and execute* versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (Issued January 1, 2024). (Pen. Code § 741(b).)."[9]

Staff recommends the Commission deny this request. First, execution of the redaction and review process is already identified in Sections IV.A.2. and 3., which separately address the reimbursable activities to redact and review the narrative portion of the police report and, thus, adding the verb to "execute" the redaction and review process in Section IV.A.1. is duplicative.

Moreover, the additional language could conflict with the Commission's Test Claim Decision. As explained in the Test Claim Decision, regardless of how a claimant develops its redaction and review process, the Commission found that reimbursement for the execution of that process was limited. Specifically, except for the crimes and circumstances identified in Penal Code section 741(c),[10] the activity mandated by the state is to redact and review *only* the narrative portion of the police report, and not the entire report, to determine only whether charges should be brought.[11]

Thus, if the language in Section IV.A.1. of the Parameters and Guidelines were to also include the verb to "execute" a city or county's redaction and review process, and that process broadly was developed to include redacting and reviewing the *entire* police report or redacting and reviewing the crimes and circumstances listed in Penal Code section 741(c) (activities that were expressly denied by the Commission), the Parameters and Guidelines would conflict with the Commission's Test Claim Decision.[12]

Thus, staff recommends that the Commission deny the claimant's request to add the word "execute" in Section IV.A.1. of the Parameters and Guidelines.

**2. Staff Recommends the Commission Approve, as a Reasonably Necessary Activity, One-Time Training for Each Employee Performing the Mandate.**

The claimant contends that the costs for training attorney and support staff and ongoing individualized instruction in response to service requests are reasonably necessary to

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[9] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

[10] Exhibit A, Test Claim Decision, pages 23-24, 36.

[11] Exhibit A, Test Claim Decision, pages 27-28.

[12] See for example, Exhibit H (1), Test Claim, page 35 (Declaration of James Gibbons-Shapiro, Assistant District Attorney for the County of Santa Clara, paragraph 8: "To comply with Section 741(b), the DAO must redact all indicia of race from cases received from law enforcement agencies, *such as police reports, and from suspect criminal history documentation*." Emphasis added.).

comply with the mandate and should be reimbursable and refers to a declaration filed with the Test Claim from a county district attorney.[13]

The Commission has regularly approved reimbursement for *one-time training per employee* assigned to perform the reimbursable activities for new programs and processes, when supported by declarations and to ensure the program is performed correctly and in line with legislative intent.[14] In this case, the purpose of the test claim statute is to reduce the potential for unconscious bias in the criminal charging process.[15] The test claim statute established a new process for redaction and an initial race blind review of the narrative portion of the police report, modeled after a pilot program conducted by the Yolo County District Attorney and partnered with the Stanford Computational Policy lab in 2021 to find and redact race data from police reports so that the initial charging determination could be performed "race blind."[16] The process allows for both manual redaction and electronic redaction, and specifically allows either method "so long as the method used reasonably ensures correct redaction.[17]

Thus, based on the declaration filed by the claimant and the legislative history of the test claim statute, Section IV.C. of the Proposed Parameters and Guidelines identifies the following one-time activity for reimbursement:

> One-time training for each county and city employee performing the activities in Sections IV.A. and IV.B. of these Parameters and Guidelines.

In addition, standard boilerplate language for training is added to Section V., Claim Preparation and Submission, to state the following:

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[13] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, pages 3-4; Exhibit H (1), Test Claim, page 39 (Declaration of Declaration of James Gibbons-Shapiro, Assistant District Attorney for the County of Santa Clara).

[14] See for example, Exhibit H (2), Commission on State Mandates, Decision and Parameters and Guidelines on *Racial and Identify Profiling,* 18-TC-02, adopted September 25, 2020, https://csm.ca.gov/matters/18-TC-02/doc20.pdf (accessed September 11, 2026), pages 9-10; Exhibit H (3), Commission on State Mandates, Amendment to Parameters and Guidelines on *Sexually Violent Predators*, 05-PGA-43 (CSM 4509), adopted October 30, 2009, https://csm.ca.gov/decisions/022715.pdf (accessed September 11, 2026), page 4; Exhibit H (4), Commission on State Mandates, Parameters and Guidelines on *Post Conviction: DNA Court Proceedings*, 00-TC-21, 01-TC-08, adopted May 31, 2007, https://csm.ca.gov/decisions/doc51.pdf (accessed September 11, 2026), page 6.

[15] Exhibit A, Test Claim Decision, page 2; Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[16] Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[17] Penal Code section 741(b)(1), emphasis added.

5. Training

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

The claimant also requests reimbursement for ongoing training to provide "individualized guidance to users in response to service requests, for example, by explaining how to navigate the new interface and the steps for conducting the new initial charging evaluation process." Staff recommends that the Commission deny this request. The Commission has approved ongoing training only when the program has been subject to numerous lawsuits seeking to determine and clarify the responsibilities of local government.[18] In this case, there has not been significant litigation over this program and there is not substantial evidence supporting the ongoing request for reimbursement.

**3. Staff Recommends the Commission Approve, as a Reasonably Necessary Activity, the Receipt of Scanned Police Reports to Comply with the Mandate to Redact the Narrative Portion of the Police Report by Automation with the Use of Computer Programming.**

The claimant requests reimbursement for county and city prosecuting agencies to receive electronic police reports since redaction software requires that the reports be electronic.[19]

The claimant is correct that the mandate allows cities and counties to redact either manually or by automation with the use of computer programming, and this is identified in Section VI.A.2. of the Parameters and Guidelines.[20] DOJ's Guidelines for this program identify examples of redaction processes, including the receipt of scanned

[18] See, for example, Exhibit H (6), Commission on State Mandates, Final Staff Analysis for Parameters and Guidelines on *Peace Officer Procedural Bill of Rights*, CSM 4499, adopted July 27, 2000, page 5; Exhibit H (7), Commission on State Mandates, Parameters and Guidelines on *Peace Officer Procedural Bill of Rights*, CSM 4499, adopted, July 27, 2000, pages 4-5.

[19] Exhibit D, Claimant's Comments on Draft Expedited Parameters and Guidelines, page 4.

[20] Penal Code section 741(b)(1).

police reports (either through PDF or Optical Character Recognition (OCR)), to satisfy the program's requirements.[21]

The claimant also submitted declarations with the Test Claim indicating the redaction process by automation with the use of computer programming.[22]

Based on DOJ's Guidelines, staff recommends the Commission find receiving scanned police reports to comply with the redaction process is reasonably necessary to comply with the mandate and the following underlined language directly from the DOJ Guidelines discussing examples of redaction processes to comply with the mandate is added to Section IV.A.2. of the Proposed Parameters and Guidelines:

2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

   Reimbursement for this activity includes the following redaction processes outlined in DOJ's Race Blind Charging Guidelines, including the receipt of scanned police reports (either through PDF or Optical Character Recognition (OCR)), to satisfy the program's requirements:

   a. The police reports from the investigating agency are received by the prosecution agency, and the narrative portions of the reports are separated from the complete reports and the criminal history information. Those narrative portions are then reviewed by staff, and the direct means of identifying race are redacted by hand. The redacted narrative portions are then provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is hand recorded in a log for later comparison to the second review.

   b. The police reports from the investigating agency are received by the prosecution agency as scanned files (e.g., a PDF) which may be opened using a standard commercial computer program for reviewing scanned files (e.g., Adobe Acrobat). The narrative is then separated from the complete file and redacted using that same program. After the narrative is separated and redacted, it is provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is recorded in a spreadsheet on a computer.

   c. The police reports from the investigating agency are received by the prosecution agency as scanned files to which Optical Character Recognition (OCR) is performed on the narrative portion of the police reports using a commercial document image program (e.g.,

[21] Exhibit H (1), Test Claim, pages 68-69 (DOJ's Race-Blind Charging Guidelines).

[22] Exhibit A, Test Claim Decision, pages 17-20 (summary of the Declarations).

Adobe Acrobat). An application, which may or may not be incorporated into the prosecution agency's case management system, is then applied to the OCR'd narrative which locates (using a predetermined list) and automatically redacts the direct means of identifying race, producing a redacted version of the document. The redacted narrative is then provided to the prosecutor performing the initial charging evaluation. The decision from the initial charging evaluation is recorded in the office's case management system.

d. The prosecution agency, either internally or working with a third-party vendor, develops a "batched" process to replicate each of the steps in example (3) above automatically upon receipt of scanned police reports from investigating agencies. The decision from the initial charging evaluation is recorded in the office's case management system.[23]

*Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[24]

**4. The Parameters and Guidelines Require the Claimants to Report the Number of Race Blind Cases Redacted and Evaluated.**

Reimbursable activities A.2-4 address the requirements to redact and conduct the initial race-blind charging evaluation. To support the costs claimed for these activities and to better develop a statewide cost estimate, the Parameters and Guidelines, in the introductory paragraphs of Section IV., require the claimants to do the following:

***In the reimbursement claims for Activities A.2-4, below, claimants shall report the number of race-blind cases redacted and evaluated.***

**D. The Remaining Sections of the Parameters and Guidelines**

Section V., Claim Preparation and Submission; Section VI. Record Retention; Section VII. Offsetting Revenues and Reimbursements; Section VIII. State Controller's Claiming Instructions; Section IX. Remedies Before the Commission; and Section X. Legal and Factual Basis for the Parameters and Guidelines contain standard boilerplate language.

## III. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision and Parameters and Guidelines following the hearing.

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[23] Exhibit H (1), Test Claim, pages 68-69 (DOJ's Race-Blind Charging Guidelines).

[24] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

| | |
|---|---|
| IN RE PARAMETERS AND GUIDELINES<br>Penal Code Section 741(b)<br>Statutes 2022, Chapter 806, Section 2 (AB 2778)<br>Period of reimbursement begins July 1, 2023 | Case No.: 24-TC-07<br>*Race-Blind Charging*<br>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.<br>(*Adopted December 4, 2026*) |

## DECISION

The Commission on State Mandates (Commission) heard and decided this Decision and Parameters and Guidelines during a regularly scheduled hearing on December 4, 2026. [Witness list will be included in the adopted Decision and Parameters and Guidelines.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Proposed Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision and Parameters and Guidelines], as follows:

| **Member** | **Vote** |
|---|---|
| Lee Adams, County Supervisor | |
| Deborah Gallegos, Representative of the State Controller | |
| Karen Greene Ross, Public Member | |
| William Pahland, Representative of the State Treasurer, Vice Chairperson | |
| Michele Perrault, Representative of the Director of the Department of Finance, Chairperson | |
| Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation | |

## I. Summary of the Mandate

These Parameters and Guidelines address Penal Code section 741(b), added by the test claim statute, to require county and city agencies that prosecute felonies and misdemeanors to develop and implement a process, after the Department of Justice (DOJ) issues guidelines on the program, to perform an initial "race blind" review and evaluation of a case before the prosecutor's ordinary evaluation of the case for potential charging of a crime based on information that has been redacted to remove the direct means of identifying the race of the suspect, victim, or witness. The purpose of the test claim statute is to reduce the potential for unconscious bias in the criminal charging process.[25]

On August 14, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for counties and cities, beginning July 1, 2023, for the following reimbursable activities:

A. For county and city agencies that prosecute misdemeanors and felonies, except for those crimes and circumstances identified in Penal Code section 741(c) (which are not mandated by the state), to:

   1. Independently develop versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (issued January 1, 2024). (Pen. Code, § 741(b).)

   2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

      *Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[26]

   3. A prosecutor who does not have knowledge of the redacted facts shall perform the initial race-blind charging evaluation based on redacted information and shall determine whether the case should be charged or not be charged.

      If the prosecutor who performed the initial charging review is no longer available, the race-blind initial charging review *must be performed anew* by a

[25] Exhibit A, Test Claim Decision, page 2; Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[26] Exhibit A, Test Claim Decision, page 3; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

different prosecutor, who will then also ultimately perform the second review for charging. (Pen. Code, § 741(b)(2).)[27]

*However, performing the second review for charging pursuant to Penal Code section 741(b)(3) is not new, does not mandate a new program or higher level of service, and is not reimbursable*.

4. Document as part of the case record, the following information:
   - The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.
   - The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.
   - The explanation for the charging decision change. (Pen. Code, § 741(b)(4).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.
5. Document and retain the reason for the inability to put a case through a race-blind charging evaluation. (Pen. Code, § 741(b)(5).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

B. For counties only, to:
   1. Collect the data resulting from the race-blind initial charging evaluation process.

      Only the raw data generated by the process, rendered anonymous for privacy, is required to be collected and maintained. The raw data includes crimes the prosecution agency included in the race-blind process and crimes the prosecution agency excepted from the race-blind process, statistics regarding both changes and consistent charging decisions between the two stages, information regarding failed attempts to use the race-blind system, and the race information data of the suspects connected to those changes or failures. (Pen. Code, § 741(b)(6).)[28]

[27] Exhibit A, Test Claim Decision, page 3; Exhibit H (1), Test Claim, page 70 (DOJ Race-Blind Charging Guidelines).

[28] Exhibit A, Test Claim Decision, page 4; Exhibit H (1), Test Claim, page 72 (DOJ Race-Blind Charging Guidelines).

## II. Procedural History

On August 14, 2026, the Commission on State Mandates (Commission) adopted a Decision approving the Test Claim.[29] On August 18, 2026, Commission staff issued the Draft Expedited Parameters and Guidelines.[30] The Controller filed comments indicating it has no comments.[31] The County of Santa Clara, co-claimant on the Test Claim, filed comments requesting clarification and reimbursement for activities alleged to be reasonably necessary for the performance of the state-mandated program.[32] Commission staff issued the Draft Proposed Decision and Parameters and Guidelines for comment on September 26, 2026.[33] The claimants filed comments on the Draft Proposed Decision and Parameters and Guidelines on October 7, 2026, agreeing with the staff recommendation.[34] The Controller filed comments on the Draft Proposed Decision and Parameters and Guidelines on October 15, 2026, indicating no additional comments.[35]

## III. Position of the Parties

### A. County of Santa Clara, Co-Claimant

In addition to the state-mandated activities, the claimant requests reimbursement for the costs of conducting activities related to (1) the ongoing execution of a redaction and review process; (2) providing training and other forms of instruction to staff; and (3) receiving electronic police reports by prosecution agencies.[36]

With respect to the ongoing execution of a redaction and review process, the claimant states the following:

> Specifically, whereas the Test Claim Statute requires that "prosecution agencies shall independently *develop and execute* versions of [a] redaction and review process" (Pen. Code, § 741(b), italics added)), the corresponding language in the Parameters and Guidelines requires the State to reimburse prosecution agencies only for activities associated with

[29] Exhibit A, Test Claim Decision.

[30] Exhibit B, Draft Expedited Parameters and Guidelines.

[31] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

[32] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines.

[33] Exhibit E, Draft Proposed Decision and Parameters and Guidelines.

[34] Exhibit F, Claimants' Comments on the Draft Proposed Decision and Parameters and Guidelines.

[35] Exhibit G, Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines.

[36] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 1.

> "[i]ndependently *develop[ing]* versions of a redaction and review process" (Parameters and Guidelines at p. 4, italics added).
>
> [¶]
>
> While the omission of the words "and execution" from the Parameters and Guidelines may have been inadvertent, its effect is significant, as the new activities mandated by the Test Claim Statute are not limited to the one-time activities associated solely with the development of a redaction and review process. Amending the Parameters and Guidelines will capture the ongoing costs imposed on counties and cities by the statutory mandate to continuously *execute* the redaction and review process going forward. For these reasons, Claimant requests that the Commission amend Section IV(A)(1) of the Parameters and Guidelines to read as follows: "Independently develop *and execute* versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (Issued January 1, 2024). (Pen. Code § 741(b).)."[37]

In addition, the claimant contends that the costs for training of attorney and support staff and individualized instruction in response to service requests are reasonably necessary to comply with the mandate and should be reimbursable as follows:

> As described in the declaration of Assistant District Attorney James Gibons-Shapiro submitted by Claimant in support of the Test Claim (see Test Claim at pp. 20–32) ("Declaration"), the County of Santa Clara District Attorney's Office (DAO) conducted a two-hour user training session for attorneys that included an overview of the Test Claim Statute and specific instructions on how to navigate the new user interface for conducting the initial charging evaluation in its case management system. (Declaration at ¶ 19(a).) The DAO also provided instructions to support staff on how to identify which documents require redaction and how to flag them for redaction in its case management system. (*Id.* at ¶ 19(b).) Lastly, the DAO has provided individualized guidance to users in response to service requests, for example, by explaining how to navigate the new interface and the steps for conducting the new initial charging evaluation process. (*Id.* at ¶ 19(c).)
>
> These activities are reasonably necessary to comply with the Test Claim Statute. Under the Test Claim Statute, individual prosecutors conduct the initial charging evaluation. (See Pen. Code, § 741(b)(2).) In order to carry out that obligation, they must be familiar not only with the new statutory mandate but also with how the DAO operationalized that mandate in its case management system. In addition, because the Test Claim Statute mandates the redaction of only certain documents for certain crimes, instructions must be provided to support staff to ensure that they identify

[37] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 2.

and flag the appropriate documents for redaction in the case management system. (See *id.*, § 741(b)(1) & (c); see also Parameters and Guidelines at pp. 1–2.)

[§§]

Claimant asks that the Commission add the following to the list of reimbursable activities in Section IV(A) of the Parameters and Guidelines: "Training and providing other forms of instruction to an employee to perform the reimbursable activities as specified in Section IV of this document." It also asks the Commission to add the following to the list of direct costs in Section V(A) of the Parameters and Guidelines: "Report the cost of training and providing other forms of instruction to an employee to perform the reimbursable activities as specified in Section IV of this document."[38]

Finally, the claimant requests reimbursement for prosecuting agencies to receive electronic police reports since redaction software requires that the reports be electronic. The claimant states the following:

> Claimant requests that the Commission amend the Parameters and Guidelines to provide for reimbursement of the costs incurred for the activities required for prosecuting agencies to receive electronic police reports. Because redaction software can be used to redact only electronic police reports, these activities are reasonably necessary to comply with the Test Claim Statute's mandate that prosecution agencies redact the narrative portion of police reports, including by "mechanically" redacting the reports.
>
> The Test Claim Statute requires that prosecuting agencies independently develop and execute a redaction process—including redacting "by automation with the use of computer programming"—following the California Department of Justice's (DOJ) Race-Blind Charging Guidelines ("Guidelines"). (Pen. Code, § 741(b) & (b)(1).) The Guidelines, in turn, describe various examples of redaction processes that satisfy this statutory mandate. (See Test Claim at p. 53; Cal. Dept. of J., Race-Blind Charging Guidelines: Penal Code Section 741, § III(d) (Jan. 1, 2024).) Notably, in providing an example of how redactions are applied automatically to police narratives using a software application, the Guidelines describe how the prosecuting agency receives police reports from the investigating agency in electronic form as scanned files. (Test Claim at p. 53; Guidelines, § III(d)(3).) The declarations submitted in support of the Test Claim describe how the two claimants that automated redactions using software obtain electronic police reports. (Decision at p.

[38] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, pages 3-4.

16; Declaration at ¶¶ 21–25; Test Claim at p. 33, Declaration of Jeff C. Greeson, at ¶ 4.).[39]

On October 7, 2026, the claimants filed comments on the Draft Proposed Decision and Parameters and Guidelines, stating "the claimants have reviewed the Draft Proposed Decision and Parameters and Guidelines and agree with the staff recommendations."[40]

### B. State Controller

The Controller filed comments on the Draft Expedited Parameters and Guidelines indicating it has no comments.[41] The Controller filed comments on the Draft Proposed Decision and Parameters and Guidelines indicating it has no comments.[42]

## IV. Discussion

### A. Eligible Claimants (Section II. of the Parameters and Guidelines)

Any city, county, or city and county, subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes and incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

### B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(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 claimant filed the Test Claim on June 10, 2025, establishing eligibility for reimbursement for the 2023-2024 fiscal year.[43] Therefore, costs incurred are reimbursable on or after July 1, 2023.

### C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

#### 1. Reimbursable Activities Approved in the Test Claim Decision

The Parameters and Guidelines identify the following state-mandated activities approved in the Test Claim Decision:

A. For county and city agencies that prosecute misdemeanors and felonies, except for those crimes and circumstances identified in Penal Code section 741(c) (which are not mandated by the state), to:

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[39] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 4.

[40] Exhibit F, Claimants' Comments on the Draft Proposed Decision and Parameters and Guidelines, page 1.

[41] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines, page 1.

[42] Exhibit G, Controller's Comments on the Draft Proposed Decision and Parameters and Guidelines.

[43] Exhibit H (1), Test Claim, page 1.

1. Independently develop versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (issued January 1, 2024). (Pen. Code, § 741(b).)
2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

   *Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[44]
3. A prosecutor who does not have knowledge of the redacted facts shall perform the initial race-blind charging evaluation based on redacted information and shall determine whether the case should be charged or not be charged.

   If the prosecutor who performed the initial charging review is no longer available, the race-blind initial charging review *must be performed anew* by a different prosecutor, who will then also ultimately perform the second review for charging. (Pen. Code, § 741(b)(2).)[45]

   *However, performing the second review for charging pursuant to Penal Code section 741(b)(3) is not new, does not mandate a new program or higher level of service, and is not reimbursable*.
4. Document as part of the case record, the following information:
   - The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.
   - The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.
   - The explanation for the charging decision change. (Pen. Code, § 741(b)(4).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.
5. Document and retain the reason for the inability to put a case through a race-blind charging evaluation. (Pen. Code, § 741(b)(5).)

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[44] Exhibit A, Test Claim Decision, page 37; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

[45] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 70 (DOJ Race-Blind Charging Guidelines).

*However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

B. For counties only, to:

1. Collect the data resulting from the race-blind initial charging evaluation process.

   Only the raw data generated by the process, rendered anonymous for privacy, is required to be collected and maintained. The raw data includes crimes the prosecution agency included in the race-blind process and crimes the prosecution agency excepted from the race-blind process, statistics regarding both changes and consistent charging decisions between the two stages, information regarding failed attempts to use the race-blind system, and the race information data of the suspects connected to those changes or failures. (Pen. Code, § 741(b)(6).)[46]

**2. Additional Requests by the Claimant, County of Santa Clara.**

The claimant requests that additional clarifying language be added and requests reimbursement for additional activities that are reasonably necessary to comply with the mandate.[47]

Government Code section 17557(a) states that the parameters and guidelines "may include proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program." Section 1183.7(d) of the Commission's regulations defines "reasonably necessary activities" as follows:

> "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence in accordance with section 1187.5 of these regulations.

Proposed reasonably necessary activities must be supported by substantial evidence in the record explaining why the proposed activity is necessary for the performance of the

[46] Exhibit A, Test Claim Decision, page 37; Exhibit H (1), Test Claim, page 72 (DOJ Race-Blind Charging Guidelines).

[47] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, page 1.

state-mandated activity in accordance with Government Code sections 17557(a), 17559, and California Code of Regulations, title 2, sections 1183.7(d) and 1187.5.

Each request is analyzed below.

a. The claimant's request to add the word "execute" in Section IV.A.1. is denied as duplicative of Sections IV.A.2. and 3., and potentially inconsistent with the Commission's Test Claim Decision.

Sections IV.A.1.-3. of the Parameters and Guidelines identify the state-mandated requirements to independently develop a redaction and review process, to redact the narrative portion of the police report, and to then evaluate the redacted information to determine whether the case should be charged as follows:

A. For county and city agencies that prosecute misdemeanors and felonies, except for those crimes and circumstances identified in Penal Code section 741(c) (which are not mandated by the state), to:

1. Independently develop versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (issued January 1, 2024). (Pen. Code, § 741(b).)

2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

   *Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[48]

3. A prosecutor who does not have knowledge of the redacted facts shall perform the initial race-blind charging evaluation based on redacted information and shall determine whether the case should be charged or not be charged.

   If the prosecutor who performed the initial charging review is no longer available, the race-blind initial charging review *must be performed anew* by a different prosecutor, who will then also ultimately perform the second review for charging. (Pen. Code, § 741(b)(2).)[49]

The claimant alleges that activity A.1. should also include the activity to "*execute"* versions of the redaction and review process developed by the local agency in accordance with Penal Code section 741(b). The claimant requests that Section IV.A.1.

[48] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

[49] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 70 (DOJ Race-Blind Charging Guidelines).

of the Parameters and Guidelines include the following italicized language: "Independently develop *and execute* versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (Issued January 1, 2024). (Pen. Code § 741(b).)."[50]

This request is denied. First, execution of the redaction and review process is already identified in Sections IV.A.2. and 3., which separately address the reimbursable activities to redact and review the narrative portion of the police report and, thus, adding the verb to "execute" the redaction and review process in Section IV.A.1. is duplicative.

Moreover, the additional language could conflict with the Commission's Test Claim Decision. As indicated below, regardless of how a claimant develops its redaction and review process, the Commission found that reimbursement for the execution of that process was limited. Specifically, except for the crimes and circumstances identified in Penal Code section 741(c),[51] the activity mandated by the state is to redact and review *only* the narrative portion of the police report, and not the entire report, to determine only whether charges should be brought:

> [A]s explained by the plain language in section 741(b)(1), "[t]he redaction may be applied to the entire report or to only the 'narrative' portion of the report so long as the portion submitted for initial review is sufficient to perform that review and the unredacted portions are not part of the initial charging evaluation." DOJ Guidelines state:
>
> > At a minimum, for the initial charging evaluation, the prosecution agency must rely on the redacted narrative portion of the police reports received by the prosecution agency from a law enforcement agency. (§ 741, subd. (b)(1).) The prosecution agency *may, at its option*, consider for the initial charging evaluation all materials received, including the entire police report(s) and the criminal history of the suspect, so long as all materials have been redacted to remove direct means of identifying the race of the suspect(s), victim(s), and witness(es). (§ 741, subds. (b)(1) & (2).) Subsequent "supplemental" reports, received after an initial charging evaluation for a case has already been made, need not be redacted and no second or subsequent race-blind review is required.[Fn. omitted.]Thus, the minimum requirement imposed by section 741(b)(1) is to redact the *narrative portion of the police report* by hand or by automation with the use of computer programming to ensure correct redaction. Redacting any additional materials or "the entire report" received from law enforcement is within the

[50] Exhibit D, Claimant's Comments on the Draft Proposed Decision, page 2.

[51] Exhibit A, Test Claim Decision, pages 23-24, 36.

> discretion of the local prosecuting agency and is not legally compelled by state law.[52]
>
> Moreover, there is no evidence in the law or the record that prosecuting agencies are practically compelled to redact the entire report.[53] As explained below, the initial review of the redacted race-blind narrative of the report is only needed to determine whether charges should be brought or not and is not used to determine the individual charges against a suspect.[54, 55]

Thus, if the language in Section IV.A.1. of the Parameters and Guidelines were to also include the verb to "execute" a city or county's redaction and review process, and that process broadly was developed to include redacting and reviewing the *entire* police report or redacting and reviewing the crimes and circumstances listed in Penal Code section 741(c) (activities that were expressly denied by the Commission), the Parameters and Guidelines would conflict with the Commission's Test Claim Decision.[56]

Thus, the claimant's request to add the word "execute" in Section IV.A.1. of the Parameters and Guidelines is denied.

b. <u>One-time training for each employee performing the mandate is reasonably necessary to comply with the mandate.</u>

The claimant contends that the costs for training attorney and support staff and individualized instruction in response to service requests are reasonably necessary to comply with the mandate and should be reimbursable as follows:

> As described in the declaration of Assistant District Attorney James Gib[b]ons-Shapiro submitted by Claimant in support of the Test Claim (see

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[52] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745.

[53] *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816 (practical compulsion "arises when a statutory scheme does not command a local entity to engage in conduct, but rather induces compliance through the imposition of severe consequences that leave the local entity no reasonable alternative but to comply."); see also *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 754 (where no "legal" compulsion exists, "practical" compulsion may be found if the local agency faces "certain and severe…penalties" such as "double…taxation" or other "draconian" consequences if they fail to comply with the statute).

[54] Penal Code section 741(b)(2).

[55] Exhibit A, Test Claim Decision, pages 27-28.

[56] See for example, Exhibit H (1), Test Claim, page 35 (Declaration of James Gibbons-Shapiro, Assistant District Attorney for the County of Santa Clara, paragraph 8: "To comply with Section 741(b), the DAO must redact all indicia of race from cases received from law enforcement agencies, *such as police reports, and from suspect criminal history documentation*." Emphasis added.).

Test Claim at pp. 20–32) ("Declaration"), the County of Santa Clara District Attorney's Office (DAO) conducted a two-hour user training session for attorneys that included an overview of the Test Claim Statute and specific instructions on how to navigate the new user interface for conducting the initial charging evaluation in its case management system. (Declaration at ¶ 19(a).) The DAO also provided instructions to support staff on how to identify which documents require redaction and how to flag them for redaction in its case management system. (*Id.* at ¶ 19(b).) Lastly, the DAO has provided individualized guidance to users in response to service requests, for example, by explaining how to navigate the new interface and the steps for conducting the new initial charging evaluation process. (*Id.* at ¶ 19(c).)

These activities are reasonably necessary to comply with the Test Claim Statute. Under the Test Claim Statute, individual prosecutors conduct the initial charging evaluation. (See Pen. Code, § 741(b)(2).) In order to carry out that obligation, they must be familiar not only with the new statutory mandate but also with how the DAO operationalized that mandate in its case management system. In addition, because the Test Claim Statute mandates the redaction of only certain documents for certain crimes, instructions must be provided to support staff to ensure that they identify and flag the appropriate documents for redaction in the case management system. (See *id.*, § 741(b)(1) & (c); see also Parameters and Guidelines at pp. 1–2.)

The Commission has regularly found that training employees on how to perform the reimbursable activities is reasonably necessary. (See, e.g., *Racial and Identity Profiling*, Decision and Parameters and Guidelines Amendment, No. 21-PGA-01, p. 20 (adopted Mar. 24, 2023) [including among reimbursable direct costs "the cost of training an employee to perform the reimbursable activities, as specified in . . . this document"]; accord *Photographic Record of Evidence*, Parameters and Guidelines Amendment, No. 04-PGA-09, p. 5 (adopted Dec. 9, 2005).) Similarly here, Claimant requests that the Commission amend the Parameters and Guidelines to provide for the reimbursement of the costs of providing training and other forms of instruction to employees on performing the reimbursable activities on the grounds that such training is reasonably necessary to ensure compliance with the Test Claim Statute. Accordingly, Claimant asks that the Commission add the following to the list of reimbursable activities in Section IV(A) of the Parameters and Guidelines: "Training and providing other forms of instruction to an employee to perform the reimbursable activities as specified in Section IV of this document." It also asks the Commission to add the following to the list of direct costs in Section V(A) of the Parameters and Guidelines: "Report the cost of training and providing other forms of instruction to an employee to

perform the reimbursable activities as specified in Section IV of this document."[57]

The quoted language refers to the Declaration of Declaration of James Gibbons-Shapiro, Assistant District Attorney for the County of Santa Clara, paragraph 19, which says the following:

> 19. To implement Section 741(b), it was reasonably necessary for the DAO to educate staff on Section 741(b)'s requirements and how to implement it, including how to use the new tools [to] conduct an initial charging evaluation. The training included all DAO attorneys because attorneys regularly rotate onto assignments where they are responsible for conducting charging evaluations. These activities included the following:
>
> a. Conducting a two-hour user training session for 98 attorneys, including background on the law and instructions on navigating the new user interface. (See Ex. 1, Task 8.)
>
> b. Instructing support staff on how to identify which documents require redaction and how to flag them for redaction in CiberLaw. (See Ex. 1, Task 5.)
>
> c. Assisting end users in response to service requests, for example, by explaining how to navigate the new workflows and the steps for conducting the initial charging evaluation and the second review. (See Ex.1, Task 5.)[58]

The Commission has regularly approved reimbursement for *one-time training per employee* assigned to perform the reimbursable activities for new programs and processes, when supported by declarations and to ensure the program is performed correctly and in line with legislative intent.[59] In this case, the purpose of the test claim

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[57] Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines, pages 3-4.

[58] Exhibit H (1), Test Claim, page 39.

[59] See for example, Exhibit H (2), Commission on State Mandates, Decision and Parameters and Guidelines on *Racial and Identify Profiling,* 18-TC-02, adopted September 25, 2020, https://csm.ca.gov/matters/18-TC-02/doc20.pdf (accessed September 11, 2026), pages 9-10; Exhibit H (3), Commission on State Mandates, Amendment to Parameters and Guidelines on *Sexually Violent Predators,* 05-PGA-43 (CSM 4509), adopted October 30, 2009, https://csm.ca.gov/decisions/022715.pdf (accessed September 11, 2026), page 4; Exhibit H (4), Commission on State Mandates, Parameters and Guidelines on *Post Conviction: DNA Court Proceedings,* 00-TC-21, 01-TC-08, adopted May 31, 2007, https://csm.ca.gov/decisions/doc51.pdf (accessed September 11, 2026), page 6.

statute is to reduce the potential for unconscious bias in the criminal charging process.[60] The test claim statute established a new process for redaction and an initial race blind review of the narrative portion of the police report, modeled after a pilot program conducted by the Yolo County District Attorney and partnered with the Stanford Computational Policy lab in 2021 to find and redact race data from police reports so that the initial charging determination could be performed "race blind."[61] The process allows for both manual redaction and electronic redaction, and specifically allows either method "so long as the method used reasonably ensures correct redaction:

> This redaction may occur in a separate version of the documents and may be done mechanically, by hand performed by personnel not associated with the charging of the case, or by automation with the use of computer programming, *so long as the method used reasonably ensures correct redaction*.[62]

Moreover, if the mandated program is not performed correctly, and there is evidence of implicit bias when seeking or obtaining a criminal conviction, the defendant can request relief under the Racial Justice Act and have the conviction set aside.[63]

Thus, based on the declaration filed by the claimant and the legislative history of the test claim statute, Section IV.C. of the Parameters and Guidelines identifies the following one-time activity for reimbursement:

> One-time training for each county and city employee performing the activities in Sections IV.A. and IV.B. of these Parameters and Guidelines.

In addition, standard boilerplate language for training is added to Section V., Claim Preparation and Submission, to state the following:

> 6. Training
>
> Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV.C. of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title,

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[60] Exhibit A, Test Claim Decision, page 2; Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[61] Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[62] Penal Code section 741(b)(1), emphasis added.

[63] Penal Code section 745 (Stats. 2020, ch. 317 (AB 2542)). Penal Code 745(a) says "The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin." See also, Exhibit H (5), Commission on State Mandates, Test Claim Decision on *Criminal Procedure: Discrimination*, 24-TC-02, adopted September 26, 2025, https://www.csm.ca.gov/matters/24-TC-02/doc18.pdf (accessed September 11, 2026).

subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.

The claimant also requests reimbursement for ongoing training to provide "individualized guidance to users in response to service requests, for example, by explaining how to navigate the new interface and the steps for conducting the new initial charging evaluation process." This request is denied. The Commission has approved ongoing training only when the program has been subject to numerous lawsuits seeking to determine and clarify the responsibilities of local government.[64] In this case, there has not been significant litigation over this program and there is not substantial evidence supporting the ongoing request for reimbursement.

c. The receipt of scanned police reports is reasonably necessary to comply with the mandate to redact the narrative portion of the police report by automation with the use of computer programming.

The claimant requests reimbursement for county and city prosecuting agencies to receive electronic police reports since redaction software requires that the reports be electronic. The claimant states the following:

> Claimant requests that the Commission amend the Parameters and Guidelines to provide for reimbursement of the costs incurred for the activities required for prosecuting agencies to receive electronic police reports. Because redaction software can be used to redact only electronic police reports, these activities are reasonably necessary to comply with the Test Claim Statute's mandate that prosecution agencies redact the narrative portion of police reports, including by "mechanically" redacting the reports.
>
> The Test Claim Statute requires that prosecuting agencies independently develop and execute a redaction process—including redacting "by automation with the use of computer programming"—following the California Department of Justice's (DOJ) Race-Blind Charging Guidelines ("Guidelines"). (Pen. Code, § 741(b) & (b)(1).) The Guidelines, in turn, describe various examples of redaction processes that satisfy this statutory mandate. (See Test Claim at p. 53; Cal. Dept. of J., Race-Blind Charging Guidelines: Penal Code Section 741, § III(d) (Jan. 1, 2024).)

[64] See, for example, Exhibit H (6), Commission on State Mandates, Final Staff Analysis for Parameters and Guidelines on *Peace Officer Procedural Bill of Rights*, CSM 4499, adopted July 27, 2000, page 5; Exhibit H (7), Commission on State Mandates, Parameters and Guidelines on *Peace Officer Procedural Bill of Rights*, CSM 4499, adopted, July 27, 2000, pages 4-5.

> Notably, in providing an example of how redactions are applied automatically to police narratives using a software application, the Guidelines describe how the prosecuting agency receives police reports from the investigating agency in electronic form as scanned files. (Test Claim at p. 53; Guidelines, § III(d)(3).) The declarations submitted in support of the Test Claim describe how the two claimants that automated redactions using software obtain electronic police reports. (Decision at p. 16; Declaration at ¶¶ 21–25; Test Claim at p. 33, Declaration of Jeff C. Greeson, at ¶ 4.).[65]

The claimant is correct that the mandate allows cities and counties to redact either manually or by automation with the use of computer programming, and this is identified in Section VI.A.2. of the Parameters and Guidelines.[66] DOJ's Guidelines for this program identify the following examples of redaction processes, including the receipt of scanned police reports (either through PDF or Optical Character Recognition (OCR)), to satisfy the program's requirements:

> (1) The police reports from the investigating agency are received by the prosecution agency, and the narrative portions of the reports are separated from the complete reports and the criminal history information. Those narrative portions are then reviewed by staff, and the direct means of identifying race are redacted by hand. The redacted narrative portions are then provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is hand recorded in a log for later comparison to the second review.
>
> (2) The police reports from the investigating agency are received by the prosecution agency as scanned files (e.g., a PDF) which may be opened using a standard commercial computer program for reviewing scanned files (e.g., Adobe Acrobat). The narrative is then separated from the complete file and redacted using that same program. After the narrative is separated and redacted, it is provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is recorded in a spreadsheet on a computer.
>
> (3) The police reports from the investigating agency are received by the prosecution agency as scanned files to which Optical Character Recognition (OCR) is performed on the narrative portion of the police reports using a commercial document image program (e.g., Adobe Acrobat). An application, which may or may not be incorporated into the prosecution agency's case management system, is then applied to the OCR'd narrative which locates (using a predetermined list) and automatically redacts the direct means of identifying race, producing a

[65] Exhibit D, Claimant's Comments on Draft Expedited Parameters and Guidelines, page 4.

[66] Penal Code section 741(b)(1).

redacted version of the document. The redacted narrative is then provided to the prosecutor performing the initial charging evaluation. The decision from the initial charging evaluation is recorded in the office's case management system.

(4) The prosecution agency, either internally or working with a third-party vendor, develops a "batched" process to replicate each of the steps in example (3) above automatically upon receipt of scanned police reports from investigating agencies. The decision from the initial charging evaluation is recorded in the office's case management system.[67]

The claimant also submitted declarations with the Test Claim indicating the redaction process by automation with the use of computer programming.[68]

Based on DOJ's Guidelines, receiving scanned police reports to comply with the redaction process is reasonably necessary to comply with the mandate and the following underlined language is added to Section IV.A.2.:

3. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

   Reimbursement for this activity includes the following redaction processes outlined in DOJ's Race Blind Charging Guidelines, including the receipt of scanned police reports (either through PDF or Optical Character Recognition (OCR)), to satisfy the program's requirements:

   a. The police reports from the investigating agency are received by the prosecution agency, and the narrative portions of the reports are separated from the complete reports and the criminal history information. Those narrative portions are then reviewed by staff, and the direct means of identifying race are redacted by hand. The redacted narrative portions are then provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is hand recorded in a log for later comparison to the second review.

   b. The police reports from the investigating agency are received by the prosecution agency as scanned files (e.g., a PDF) which may be opened using a standard commercial computer program for reviewing scanned files (e.g., Adobe Acrobat). The narrative is then separated from the complete file and redacted using that same program. After the narrative is separated and redacted, it is provided to the prosecutor performing the initial charging evaluation

[67] Exhibit H (1), Test Claim, pages 68-69 (DOJ's Race-Blind Charging Guidelines).

[68] Exhibit A, Test Claim Decision, pages 17-20 (summary of the Declarations).

for review. The decision from the initial charging evaluation is recorded in a spreadsheet on a computer.

c. The police reports from the investigating agency are received by the prosecution agency as scanned files to which Optical Character Recognition (OCR) is performed on the narrative portion of the police reports using a commercial document image program (e.g., Adobe Acrobat). An application, which may or may not be incorporated into the prosecution agency's case management system, is then applied to the OCR'd narrative which locates (using a predetermined list) and automatically redacts the direct means of identifying race, producing a redacted version of the document. The redacted narrative is then provided to the prosecutor performing the initial charging evaluation. The decision from the initial charging evaluation is recorded in the office's case management system.

d. The prosecution agency, either internally or working with a third-party vendor, develops a "batched" process to replicate each of the steps in example (3) above automatically upon receipt of scanned police reports from investigating agencies. The decision from the initial charging evaluation is recorded in the office's case management system.[69]

*Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[70]

**3. The Parameters and Guidelines Require the Claimants to Report the Number of Race Blind Cases Redacted and Evaluated.**

Reimbursable activities A.2-4 address the requirements to redact and conduct the initial race-blind charging evaluation. To support the costs claimed for these activities and to better develop a statewide cost estimate, the Parameters and Guidelines, in the introductory paragraphs of Section IV., require the claimants to do the following:

> ***In the reimbursement claims for Activities A.2-4, below, claimants shall report the number of race-blind cases redacted and evaluated.***

[69] Exhibit H (1), Test Claim, pages 68-69 (DOJ's Race-Blind Charging Guidelines).

[70] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

### D. Offsetting Revenues and Reimbursements (Section VII. Offsetting Revenues and Reimbursements)

Section VII., Offsetting Revenues and Reimbursements, contains the following standard language:

> Any offsetting revenue 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, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

### E. The Remaining Sections of the Parameters and Guidelines

Section V., Claim Preparation and Submission; Section VI. Record Retention; Section VIII. State Controller's Claiming Instructions; Section IX. Remedies Before the Commission; and Section X. Legal and Factual Basis for the Parameters and Guidelines contain standard boilerplate language.

## V. Conclusion

Based on the foregoing analysis, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

# PARAMETERS AND GUIDELINES[71]

Penal Code Section 741(b)

Statutes 2022, Chapter 806, Section 2 (AB 2778)

*Race-Blind Charging*

24-TC-07

Period of reimbursement begins July 1, 2023

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## I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address Penal Code section 741(b), added by the test claim statute, to require county and city agencies that prosecute felonies and misdemeanors to develop and implement a process, after the Department of Justice issues guidelines on the program, to perform an initial "race blind" review and evaluation of a case before the prosecutor's ordinary evaluation of the case for potential charging of a crime based on information that has been redacted to remove the direct means of

[71] Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

identifying the race of the suspect, victim, or witness. The purpose of the test claim statute is to reduce the potential for unconscious bias in the criminal charging process.[72]

On August 14, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim statute imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for counties and cities, beginning July 1, 2023, for the following reimbursable activities:[73]

A. For county and city agencies that prosecute misdemeanors and felonies, except for those crimes and circumstances identified in Penal Code section 741(c) (which are not mandated by the state), to:

   1. Independently develop versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (issued January 1, 2024). (Pen. Code, § 741(b).)

   2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

      *Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[74]

   3. A prosecutor who does not have knowledge of the redacted facts shall perform the initial race-blind charging evaluation based on redacted information and shall determine whether the case should be charged or not be charged.

      If the prosecutor who performed the initial charging review is no longer available, the race-blind initial charging review *must be performed anew* by a different prosecutor, who will then also ultimately perform the second review for charging. (Pen. Code, § 741(b)(2).)[75]

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[72] Exhibit A, Test Claim Decision, page 2; Exhibit H (1), Test Claim, page 62 (Assembly Floor Analysis, Concurrence in Senate Amendments on June 21, 2022, AB 2778, 2021-2022 Reg. Sess.).

[73] Exhibit A, Test Claim Decision, pages 35-37.

[74] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

[75] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 70 (DOJ Race-Blind Charging Guidelines).

*However, performing the second review for charging pursuant to Penal Code section 741(b)(3) is not new, does not mandate a new program or higher level of service, and is not reimbursable*.

4. Document as part of the case record, the following information:

   - The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.
   - The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.
   - The explanation for the charging decision change. (Pen. Code, § 741(b)(4).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

5. Document and retain the reason for the inability to put a case through a race-blind charging evaluation. (Pen. Code, § 741(b)(5).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

B. For counties only, to:

1. Collect the data resulting from the race-blind initial charging evaluation process.

   Only the raw data generated by the process, rendered anonymous for privacy, is required to be collected and maintained. The raw data includes crimes the prosecution agency included in the race-blind process and crimes the prosecution agency excepted from the race-blind process, statistics regarding both changes and consistent charging decisions between the two stages, information regarding failed attempts to use the race-blind system, and the race information data of the suspects connected to those changes or failures. (Pen. Code, § 741(b)(6).)[76]

All other provisions of the test claim statute and claims for reimbursement are denied.

## II. ELIGIBLE CLAIMANTS

Any city, county, or city and county, subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes and incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

[76] Exhibit A, Test Claim Decision, page 37; Exhibit H (1), Test Claim, page 72 (DOJ Race-Blind Charging Guidelines).

## III. PERIOD OF REIMBURSEMENT

Government Code section 17557(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 claimant filed the Test Claim on June 10, 2025, establishing eligibility for reimbursement for the 2023-2024 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2023.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. 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(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

## IV. REIMBURSABLE ACTIVITIES

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

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

otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

***In the reimbursement claims for Activities A.2-4, below, claimants shall report the number of race-blind cases redacted and evaluated.***

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. For county and city agencies that prosecute misdemeanors and felonies, except for those crimes and circumstances identified in Penal Code section 741(c) (which are not mandated by the state), to:

   1. Independently develop versions of a redaction and review process following DOJ Race-Blind Charging Guidelines (issued January 1, 2024). (Pen. Code, § 741(b).)

   2. Beginning January 1, 2025, redact by hand or by automation with the use of computer programming the direct means of identifying the suspect(s)', victim(s)', and witness(es)' race from *only* the narrative portion of the police report. (Pen. Code, § 741(b)(1).)

      Reimbursement for this activity includes the following redaction processes outlined in DOJ's Race Blind Charging Guidelines, including the receipt of scanned police reports (either through PDF or Optical Character Recognition (OCR)), to satisfy the program's requirements:

      a. The police reports from the investigating agency are received by the prosecution agency, and the narrative portions of the reports are separated from the complete reports and the criminal history information. Those narrative portions are then reviewed by staff, and the direct means of identifying race are redacted by hand. The redacted narrative portions are then provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is hand recorded in a log for later comparison to the second review.

      b. The police reports from the investigating agency are received by the prosecution agency as scanned files (e.g., a PDF) which may be opened using a standard commercial computer program for reviewing scanned files (e.g., Adobe Acrobat). The narrative is then separated from the complete file and redacted using that same program. After the narrative is separated and redacted, it is provided to the prosecutor performing the initial charging evaluation for review. The decision from the initial charging evaluation is recorded in a spreadsheet on a computer.

c. The police reports from the investigating agency are received by the prosecution agency as scanned files to which Optical Character Recognition (OCR) is performed on the narrative portion of the police reports using a commercial document image program (e.g., Adobe Acrobat). An application, which may or may not be incorporated into the prosecution agency's case management system, is then applied to the OCR'd narrative which locates (using a predetermined list) and automatically redacts the direct means of identifying race, producing a redacted version of the document. The redacted narrative is then provided to the prosecutor performing the initial charging evaluation. The decision from the initial charging evaluation is recorded in the office's case management system.

d. The prosecution agency, either internally or working with a third-party vendor, develops a "batched" process to replicate each of the steps in example (3) above automatically upon receipt of scanned police reports from investigating agencies. The decision from the initial charging evaluation is recorded in the office's case management system.[77]

*Redacting any additional materials or "the entire report" received from law enforcement is within the discretion of the local prosecuting agency and is not mandated by the state.*[78]

3. A prosecutor who does not have knowledge of the redacted facts shall perform the initial race-blind charging evaluation based on redacted information and shall determine whether the case should be charged or not be charged.

   If the prosecutor who performed the initial charging review is no longer available, the race-blind initial charging review *must be performed anew* by a different prosecutor, who will then also ultimately perform the second review for charging. (Pen. Code, § 741(b)(2).)[79]

   *However, performing the second review for charging pursuant to Penal Code section 741(b)(3) is not new, does not mandate a new program or higher level of service, and is not reimbursable*.

4. Document as part of the case record, the following information:

---

[77] Exhibit H (1), Test Claim, pages 68-69 (DOJ's Race Blind Charging Guidelines).

[78] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 67 (DOJ Race-Blind Charging Guidelines); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 731, 742-745; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816.

[79] Exhibit A, Test Claim Decision, page 36; Exhibit H (1), Test Claim, page 70 (DOJ Race-Blind Charging Guidelines).

- The initial charging evaluation determined that the case not be charged and the second review determined that a charge shall be filed.
- The initial charging evaluation determined that the case shall be charged and the second review determined that no charge be filed.
- The explanation for the charging decision change. (Pen. Code, § 741(b)(4).)

*However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

5. Document and retain the reason for the inability to put a case through a race-blind charging evaluation. (Pen. Code, § 741(b)(5).)

   *However, the costs to disclose and make this information available to the public under the California Public Records Act are not eligible for mandate reimbursement pursuant to article XIII B, section 6(a)(4)*.

B. For counties only, to:

1. Collect the data resulting from the race-blind initial charging evaluation process.

   Only the raw data generated by the process, rendered anonymous for privacy, is required to be collected and maintained. The raw data includes crimes the prosecution agency included in the race-blind process and crimes the prosecution agency excepted from the race-blind process, statistics regarding both changes and consistent charging decisions between the two stages, information regarding failed attempts to use the race-blind system, and the race information data of the suspects connected to those changes or failures. (Pen. Code, § 741(b)(6).)[80]

C. <u>One-time training for each county and city employee performing the activities in Sections IV.A. and IV.B. of these Parameters and Guidelines.</u>

## 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. <u>Direct Cost Reporting</u>

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

1. Salaries and Benefits

[80] Exhibit A, Test Claim Decision, page 37; Exhibit H (1), Test Claim, page 72. (DOJ Race-Blind Charging Guidelines).

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. 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 services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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. Training

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

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both:

(1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using the federal de minimis indirect cost rate percentage of direct labor identified in the Office of Management and Budget Circular, at Code of Federal Regulations, title 2, section 200.414(f), excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds the de minimis rate.[81]

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

[81] Effective October 1, 2024, the federal de minimis rate was raised from 10 percent to 15 percent. (Code of Federal Regulations, title 2, § 200.414(f) (89 FR 30046, 30092.)

## VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter[82] 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 offsetting revenue 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, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

## VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the 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.

[82] This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

## X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On November 12, 2026, I served the:

- **Current Mailing List dated November 5, 2026**
- **Proposed Decision and Parameters and Guidelines issued November 12, 2026**

  *Race-Blind Charging,* 24-TC-07
  Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section 741(b), effective January 1, 2023
  City of Sacramento, County of Santa Clara, and County of Sutter, Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 12, 2026 at Sacramento, California.

Jill Magee
_____

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/5/26

**Claim Number:** 24-TC-07

**Matter:** Race-Blind Charging

**Claimants:** City of Sacramento
County of Santa Clara
County of Sutter

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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