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~~File Number: CSM-4457~~

~~Staff: Commission Staff~~

## Proposed ~~Adopted~~ Parameters and Guidelines Amendment

Chapter 668, Statutes of 1978

Education Code Section 48213

Education Code Section 48214

### *Pupil Exclusions*

(04-PGA-28 (CSM 4457))

#### I. Summary of ~~the Source of~~ the Mandate

On March 27, 1997, the Commission on State Mandates (Commission), adopted a Statement of Decision finding that certain provisions of Education Code sections 48213 and 48214, as added by Statutes 1978, Chapter 668, imposed a new program or higher level of service upon school districts within the meaning of article XIII B, section 6 of the California Constitution, and costs mandated by the state pursuant to Government Code section 17514 for the following activities:;

- Reporting to the governing board the facts relied upon to support a decision to exclude a child from attendance pursuant to Health and Safety Code section 3118 and Education Code section 49451. (Ed. Code, § 48213.)
- Reporting to the governing board the facts relied upon to support a decision to exclude a pupil when it is determined that the pupil's continued presence at school would constitute a clear and present danger to the life, safety, or health of pupils or school personnel. (Ed. Code, § 48213.)
- Including in the notice to the pupil's parent or guardian: (a) a statement that the parent or guardian shall have the opportunity to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude; (b) a statement that the decision to exclude the child is subject to periodic review; and (c) a statement of the procedures set by the governing board for such periodic review. (Ed. Code, § 48213.)
- Allowing the parent or guardian of a pupil who is 18 years of age or older to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude. (Ed. Code, §, 48213.)
- Adopting rules and regulations governing periodic reviews of its decisions to exclude pupils pursuant to Education Code section 48211. (Ed. Code, § 48214.)

~~Education Code sections 48213, as added by Chapter 668, Statutes of 1978, requires required school districts to~~

- ~~(1) send a notice to a pupil's parent or guardian prior to excluding a pupil of filthy or vicious habits or a pupil suffering from a contagious or infectious disease,~~
- ~~(2) grant the parent or guardian the right to meet with the governing board concerning the exclusion or proposed exclusion,~~
- ~~(3) conduct the meeting in accordance with certain procedural rules, and~~
- ~~(4) provide periodic review of the exclusion in accordance with procedures adopted pursuant to Education Code section 48214.~~

~~Education Code section 48213 also defines emergency situations in which a pupil may be excluded prior to written notification of the parent(s) or guardian(s).~~

~~Education Code sections 48214, as added by Chapter 668, Statutes of 1978, requires school district governing boards to adopt rules and regulations governing periodic reviews of their decisions to exclude pupils.~~

~~Health and Safety Code section 120230 (former section 3118) provides that no pupil who resides where any contagious, infectious or communicable disease exists or has recently existed, and that is subject to strict isolation or quarantine, shall be permitted to attend school except by written permission of a county health officer.~~

~~Education Code section 49451 provides that, when a pupil's parent or guardian has refused to consent to a physical examination of his or her child, and there is good reason to believe that the pupil is suffering from a recognized contagious or infectious disease, the pupil shall be excluded from school until school authorities are satisfied that no contagious or infectious disease exists.~~

~~[Statutes 2004, chapter 895 \(AB 2855, eff. January 1, 2005\) repealed Education Code section 42814, and Statutes 2005, chapter 677 \(SB 512, eff. October 7, 2005\) repealed Education Code section 48213, and added new section 48213.](#)~~

#### ~~H.—Commission On State Mandates Decision~~

~~The Commission on State Mandates, in the Statement of Decision adopted at the March 27, 1997 hearing, determined that certain provisions of Education Code sections 48213 and 48214, as added by Chapter 668, Statutes of 1978, impose a reimbursable state mandated program upon school districts within the meaning of Section 6, Article XIII B of the California Constitution and section 17514 of the Government Code.~~

### **III. ELIGIBLE CLAIMANTS**

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

### **III.V. PERIOD OF REIMBURSEMENT**

~~[The period of reimbursement for the activities in this parameters and guidelines amendment begins on January 1, 2005 and October 7, 2005, as specified in Section V. below.](#)~~

~~[Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:](#)~~

1. A school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
2. A school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
3. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

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

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

~~Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was submitted on March 9, 1994; therefore, all mandated costs incurred on or after July 1, 1993 for compliance with Education Code sections 48213 and 48214 are eligible for reimbursement.~~

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

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

#### **IV. REIMBURSABLE ACTIVITIES COSTS**

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

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

For each eligible claimant, the following activities are reimbursable:

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

A. Rules and Regulations. (Reimbursement ends December 31, 2004)

Adopting rules and regulations for periodic reviews of governing board decisions to exclude students pursuant to Education Code section 48211.

B. Exclusion Report.

Reporting the facts supporting the pupil's exclusion to the governing board when the exclusion is based upon Health and Safety Code section 120230 (former section 3118) or Education Code section 49451, or when the pupil's continued presence at school would constitute a clear and present danger to the life, safety or health of other pupils or school personnel. The school principal or other responsible school official may make the report, which may be oral or written.

C. Specified Statements in the Exclusion Notice. (Reimbursement ends October 6, 2005)

Inclusion of the following statements in the governing board's written notice to the pupil's parent(s) or guardian(s):

1. a statement that the parent or guardian shall have the opportunity to inspect all documents which the governing board relied upon in its decision to exclude or propose to exclude;
2. a statement that the exclusion of the pupil is subject to periodic review; and
3. a statement of the procedures set by the governing board for such periodic review.

The required statements may be included by the attachment of a standard form or inclusion of 'boiler plate' text within the written notice, or by any other cost-effective method selected by the claimant.

D. Providing Access to Documents. (Reimbursement ends October 6, 2005)

Providing access to the parent(s) or guardian(s) of the pupil who is proposed for exclusion to the following documents: upon which the governing board relied in its decision to propose exclusion, as follows:

1. If the pupil who is proposed for exclusion is 18 years of age or older, all documents upon which the governing board relied in its decision to propose exclusion, or
2. If the pupil who is proposed for exclusion is less than 18 years of age, those documents on which the governing board relied in its decision to propose exclusion which are not “education records” as defined in 20 U.S.C. section 1232g, subdivision (a)(4).

#### ~~E. Uniform Cost Allowance~~

~~Pursuant to Government Code section 17557, the Commission on State Mandates has adopted a uniform cost allowance for reimbursement in lieu of payment of total actual costs incurred. The uniform cost allowance is applied only to component C above. The total cost will be determined by multiplying the uniform cost allowance by the number of pages in the standard text and then multiplying that sum by the number of pupils excluded pursuant to Health and Safety Code section 120230 (former section 3118) or Education Code section 49451, or when the pupil's continued presence at school would constitute a clear and present danger to the life, safety or health of other pupils or school personnel.~~

~~Only those pages which are necessary to comply with subparagraphs (2), (3), and (4) of Education Code section 48213, are reimbursable under the uniform cost allowance.~~

~~For fiscal year 1993-94, the uniform cost allowance is \$.150 per page for the cost of including specified information in the notice of exclusion. The uniform cost allowance covers all costs (direct and indirect) of performing activities described under Section V. Reimbursable Costs, Component C. Exclusion Notice. The cost per page will be adjusted each subsequent fiscal year by changes in the Implicit Price Deflator provided under Government Code section 17523.~~

#### **VI. CLAIM PREPARATION AND SUBMISSION**

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

##### A. Direct Cost Reporting

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

##### 1. Salaries and Benefits

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

##### 2. Materials and Supplies

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

### 3. Contracted Services

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

### 4. Fixed Assets and Equipment

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

## B. Indirect Cost Rates

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

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

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

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

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> 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

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING SAVINGS AND REIMBURSEMENTS**

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

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

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

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

## **IX. REMEDIES BEFORE THE COMMISSION**

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

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

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

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

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

### ~~A. Reporting by Components~~

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

#### ~~B. Supporting Documentation~~

~~Except as provided for under the Uniform Cost Allowance Reimbursement (Section V.E.), claimed costs should be supported by the following information:~~

##### ~~1. Employee Salaries and Benefits~~

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

##### ~~2. Materials and Supplies~~

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

##### ~~3. Contracted Services~~

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

##### ~~4. Allowable Overhead Costs~~

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

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

#### ~~C. Cost Accounting Statistics~~

~~The State Controller is directed to include in its claiming instructions each year the requirement that claimants report to the State Controller the number of pupils excluded pursuant to Health and Safety Code section 120230 (former section 3118) or Education Code section 49451, or when the pupil's continued presence at school would constitute a clear and present danger to the life, safety or health of other pupils or school personnel. This information is being collected for the purpose of establishing a database for potential future reimbursement based on prospective rates. The initial claiming instructions shall request that claimants send a copy of the completed form xxx-1 for each of the initial years' reimbursement claims by mail or facsimile to the Commission on State Mandates, 1300 I Street, Suite 950, Sacramento, CA 95814, Facsimile: (916) 445-0278. Providing this information is not a condition of payment; however, claimants are encouraged to provide this information to enable the Commission to develop a statewide cost estimate and recommend an appropriation to the Legislature.~~

#### ~~VII. Supporting Data~~

~~For audit purposes, all supporting documents must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. When no funds are appropriated for the initial claim at the time the claim was filed, supporting documents must be retained for two years from the date of initial payment of the claim. Such documents shall be made available to the State Controller's Office on request.~~

#### ~~VIII. Offsetting Savings and Other Reimbursements~~

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

#### ~~IX. Required Certification~~

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

