

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 58501
Chapter 448, Statutes of 1975
Chapter 469, Statutes of 1981

No. CSM-4488

Newport-Mesa Unified School District,
Claimant

*Alternative Schools Annual
Notification*

ADOPTED STATEMENT OF DECISION

This test claim was heard by the Commission on State Mandates (Commission) on October 31, 1996, in Sacramento, California, during a regularly scheduled hearing. Mr. Keith Petersen and Mr. William Nunan appeared on behalf of the Newport-Mesa Unified School District, and Ms. Caryn Becker represented the Department of Finance.

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

ISSUE

Do the provisions of Education Code section 58501 [former section 5811.5] as added by Chapter 448, Statutes of 1975 [renumbered by Chapter 1010, Statutes of 1976], and last amended by Chapter 469, Statutes of 1981, impose a new program or higher level of service upon school districts in an existing program within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514?

BACKGROUND AND FINDINGS OF FACT

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

The test claim was filed with the Commission on September 29, 1995, by the Newport-Mesa Unified School District. The elements of filing a test claim, as specified in section 1183 of Title 2 of the California Code of Regulations, were satisfied.

The subject matter of this test claim is Education Code section 58501, as added by Chapter 448, Statutes of 1975, and amended by Chapter 469, Statutes of 1981, which states:

“The following notice shall be sent along with the notification of parents and guardians required by Section 48980: [First Sentence]

‘Notice of Alternative Schools

California state law authorizes all school districts to provide for alternative schools. Section 58500 of the Education Code defines alternative school as a school or separate class group within a school which is operated in a manner designed to:

- (a) Maximize the opportunity for students to develop the positive values of self-reliance, initiative, kindness, spontaneity, resourcefulness, courage, creativity, responsibility, and joy.
- (b) Recognize that the best learning takes place when the student learns because of his desire to learn.
- (c) Maintain a learning situation maximizing student self-motivation and encouraging the student in his own time to follow his own interests. These interests may be conceived by him totally and independently or may result in whole or in part from a presentation by his teachers of choices of learning projects.
- (d) Maximize the opportunity for teachers, parents and students to cooperatively develop the learning process and its subject matter. This opportunity shall be a continuous, permanent process.
- (e) Maximize the opportunity for the students, teachers, and parents to continuously react to the changing world, including but not limited to the community in which the school is located.

In the event any parent, pupil, or teacher is interested in further information concerning alternative schools, the county superintendent of schools, the administrative office of this district, and the principal's office in each attendance unit have copies of the law available for your information. This law particularly authorizes interested persons to request the governing board of the district to establish alternative school programs in each district.’ [Last Paragraph of Notice]

“Further, a copy shall be posted in at least two places normally visible to pupils, teachers, and visiting parents in each attendance unit for the entire month of March in each year.” [Last Sentence of Section]

The Newport-Mesa Unified School District alleged as a reimbursable state mandated program the expense to annually provide a written notice of the alternative schools program to each parent or guardian; annually post this notice in at least two school sites for the month of March each year; and have available at each site a copy of the law pertaining to alternative schools and provide a copy to anyone upon request. In addition, the claimant contended that there is no other provision of the law for recovery of costs, and Education Code section 48980 is already the subject of another test claim, CSM-4461, *Annual Parent Notification*, as adopted by the Commission on August 24, 1995. However, Education Code section 58501 is not referenced within section 48980 (the subject of CSM-4461) and is outside the scope of that mandate; therefore, the claimant has submitted this new test claim.

The Commission observed that there was no pre-1975 law on alternative school notification responsibilities. In 1975, the Legislature enacted former Education Code section 5811 et seq. to define and authorize school districts to establish “Alternative Schools.” The subject of this test claim, a part of this original enactment, was added as Education Code section 5811.5 by Chapter 448, Statutes of 1975, and renumbered as section 58501 by Chapter 1010, Statutes of 1976, when the entire Education Code was recodified. The only change made by Chapter 469, Statutes of 1981 was elimination of the requirement for districts to distribute copies of the prescribed notice to each teacher before March 1 of each year.

First Sentence of Education Code Section 58501

The Commission reviewed the first sentence of Education Code section 58501, which states:

“The following notice shall be sent along with the notification of parents and guardians required by Section 48980: [First Sentence]
“.....”

The Commission found that the first sentence of Education Code section 58501 does not specify which type of educational agency is required to comply with its provisions, but references “Annual Parent Notification” required by section 48980. Therefore, section 48980 had to be considered. Section 48980 was the subject of an earlier test claim, *Annual Parent Notification*, CSM-4461, that was approved by the Commission on August 24, 1995.

In *Annual Parent Notification*, CSM-4461, the Commission determined that Education Code section 48980, subdivision (a), requires school districts, at the beginning of the school year, to notify parents about their rights and responsibilities, regarding various programs, as specified.¹ Accordingly, the notice required by section 58501, as specified in this test claim, must be made with the annual parent notification carried out by school districts.

Therefore, the Commission found that the notice required by section 58501 requires *school districts* to send annual notification of the alternative schools notice to parents and guardians along with the annual parent notification required by section 48980.

Alternative Schools Notice Prescribed by Section 58501

¹ The parameters and guidelines for CSM-4461 provide that eligible school districts and county offices of education may seek reimbursement. Under Government Code section 17519, “school district” means any school district, community college, or county superintendent of schools.

The Commission observed that the text of section 58501 includes the actual annual “Notice of Alternative Schools” that is required to be sent to each pupil’s parent or guardian at the beginning of each school year. In the last paragraph of the prescribed notice, three types of locations are listed where a copy of the alternative schools law must be made available for anyone interested. The locations are as follows: the county superintendent of schools office, the administrative office of each district, and the principal’s office in each attendance unit.

Although the last paragraph of the notice does not directly require school district and county superintendents to make copies of the law available, it does specify that copies of the alternative school law will be available to all requesters in specified locations. Therefore, the Commission found that implicit in the last paragraph of the notice is a new requirement for school districts and county superintendents of schools to have the alternative schools law available at specified locations and to provide copies to any requesters. Because principals are commonly understood to be assigned to *individual school sites*, the Commission determined that the phrase “attendance unit” refers to school sites. To the extent that such sites are operated by county offices of education, e.g., community and opportunity schools, this requirement would necessarily extend to county offices of education.

Posting Notice

The last sentence of section 58501 states that a copy of the notice shall be posted in at least two places normally visible to pupils, teachers, and visiting parents in each attendance unit for the entire month of March each year. The Commission construed “attendance unit” as “school site”, thus including schools operated by county offices of education. Therefore, the Commission found that the posting requirement contained in the last sentence of section 58501 is applicable to school districts and county offices of education maintaining school sites.

Amendment to Existing *Annual Parent Notification* Parameters and Guidelines

The Commission addressed two remaining issues which would arise with the approval of this test claim. The first issue was whether this test claim should be amended into existing parameters and guidelines on *Annual Parent Notifications* (CSM-4461); and secondly, if the reimbursement rate should be set at \$0.05 per page, as approved for *Annual Parent Notifications*.

The Department of Finance had opposed the claimant’s proposal to incorporate the two test claims at the parameters and guidelines stage because the text of the alternative schools notification can be copied from section 58501 and does not require any policy formulation to be promulgated. According to the Department, copying the text would be a simple activity that would not justify the same reimbursement rate as that set for *Annual Parent Notification*.

The Commission noted that even though the activities required under section 58501 differ slightly from the basic notification requirement under *Annual Parent Notifications*, state law requires that the subject notice be made to parents and guardians at the same time. The Commission found that the most significant labor and materials costs associated with this test

claim and *Annual Parent Notification* would occur at the same time, and it therefore would be more efficient, practical, and economical, to amend this test claim into the already existing parameters and guidelines for *Annual Parent Notification*. The Commission chose not to resolve the matter of the reimbursement rate itself at the test claim hearing stage, noting that the rate issue could be discussed in connection with adoption of the parameters and guidelines.

Conclusion

Based on the foregoing, the Commission approves the test claim. The Commission concludes that Education Code section 58501, as amended by Chapter 448, Statutes of 1975, and Chapter 469, Statutes of 1981, imposes a new program or higher level of service in an existing program within the meaning of section 6 of article XIII B of the California Constitution and Government Code section 17514 by requiring the following:

- School districts to provide parents and guardians with a prescribed annual written notice on the alternative schools program;
- School districts and county offices of education to make available the alternative schools law at the principal's office, county superintendent of schools office, and the administrative office of the district, for anyone who requests this information;
- School districts and county offices of education to annually post the alternative schools program notice in at least two places at each school site for the entire month of March.

Further, the Commission directs the claimant to prepare an amendment to the Parameters and Guidelines for *Annual Parent Notification* (CSM-4461), to add *Alternative Schools Program* annual notification (CSM-4488).