

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 51210.1  
(Formerly 51223.1)

Statutes 1997, Chapter 640; Statutes 2002,  
Chapter 943

Filed on September 29, 2011, by

State Controller's Office, Requestor

No. 11-PGA-04 (05-PGA-60, 98-TC-08)

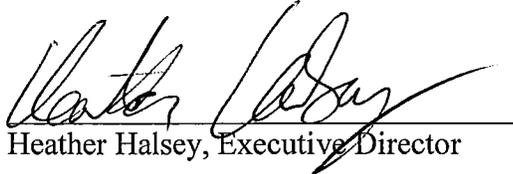
*Physical Education Reports*

ADOPTION OF AMENDMENT TO  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT CODE  
SECTION 17557 AND TITLE 2, CALIFORNIA  
CODE OF REGULATIONS, SECTION 1183.12

(Adopted on March 23, 2012)

**AMENDMENT TO PARAMETERS AND GUIDELINES**

On March 23, 2012, the Commission on State Mandates adopted amendments to the parameters and guidelines for the above-entitled matter.

  
Heather Halsey, Executive Director

Dated: March 27, 2012

Amended: March 23, 2012  
Amended: March 26, 2010  
Adopted: February 22, 2001

## **Amendment to Parameters and Guidelines**

Education Code Section 51210.1 (Formerly 51223.1)

Statutes 1997, Chapter 640; Statutes 2002, Chapter 943

### *Physical Education Reports*

11-PGA-04 (05-PGA-60, 98-TC-08)

---

#### **I. SUMMARY OF THE MANDATE**

At the time the 1997 test claim statute was enacted, school districts were required to provide a minimum number of physical education instruction minutes to pupils in grades 1 through 8. The 1997 test claim statute added Education Code section 51223.1<sup>1</sup> to impose a new reporting and compliance requirement to determine whether districts are actually providing their students with the statutory minimum minutes of physical education. Specifically, school districts selected by the Superintendent of Public Instruction (SPI) must now include in their periodic Coordinated Compliance Review (CCR) reporting to the California Department of Education (CDE), reports on their compliance with Education Code section 51222(a) and section 51223, which specify how many minutes of scheduled physical education are required for each 10 school days. The requirements of Education Code section 51223.1 do not apply to high schools.<sup>2</sup>

On September 28, 2000, the Commission on State Mandates (Commission) adopted its statement of decision finding that the 1997 test claim statute imposes a new program or higher level of service within an existing program upon school districts, excluding high schools, within the meaning of, article XIII B, section 6 of the California Constitution and Government Code section 17514.

Statutes 2002, chapter 943 (AB 1793) renumbered Education Code section 51223.1 to section 51210.1 and revised this program to require each school district selected by the SPI to report on its compliance with the minimum number of physical education instruction minutes required for pupils in grades 1 through 6, instead of grades 1 through 8. Thus, beginning January 1, 2003, school districts were no longer mandated by the state to comply with this program with respect to students in grades 7 and 8.

On March 23, 2012, the Commission amended these parameters and guidelines to clarify that school districts are no longer eligible to receive reimbursement to comply with this program for students in grades 7 and 8, beginning January 1, 2003

---

<sup>1</sup> Education Code section 51223.1 was renumbered as Education Code section 51210.1 by Statutes 2002, chapter 943.

<sup>2</sup> Education Code section 51223.1(e) (now 51210.1).

In addition, for costs incurred beginning July 1, 2010, the amended parameters and guidelines require school districts to use the California Department of Education approved indirect cost rate for the year that funds are expended.

## **II. ELIGIBLE CLAIMANTS**

Any “school district” as defined in Government Code section 17519, with students in grades 1 through 6 that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

## **III. PERIOD OF REIMBURSEMENT**

The amendments made to these parameters and guidelines become effective as follows:

1. Beginning January 1, 2003, school districts are not eligible to claim reimbursement for this program with respect to students in grades 7 and 8. (Statutes 2002, chapter 943).
2. The amendment made to Section V(B) of these parameters and guidelines addressing the indirect cost rate, is effective beginning July 1, 2010. Pursuant to Government Code section 17557(d)(1), “A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to section 17561, and on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year. The State Controller’s Office filed this request to amend the parameters and guidelines on September 29, 2011, making the amendments to Section V(B) of these parameters and guidelines effective for the 2010-2011 fiscal year.

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 within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a school district 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 school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." 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.

The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, travel, and training incurred for the following mandate components are reimbursable:

##### **COMPONENT 1 – SUPERINTENDENT OF PUBLIC INSTRUCTION REPORTS**

- a. Preparing and submitting reports to the Superintendent of Public Instruction on the extent of the school district's compliance with the minimum minutes of physical education instruction required by law for grades 1 to 6 during the school year.

##### **COMPONENT 2 – STAFF TRAINING**

- a. Developing and implementing training for school district staff on the requirements of Education Code section 51223.1 (now 51210.1).

##### **COMPONENT 3 – RECORD KEEPING**

- a. Developing and implementing record keeping procedures necessary to comply with the implementation of Education Code section 51223.1 (now 51210.1) (to the extent that these are not already standard school district record keeping procedures).
- b. Developing and implementing audit procedures necessary to comply with the implementation of Education Code section 51223.1 (now 51210.1) (to the extent that these are not already standard school district record keeping procedures).

## COMPONENT 4 – CORRECTIVE PLANS

- a. Developing and issuing a plan of correction to the CDE within one year of receiving a noncompliance notification from the department.

***Beginning January 1, 2003, school districts are not eligible for reimbursement for costs incurred to comply with these activities for grades 7 and 8.***

### **V. CLAIM PREPARATION AND SUBMISSION**

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

#### **A. Direct Cost Reporting**

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

##### **1. Salaries and Benefits**

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

##### **2. Materials and Supplies**

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

##### **3. Contracted Services**

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

##### **4. Fixed Assets**

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. Travel**

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel,

and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

## 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV 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 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 may 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.

Beginning July 1, 2010, school districts must use the California Department of Education approved indirect cost rate for the year that funds are expended.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>3</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 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 the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

---

<sup>3</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsetting revenues 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 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.

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

Pursuant to Government Code section 17558(c), the Controller shall issue revised claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the revised parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The revised 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(d)(2), issuance of the revised claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon the revised 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(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.