

ITEM # 3

PROPOSED STATEMENT OF DECISION

APPROVED TEST CLAIM

Education Code Section 48980

Statutes of 1997, Chapter 929

Annual Parent Notification – Staff Development

Executive Summary

On July 29, 1999, the Commission on State Mandates (Commission) approved this test claim by a 5-1 vote.

The Commission acknowledged that, before the test claim legislation, school districts were required to provide an annual notification to parents or guardians on various subjects. The scope of this annual notification requirement has expanded over the years.¹

The Commission recognized that the test claim legislation contains additional requirements for this notification. Specifically, districts must now include in their annual notifications to parents and guardians the schedule of pupil-free staff development days and a copy of the school district's written policy regarding pupil access to the Internet and on-line sites.² Since prior law did not contain these requirements, the Commission found that the requirements under the test claim legislation constitute a new program or higher level of service and thus impose a reimbursable state mandated activity upon school districts.

Accordingly, the Commission concluded that the test claim legislation imposes a new program or higher level of service within an existing program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514. The test claim was approved for the activities necessary to include in the annual notifications to parents and guardians:

- The schedule of pupil-free staff development days (Ed. Code §48980, subd. (c)).

¹ Six other test claims relating to notification related requirements have been submitted in six separate test claims. These claims were subsequently consolidated in the parameters and guidelines stage under the title of *Annual Parent Notification*, CSM-4461.

² The Commission disagreed with the Department of Finance's argument that Education Code section 51840.5 is permissive and, therefore, the requirement to notify parents and guardians of access to the Internet and on-line sites is not reimbursable. Section 51840.5 is not a subject of this test claim. The test claim legislation, Education Code section 48980, states "...the notification **shall** include a copy of the written policy of the school district adopted pursuant to Section 51870.5 regarding access by pupils to Internet and on-line sites..." (emphasis added).

- A copy of the school district's written policy regarding pupil access to the Internet and on-line sites (Ed. Code §48980, subd. (h)).

The Commission agreed with the Claimant and staff that, for purposes of developing parameters and guidelines, the reimbursable state-mandated activities should be reimbursed using an allocation formula or uniform cost allowance rather than actual cost reimbursement.

Staff Recommendation

Staff recommends that the Commission adopt this Proposed Statement of Decision, which accurately reflects the decision of the Commission.

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM ON:

Education Code Section 48980,
Statutes of 1997, Chapter 929; and,

Filed on May 12, 1998;

By Irvine Unified School District, Claimant.

NO. CSM 97-TC-24

*Annual Parent Notification – Staff
Development*

*STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION
17500 ET SEQ.; TITLE 2, CALIFORNIA
CODE OF REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7*

(Adopted on August 26, 1999)

STATEMENT OF DECISION

The attached Statement of Decision is hereby adopted by the Commission on State Mandates on August 26, 1999. The decision is effective on August 30, 1999.

Dated: August 30, 1999

PAULA HIGASHI
Executive Director

**BEFORE THE
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Statutes of 1997, Chapter 929; and,

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(Adopted on August 26, 1999)

STATEMENT OF DECISION

This test claim was heard by the Commission on State Mandates (Commission) on June 24, 1999, during a regularly scheduled hearing. Parties were represented as follows: Carol Berg for the Education Mandated Cost Network; Jim Cunningham for the San Diego Unified School District; and, Jim Apps and Cindy Chan for the Department of Finance.

At the hearing, documentary evidence was introduced, the test claim was submitted, and the vote was taken. The Commission approved the staff recommendation to find a reimbursable state mandated program by a vote of 5-1.

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

BACKGROUND AND FINDINGS OF FACT

Issue

Does Education Code section 48980 impose a new program or higher level of service within an existing program upon school districts within the meaning of section 6, article XIII B of the California Constitution³ and Government Code section 17514⁴ by requiring two additional items about which parents or guardians must be notified?

³ Section 6, article XIII B of the California Constitution provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing

In order for a statute or an executive order, which is the subject of a test claim, to impose a reimbursable state mandated program, the statutory and regulatory language (1) must direct or obligate an activity or task upon local governmental entities, and (2) the required activity or task must be new, thus constituting a “new program,” or it must create an increased or “higher level of service” over the former required level of service. The court has defined a “new program” or “higher level of service” as a program that carries out the governmental function of providing services to the public, or a law, which to implement a state policy, imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state. To determine if a required activity is new or imposes a higher level of service, a comparison must be undertaken between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must be state mandated.⁵

Before the enactment of the test claim legislation, school districts were required to provide an annual notification to parents or guardians on various subjects. The scope of this annual notification requirement has expanded over the years. Six other test claims relating to notification related requirements have been submitted in six separate test claims. These claims were subsequently consolidated in the parameters and guidelines stage under the title of *Annual Parent Notification*, CSM-4461.

The subject test claim legislation contains additional notification requirements. Specifically, districts must now include in their annual notifications to parents and guardians the schedule of pupil-free staff development days and a copy of the school district’s written policy regarding pupil access to the Internet and on-line sites adopted pursuant to Education Code section 51870.5.7

All parties agreed that the requirement for school districts to notify parents or guardians of the schedule of pupil-free staff development days constitutes a new program or higher level of service.

The Department of Finance argued that the requirement to notify parents and guardians of the school’s policy regarding access to the Internet and on-line sites, adopted pursuant to Education Code section 51870.5, is not reimbursable since section 51870.5 is permissive and does not require school districts to provide Internet or on-line access to its pupils. The Commission disagreed. While section 51870.5, which is not a subject of the test claim, does not require a school district to provide Internet or on-line access to its pupils, the test claim legislation, Education Code section 48980 (h), provides that, in the event the school district

an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

⁴ Government Code section 17514 provides: “Costs mandated by the state means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

provides such access, the requisite annual notification “**shall** include a copy of the written policy of the school district adopted pursuant to Section 51870.5 regarding access by pupils to Internet and on-line sites...” (emphasis added). Thus, the Commission concluded, based upon the plain language of section 48980 (h), the obligation of school districts to notify parents and guardians of the school’s policy regarding access to the Internet and on-line sites is mandatory rather than permissive.

Public education in California is a peculiarly governmental function administered by local agencies as a service to the public. Thus, public education constitutes a “program” within the meaning of section 6, article XIII B of the California Constitution.⁶ The Commission concluded that the test claim legislation, which requires school districts to notify parents or guardians of the schedule of pupil-free staff development days and to provide parents or guardians with a copy of the school district’s written policy regarding pupil access to the Internet and on-line sites, imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. The requirements of the test claim legislation were not contained in prior law. Accordingly, the Commission found the test claim legislation constitutes a new program or higher level of service and thus imposes a reimbursable state mandated activity upon school districts by requiring the inclusion of the schedule of pupil-free staff development days and a copy of the school district’s written policy regarding pupil access to the Internet and on-line sites in the annual notifications to parents and guardians.

Conclusion

The Commission concluded that the test claim legislation imposes a new program or higher level of service within an existing program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514. The test claim was approved for the activities necessary to include in the annual notifications to parents and guardians:

- The schedule of pupil-free staff development days (Ed. Code §48980, subd. (c)).
- A copy of the school district’s written policy regarding pupil access to the Internet and on-line sites (Ed. Code §48980, subd. (h)).

The Commission agreed with the Claimant and staff that, for purposes of developing parameters and guidelines, the reimbursable state-mandated activities should be reimbursed using an allocation formula or uniform cost allowance rather than actual cost reimbursement. This method was used in *Annual Parent Notification*, CSM-4461, and was determined to be the most effective method of reimbursement both for the claimant to prepare claims for submission and for the State Controller’s Office to process claims for payment. The claimant intends to request amendment of these parameters and guidelines to incorporate the additional notification requirements in Statutes of 1997, Chapter 929.

⁶ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 172.