

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 673 85, Subdivisions
(a) and (b); Statutes 1990, Chapter 423;
Statutes 1995, Chapter 758;

Filed on June 21, 2000;

By Los Angeles Community College District,
Claimants.

No. 99-TC-12

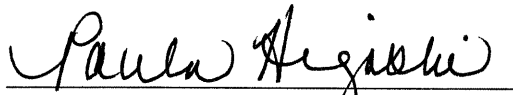
Sexual Assault Response Procedures

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

(Adopted on December 2, 2003)

PARAMETERS AND GUIDELINES

On December 2, 2003, the Commission on State Mandates adopted the attached Parameters and Guidelines.



PAULA HIGASHI, Executive Director

12-4-03
Date

PARAMETERS AND GUIDELINES

Education Code Section 67385

Statutes 1990, Chapter 423

Statutes 1995, Chapter 758

Sexual Assault Response Procedures (99-TC- 12)

I. SUMMARY OF THE MANDATE

Education Code section 67385, subdivisions (a) and (b), requires the governing board of each community college district to adopt and implement at each campus or facility, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault committed on the grounds or facilities of each institution, or on off-campus grounds or facilities maintained by the institutions, or on grounds or facilities maintained by affiliated student organizations, receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers.

On October 24, 2002, the Commission on State Mandates (Commission) adopted the Statement of Decision for *Sexual Assault Response Procedures (99-TC-12, formerly "Sexual Assault Education Programs")*. The Commission found that Education Code section 67385, subdivisions (a) and (b), constitutes a new program or higher level of service and imposes a partially reimbursable state-mandated program on community college districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 175 14. Accordingly, the Commission approved this test claim for the following reimbursable activities:

For the governing board of each community college district to adopt and implement at each campus or facility a written procedure or protocols which contains at least the following information:

- (1) The college policy on sexual assault on campus.
- (2) Personnel on campus to notify, and procedures for notification, with the victim's consent.
- (3) Legal reporting requirements, and procedures for fulfilling them.
- (4) Services available to victim, and personnel to provide response services, such as transporting a victim to the hospital, referring victims to a counseling center, and notifying the police, with the victim's concurrence.
- (5) A description of both on-campus and off-campus resources available to the victim.
- (6) Procedures for ongoing case management, including keeping the victim informed of the status of student disciplinary proceedings in connection with the assault, the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties stemming from the sexual assault.
- (7) Procedures guaranteeing confidentiality and for handling requests for information from the press, concerned students, and parents.
- (8) Procedures for informing rape and other assault victims of the possibility of criminal prosecution, civil actions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance.

II. ELIGIBLE CLAIMANTS

Any community college district, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on June 21, 2000. Therefore, costs incurred for compliance with Education Code section 67385, subdivisions (a) and (b), are reimbursable on or after July 1, 1998.

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 1756 1, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

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 20 15.5. 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:

A. Policies and Procedures (One-Time Activity per Campus or Facility)

The governing board of each community college district shall adopt and implement at each campus or facility written procedure or protocols to ensure to the fullest extent possible that students, faculty or staff who are victims of sexual assault committed on the grounds or facilities of each institution, or on off-campus grounds or facilities maintained by the institutions, or on grounds or facilities maintained by affiliated student organizations shall receive treatment and

information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers. The written procedure or protocols shall contain at least the following information:

- (1) The college policy on sexual assault on campus;
- (2) Personnel on campus to notify, and procedures for notification, with the victim's consent;
- (3) Legal reporting requirements and procedures for fulfilling them;
- (4) Services available to the victim and personnel to provide response services, such as transporting a victim to the hospital, referring victims to a counseling, and notifying the police, with the victim's concurrence;
- (5) A description of both on campus and off campus resources available to the victim;
- (6) Procedures for ongoing case management, including keeping the victim informed of the status of student disciplinary proceedings in connection with the assault, the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties stemming from the sexual assault;
- (7) Procedures guaranteeing confidentiality and for handling requests for information from the press, concerned students, and parents;
- (8) Procedures for informing rape and other assault victims of the possibility of criminal prosecution, civil actions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance.

The claimant is only allowed to claim and be reimbursed for the increased cost of providing the information described in the reimbursable activity identified above. If other information is included in the written procedure or protocols, it is at the claimant's discretion and is therefore not reimbursable. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

B. Update the written information contained in the procedure or protocols annually, if needed.

C. Training

Training to inform employees of the original and any subsequent updates to the written procedure or protocols (see IV. B. above).

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. 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.

5. 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 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.

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-2 1, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 1755 8.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ 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. 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, services fees collected, federal funds, including those obtained by the "Student Right to Know and Campus Security Act," enacted in 1990, and the "Campus Sexual Assault Victim's Bill of Rights," enacted in 1992, 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 (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 1756 1, subdivision (d)(l), 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 1757 1. If the

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

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 (a), 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.

DECLARATION OF SERVICE BY MAIL

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.

December 4, 2003, I served the:

Adopted Parameters and Guidelines

Sexual Assault Response Procedures, CSM 99-K-12

Los Angeles Community College District, Claimant

Statutes 1990, Chapter 423; Statutes 1995, Chapter 758

Education Code Sections 67385

by placing a true copy thereof in an envelope addressed to:

Mr. Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Mr. Mike Havey
State Controller's Office
Division of Accounting and Reporting
Local Reimbursement Section
3301 C Street, Suite 501
Sacramento, CA 95816

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

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 December 4, 2003, at Sacramento, California.


VICTORIA SORIANO