

1 CALIFORNIA CODE OF REGULATIONS
2 TITLE 2. ADMINISTRATION
3 DIVISION 2. FINANCIAL OPERATIONS
4 CHAPTER 2.5. COMMISSION ON STATE MANDATES

5 Article 1. General

6 § 1181.2. Definitions.

7 Unless otherwise indicated, the following definitions and those found in Government Code
8 sections 17510 through 17524 apply to this chapter:

9 (a) "Affected state agency" means a state department or agency that is responsible, in whole or in
10 part, for implementation, enforcement, or administration of any statutes or executive orders that
11 are the subject of a matter.

12 (b) "Amendment" of a test claim means the addition of new allegations based on new statutes or
13 executive orders to an existing test claim. The addition or substitution of parties and supporting
14 declarations based on the original statutes or executive orders alleged in an existing test claim is
15 not an "amendment."

16 (c) "Claimant" means the local agency or school district filing a test claim or incorrect reduction
17 claim.

18 (d) "Commission staff" means the executive director, legal counsel, or other Commission
19 employee authorized by the Commission or the executive director to represent the Commission
20 on a specific claim or request, or to receive filings at the Commission office.

21 (e) "Completed" means that all requirements for a new filing for a test claim, proposed
22 parameters and guidelines, request to amend parameters and guidelines, request for
23 reconsideration, request to review claiming instructions, incorrect reduction claim or request for
24 mandate redetermination have been satisfied by the claimant or requester.

25 (f) "Filing date" means the date received at the Commission's office during normal business
26 hours by any of the methods described in section 1181.3 of these regulations.

27 (g) "Incorrect reduction claim" means a claim alleging that the Office of State Controller
28 incorrectly reduced the reimbursement claim of a local agency or school district.

29 (h) "Informational hearing" means any hearing designed to gather and assess information to
30 assist the Commission in formulating policies, informing the public of Commission actions, or
31 obtaining public comment and opinion.

32 (i) "Interested party" means a local agency, school district, or state agency, with a beneficial
33 interest in the matter.

34 (j) "Interested person" means any individual, local agency, school district, state agency,
35 corporation, partnership, association, or other type of entity, who has~~ing~~ an interest in ~~the~~
36 ~~activities of the Commission~~ a matter before the Commission, but is not a party or interested
37 party with respect to that matter.

38 (k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and
39 guidelines, joint request for reasonable reimbursement methodology, request for review of

1 claiming instructions, request for removal or inclusion in State Mandates Apportionment System,
2 or request for mandate redetermination.

3 (l) "Party" includes a party's representative of record who is expressly authorized to act on the
4 party's behalf. Party means the following for each matter as specified below:

5 (1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other
6 affected state agencies.

7 (2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State
8 Controller.

9 (3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the
10 Department of Finance, the Office of State Controller, affected state and local agencies, and
11 affected school districts.

12 (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" means the test
13 claimant and the Department of Finance.

14 (5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office
15 of State Controller.

16 (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System"
17 means the requester, the Department of Finance, and the Office of State Controller.

18 (7) "Party to a Request for Mandate Redetermination" means the requester, the Department of
19 Finance, the Office of State Controller, affected state and local agencies, and affected school
20 districts.

21 (m) "Real Party in Interest" means any person or entity whose interest will be directly affected
22 by the resolution of the matter.

23 (n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule,
24 regulation, or standard of general application that implements, interprets, or makes specific any
25 provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any
26 other statute enforced or administered by the Commission.

27 (o) "Statewide cost estimate" means the approximate sum of money that local agencies or school
28 districts may have incurred to implement a state-mandated program or any increased level of
29 service of an existing mandated program. A statewide cost estimate submitted by a test claimant
30 shall be an estimate of the first full fiscal year of actual or estimated costs based on the statutes
31 and executive orders alleged in a test claim, except as provided in Government Code section
32 17557.1(a). A statewide cost estimate adopted by the Commission shall be an estimate based on
33 the Commission's determination of a test claim for the initial period of reimbursement to be
34 reported to the Legislature.

35 (p) "Statewide estimate of costs" is based on a reasonable reimbursement methodology proposed
36 by a test claimant and the Department of Finance, adopted by the Commission, and reported to
37 the Legislature pursuant to Government Code section 17557.2.

38 (q) "Subsequent change in law" means a change in law that requires a finding that an incurred
39 cost is a cost mandated by the state, as defined by Government Code section 17514, or is not a
40 cost mandated by the state pursuant to Government Code section 17556, or a change in mandates
41 law. Amendments to article XIII B, section 6 of the California Constitution that were approved

1 by the voters on November 2, 2004 and changes in the statutes or executive orders that impose
2 new state-mandated activities and require a finding pursuant to Government Code section
3 17551(a) are not a "subsequent change in law."

4 (r) "Teleconference" means a conference of individuals in different locations, connected by
5 electronic means, through audio, video, or both.

6 (s) "Test claim" means the first claim filed with the Commission alleging that a particular statute
7 or executive order imposes costs mandated by the state pursuant to Government Code section
8 17521 and also includes a claim filed on a legislatively determined mandate pursuant to
9 Government Code section 17574(c). The test claim procedure functions similarly to a class
10 action and has been established to expeditiously resolve disputes affecting multiple agencies.

11 (t) "Written material" means any paper or electronic document relevant to a matter that is filed
12 with the Commission except that "written material" does not include a "new filing" as defined in
13 subdivision (k) of this section.

14 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
15 Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, 17551, 17553, 17555, 17557,
16 17557.1, 17557.2, 17558, 17558.5, 17558.7, 17558.8, 17559, 17561, 17561.5, 17570, 17572,
17 17573, 17600 and 17612, Government Code; *Redevelopment Agency v. Commission on State*
18 *Mandates* (1996) 43 Cal.App.4th 1188; and *City of San Jose v. State of California* (1996) 45
19 Cal.App.4th 1802.

20 **§ 1181.3. Certification, Filing and Service of Written Materials and New Filings.**

21 (a) Certification. All new filings and written materials filed with the Commission shall be signed
22 at the end of the document, under penalty of perjury, with the declaration that the filing is true
23 and correct to the best of the declarant's personal knowledge, information, or belief. The date of
24 signing, the declarant's title, address, telephone number, and email address, if applicable, shall
25 be included.

26 ~~(a)~~ (b) Filing. Unless otherwise provided in this chapter, new filings and written materials may be
27 filed electronically or by hard copy as described in this subdivision. If filed by hard copy, the
28 filer shall simultaneously serve all written material in accordance with subdivision (b) of this
29 regulation. Filing is complete upon receipt by the Commission. Filings shall not contain personal
30 identifying information that violates state or federal privacy laws, including, but not limited to
31 the provisions of California Civil Code section 1798 et seq. New filings and written materials
32 may be filed by any of the following methods:

33 (1) E-Filing. ~~Submit~~ File the original to the Commission by saving the signed original in a PDF
34 file and submitting it via the Commission's e-filing system, available on the Commission's
35 website. Documents e-filed with the Commission must be in a legible and searchable format that
36 allows Commission staff to electronically date stamp the document to verify date of filing, and to
37 append additional pages for posting on the Commission's web site with proof of service, in lieu
38 of the filer serving the document to the entire mail list for the matter. E-filed documents should
39 be filed in their original, searchable form, but the signature page shall be replaced with a scanned
40 copy, rather than digitally signed. The filer is responsible for maintaining the signed original for
41 the duration of the process for the matter, including any period of appeal. Notwithstanding any
42 other provision in these regulations, if a new filing or written material is e-filed, no additional
43 copies shall be submitted to Commission staff. The following shall apply to e-filing:

1 (A) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail
2 service for that matter.

3 (B) An automated notice that the document was successfully sent is immediately available to the
4 person who e-files using the Commission's e-filing system and should be saved or printed for the
5 filer's records. Commission staff shall also reply by e-mail confirming actual receipt of the
6 legible, searchable document by the Commission within two business day of receipt. In the
7 absence of a confirmation e-mail from Commission staff, it is the responsibility of the person
8 who e-files to obtain confirmation that the Commission actually received the filing.

9 (C) By using e-filing, the filing person agrees, in the event of failure of e-filing, to re-file the
10 document, no later than the business day after the business day on which notice of the failure of
11 e-filing is received by the filing party, by any means authorized by these rules, in order to
12 maintain the original filing date. "Failure of e-filing" occurs when the filing person receives
13 notification, in any manner, of non-receipt of an e-filed document or of any other inability of
14 Commission staff to access the document. The filer and Commission staff may agree to any form
15 for re-filing allowed by these regulations.

16 (D) Documents e-filed with the Commission do not need to be served and proof of service does
17 not need to be provided for persons that have provided an e-mail address for the mailing list.
18 Nothing in this regulation excuses a filer from serving hard copies of written material on persons
19 who appear on the mailing list and have not provided an e-mail address for the mailing list or
20 from providing a proof of service with the e-filing to the Commission for the service.

21 (E) Upon confirmation of actual receipt, Commission staff shall notify all persons on the mailing
22 list for the matter that written material may be viewed on the Commission's website. For "new
23 filings" as defined by section 1181.2(k) of these regulations, Commission staff shall notify all
24 persons on the mailing list prepared pursuant to section 1181.4 of these regulations, of the
25 availability of those filings on the Commission's website when Commission staff sends its notice
26 of complete filing to the filing party.

27 (F) The Commission may serve any document by e-mail service, or by making it available at a
28 particular URL, unless doing so would be contrary to state or federal law.

29 (G) The executive director may issue any order consistent with these rules to govern e-mail
30 service for a particular matter.

31 (2) By first class mail. Submit the unbound original and seven copies to the Commission.

32 (3) By overnight delivery. Submit the unbound original and seven copies to the Commission.

33 (4) By personal service. Hand the unbound original and seven copies to Commission staff.

34 (~~b~~c) Service. If written materials are filed in hard copy, the filing must simultaneously be served
35 on everyone on the mailing list using the same method as was used for the filing. Unless
36 otherwise provided in this section, a proof of service shall be included with any written material
37 filed with Commission staff. Proof of personal service requires a declaration of the messenger of
38 the time and place that the written material was served. Service is not required for new filings
39 because mailing lists for matters are only prepared, pursuant to section 1181.4 of these
40 regulations, after a new filing is deemed complete. Completed new filings will be served on the
41 mailing list by Commission staff with the Notice of Complete Filing.

42 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.

1 Reference: Section 1798 et seq., Civil Code; Sections 17530, 17551, 17557(d), 17558.7, 17570,
2 17573(b), 17574(c) and 17573(g), Government Code.

3 **Article 2. Applications for a Finding of Significant Financial Distress**

4 **§ 1182.2. Filing of an Application for a Finding of Significant Financial Distress.**

5 (a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of
6 supervisors of any county to obtain a finding of significant financial distress, the board of
7 supervisors must submit a written application to the Commission on State Mandates.

8 (b) The applicant shall certify, file, and serve an original application, including supporting
9 documents, with the Commission in accordance with section 1181.3 of these regulations.

10 (c) All applications shall contain at least the following:

11 (1) A table of contents, indicating page numbers.

12 (2) A copy of a resolution from the county board of supervisors stating that compliance with the
13 standards set forth in Welfare and Institutions Code section 17000.5 will result in significant
14 financial distress to the county for a specified period of time, up to 36 months.

15 (3) A written narrative, including a summary, detailing the relevant financial or other budgetary
16 information and documents necessary for a county to make a compelling case that basic county
17 services, including public safety, cannot be maintained without a reduction in the standard of aid
18 as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:

19 (A) The monthly caseload of General Assistance recipients for each of the 12 months preceding
20 the date the application is filed.

21 (B) The current monthly rate of the General Assistance Standard of Aid.

22 (C) The proposed reduced rate of the General Assistance Standard of Aid.

23 (D) An overview of county finances, including, but not limited to county revenue sources;
24 budget reserve data; budget expenditures; mandated expenditures and maintenance of effort
25 costs.

26 (E) A detailed summary of program needs and expenditure flexibility, including, but not limited
27 to department-by-department data on unmet program needs for basic county services.

28 (F) The county's total population at the time the application is filed, and the total county
29 population for the two fiscal years prior to the year in which the application was filed.

30 (d) The written narrative shall be submitted under penalty of perjury. ~~In addition, the financial~~
31 ~~and other budgetary documents shall be certified under penalty of perjury. If representations of~~
32 fact are made, they shall be supported by documentary or testimonial evidence, submitted in
33 accordance with section 1187.5 of these regulations.

34 (e) Each page of the application, including all supporting documentation, shall be consecutively
35 numbered.

36 (f) The original application, including all supporting documentation, shall be unbound and
37 single-sided.

1 (g) The executive director shall notify an applicant within 10 days of receipt of an application
2 whether its application is incomplete. If the application is incomplete, the executive director may
3 return the application to the county. An application shall be considered incomplete if the
4 elements in subdivisions (b) through (f) of this section have not been satisfied, are illegible or are
5 not included. The requirements for Commission public hearings and decisions, as set forth in
6 Welfare and Institutions Code section 17000.6(c), apply only to complete applications.

7 (h) Within 10 days of receipt of a completed application, the executive director shall notify the
8 applicant that the application is complete, and notify the applicant of the schedule. The executive
9 director shall also send the application to interested persons located in the applicant county.

10 (i) Prior to filing an application, a county may request a tentative date for conducting the hearing
11 in the county. If a complete application is not received by a specified date, a new tentative
12 hearing date may be set.

13 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare
14 and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

15 **§ 1182.7. Request for Supplemental Information.**

16 (a) The executive director may request supplemental information from the applicant to assist the
17 Commission in its review and analysis of the application. The applicant shall provide the
18 supplemental information under the timeline established by the executive director.

19 (b) The supplemental information and any attached financial or other budgetary documents shall
20 be ~~submitted under penalty of perjury~~ certified, filed, and served in accordance with section
21 1181.3 of these regulations. ~~Any attached financial or other budgetary documents shall be~~
22 ~~certified under penalty of perjury.~~ If representations of fact are made, they shall be supported by
23 documentary or testimonial evidence, submitted in accordance with section 1187.5 of these
24 regulations.

25 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
26 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code; and Section
27 17530, Government Code.

28 **§ 1182.9. Written Comments.**

29 The applicant and any interested persons may file written comments concerning the staff analysis
30 with the Commission. Written comments shall be certified, filed, and served ~~with the~~
31 ~~Commission~~ in accordance with section 1181.3 of these regulations. If representations of fact are
32 made, they shall be supported by documentary or testimonial evidence, submitted in accordance
33 with section 1187.5 of these regulations. The written comments shall be reviewed by
34 Commission staff and may be incorporated into any revised or supplemental staff analysis of the
35 application.

36 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
37 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

38 **§ 1182.10. Conduct of Hearing.**

39 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose
40 questions to the chairperson, hearing panel, or hearing officer for opposing witnesses in support

1 or rebuttal of any matter relevant to the issues even though that matter was not covered in the
2 direct examination.

3 ~~(b) The hearings will not be conducted according to technical rules relating to evidence and
4 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on
5 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and
6 unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of
7 supplementing or explaining other evidence but shall not be sufficient in itself to support a
8 finding unless it would be admissible over objection in civil actions.~~

9 (e**b**) The Commission, hearing panel, or hearing officer may question any party or witness, may
10 admit any relevant and material evidence, and may limit the length of testimony to a specific
11 amount of time for any party or witness.

12 (e**c**) The taking of evidence and testimony in a hearing shall be controlled by the Commission,
13 hearing panel, or hearing officer in the manner best suited to ascertain the facts.

14 (e**d**) Oral or written representations of fact offered by any person shall be ~~under oath~~
15 ~~or affirmation~~, supported by documentary or testimonial evidence, submitted in accordance with
16 section 1187.5 of these regulations. ~~Written representations of fact must be signed under penalty~~
17 ~~of perjury by persons who are authorized and competent to do so and must be based upon the~~
18 ~~declarant's personal knowledge or information or belief.~~

19 (e**f**) Public hearings, pursuant to this article, shall be recorded by stenographic reporter or
20 electronic recording or both. The transcript or recordings shall be kept for the period of time
21 required by applicable law governing the retention of records of state agency public proceedings,
22 or until conclusion of administrative or judicial proceedings, whichever is later.

23 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
24 Institutions Code. Reference: Section 11125.7, Government Code; and Section 17000.6, Welfare
25 and Institutions Code.

26 **§ 1182.15. Reapplications.**

27 (a) A county may file a reapplication for a finding of significant financial distress with the
28 Commission.

29 (b) The application requirements and procedures relating to applications and hearing procedures
30 prescribed in article 2 of these regulations shall also apply to reapplications. The applicant shall
31 also provide the following information in its reapplication:

32 (1) How the applicant utilized the savings in reduction of the General Assistance Standard of Aid
33 realized from the preceding finding of significant financial distress.

34 (2) The difference in the county's total population between the date the preceding application was
35 filed and the date the reapplication is filed.

36 (3) Any staff changes or changes to working conditions, including but not limited to reduced
37 work hours or salary increases or decreases that occurred since the date the preceding application
38 was filed.

39 (4) Any statutes enacted since the date the preceding application was filed that change county
40 revenue sources or expenditures, or impose new mandates upon the county.

1 (5) Tables that include the difference between proposed and approved unmet need in the
2 preceding application, and the proposed unmet need in the reapplication. Tables may also be
3 submitted by a predetermined computer medium.

4 (c) A county filing a reapplication of a previously approved finding of significant financial
5 distress must present a compelling case of significant financial distress continuing since the last
6 approved finding by the Commission.

7 (d) For a previously denied application, a county may file a reapplication when the fiscal
8 situation in the county has changed.

9 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6, Welfare and
10 Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

11 **Article 3. Test Claims**

12 **§ 1183.1. Test Claim Filing.**

13 (a) In order to obtain a mandate determination, a local agency or school district shall file a test
14 claim with the Commission. A local agency or school district may file a test claim as follows:

15 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
16 controller, may file on behalf of a county.

17 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
18 resolution from the city council, may file on behalf of a city.

19 (3) A district superintendent may file on behalf of a school district.

20 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
21 the governing body by ordinance or resolution, may file on behalf of a community college
22 district.

23 (5) A general manager or other officer with authority delegated by the governing body by
24 ordinance or resolution may file on behalf of a special district.

25 (b) Claimants may agree to submit a test claim as a joint effort, as provided in section 1183.1(g)
26 of these regulations. Otherwise, the first claim filed on a statute or executive order by a similarly
27 situated claimant is the test claim and no duplicate test claims will be accepted by the
28 Commission. Other similarly situated affected agencies may participate in the process by
29 submitting comments in writing on any agenda item as provided in section 1181.10 of these
30 regulations, and may attend any Commission hearing on the test claim and provide written or
31 oral comments to the Commission. Affected agencies that are not similarly situated, meaning
32 that test claim statutes affect them differently, may file a test claim on the same statutes as the
33 first claim, but must demonstrate how and why they are affected differently.

34 (c) Except as provided in Government Code sections 17573 and 17574, any test claim or
35 amendment filed with the Commission must be filed not later than 12 months (365 days)
36 following the effective date of a statute or executive order, or within 12 months (365 days) of
37 first incurring increased costs as a result of a statute or executive order, whichever is later. ~~For~~
38 ~~purposes of claiming based on the date of first incurring costs, "within 12 months" means by~~
39 ~~June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by~~
40 ~~the test claimant.~~

1 (d) All test claims, or amendments thereto, shall be filed on a form developed by the executive
2 director and shall contain all of the elements and supplemental documents required by statute,
3 regulation and the form. When an omnibus bill is pled, claimant shall file only the relevant pages
4 of the statute, including the Legislative Counsel's Digest and the specific statutory changes at
5 issue.

6 (e) ~~The claimant shall file the~~A test claim, or amendment thereto, and accompanying documents
7 ~~with the Commission shall be certified, filed, and served~~ in accordance with section 1181.3 of
8 these regulations. All representations of fact shall be supported by documentary or testimonial
9 evidence, submitted in accordance with section 1187.5 of these regulations.

10 (f) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff shall notify
11 the claimant if the test claim is complete or incomplete. Test claims will be considered
12 incomplete if any of the elements required in subdivisions (c) and (d) of this section are illegible
13 or are not included. If a complete test claim is not received within 30 calendar days from the date
14 the incomplete test claim was returned, the executive director may disallow the original test
15 claim filing date. A new test claim may be accepted on the same statute or executive order
16 alleged to impose a reimbursable state-mandated program.

17 (g) Test claims may be prepared as a joint effort between two or more claimants and filed with
18 the Commission if the claimants attest to all of the following in the test claim filing:

19 (1) The claimants allege state-mandated costs result from the same statute or executive order;

20 (2) The claimants agree on all issues of the test claim; and

21 (3) The claimants have designated one ~~contact~~ person to act as the ~~resource~~ sole representative
22 for all claimants for information regarding the test claim.

23 (h) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for
24 any reason may be dismissed by the executive director with a written notice stating the reason for
25 dismissal.

26 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
27 17521, 17530, 17551, 17553, 17557(e), 17573, 17574, 24000, 24300.5, 26881, 26900, 26970,
28 26972, 34852, 35034, 35035, 37209, 40805.5 and 56723, Government Code.

29 **§ 1183.2. Review of Test Claim.**

30 (a) Within 10 days of receipt of a completed test claim, or amendment thereto, Commission staff
31 shall make a copy of the test claim or amendment available to those named on the mailing list
32 prepared in accordance with section 1181.4 of these regulations and shall post it on the
33 Commission's web site.

34 (b) Written comments concerning the test claim shall be certified, filed, and served within 30
35 days from the date the test claim or amendment is issued for comment and in accordance with
36 ~~the provisions of~~ section 1181.3 of these regulations.

37 (c) Content and Form. Written comments on the test claim shall contain the following
38 documentary evidence, if applicable:

39 (1) If representations of fact are made, they ~~must~~ shall be supported by documentary or
40 testimonial evidence, submitted ~~with the comments~~ in accordance with section 1187.5 of these
41 regulations.

1 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
2 orders, and a copy of administrative decisions and court decisions that may impact the alleged
3 mandate, unless the authorities are also cited in the test claim. The specific statutes and chapters,
4 articles, sections, regulatory registers, and page numbers must be identified. Published court
5 decisions arising from state mandate determinations by the Board of Control and the
6 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and
7 Government Code sections 17500 et seq., are exempt from the requirements of this subdivision.

8 ~~(d) The written comments and supporting documentation shall be signed at the end of the~~
9 ~~document by an authorized representative, with the declaration that it is true and complete to the~~
10 ~~best of the representative's personal knowledge or information or belief. The date of signing, the~~
11 ~~representative's title, address, and telephone number shall be included. If the authorized~~
12 ~~representative can be reached via e-mail, the e-mail address shall also be included.~~

13 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
14 17530 and 17553(a), Government Code.

15 **§ 1183.3. Claimant's Rebuttal.**

16 (a) Written rebuttals to written comments concerning a test claim may be filed, and shall be
17 certified, filed, and served in accordance with section 1181.3 of these regulations within 30 days
18 of service of the written comments.

19 (b) Content and Form. ~~A written rebuttal shall contain the following documentary evidence, if~~
20 ~~applicable:~~

21 (1) If ~~new~~ representations of fact are made, they ~~must~~shall be supported by documentary or
22 testimonial evidence, submitted ~~with the rebuttal~~in accordance with section 1187.5 of these
23 regulations. ~~All documentary evidence shall be in accordance with section 1187.5 of these~~
24 ~~regulations.~~

25 (2) ~~Include a~~A copy of relevant portions of state constitutional provisions, federal statutes, and
26 executive orders, and a copy of administrative decisions and court decisions that are cited in the
27 rebuttal, unless the authorities are also cited in the test claim or any opposition thereto. Published
28 court decisions arising from state mandate determinations by the Board of Control and the
29 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and
30 Government Code sections 17500 et seq., are exempt from the requirement to submit a copy. The
31 specific statutes and chapters, articles, sections, regulatory registers, and page numbers of the
32 authorities shall be identified in the written rebuttal. ~~Published court decisions arising from state~~
33 ~~mandate determinations by the Board of Control and the Commission on State Mandates, article~~
34 ~~XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq.,~~
35 ~~are exempt from the requirements of this subsection.~~

36 ~~(c) The rebuttal shall be signed at the end of the document by the claimant or its authorized~~
37 ~~representative, with the declaration that the rebuttal is true and complete to the best of the~~
38 ~~declarant's personal knowledge or information or belief. The date of signing, and the declarant's~~
39 ~~title, address, and telephone number shall be included. If the declarant can be reached by e-mail,~~
40 ~~the declarant's e-mail address shall also be included.~~

41 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
42 17530 and 17553(a), Government Code.

1 **§ 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.**

2 Within 30 days of the filing date of a test claim deemed complete, a claimant may file a motion
3 with the executive director to consolidate part or all of any test claim with another test claim, or
4 to sever any part of any test claim, if necessary to ensure the complete, fair, or timely
5 consideration of any test claim.

6 (a) Any motion to consolidate or to sever shall be certified, filed, and served in accordance with
7 section 1181.3 of these regulations. If written representations of fact are made, they shall be
8 supported by documentary or testimonial evidence, submitted in accordance with section 1187.5
9 of these regulations.

10 (b) Within 30 days after receipt of a motion to consolidate or sever, the executive director may
11 consolidate or sever any test claim.

12 Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Sections
13 17530, 17553 and 17554, Government Code.

14 **§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.**

15 (a) Before the hearing on the test claim, Commission staff shall prepare a proposed decision for
16 the test claim, which shall include but not be limited to a review of the written comments filed.
17 The proposed decision shall describe and analyze the test claim to assist the Commission in
18 determining whether the alleged statutes or executive orders contain a reimbursable state-
19 mandated program under article XIII B, section 6 of the California Constitution.

20 (b) At least eight weeks before the hearing, or at a time required by the executive director or
21 stipulated to by the parties, Commission staff shall prepare a draft proposed decision and
22 distribute it to the parties, interested parties, and those on the mailing list described in section
23 1181.3 of these regulations, and shall post it on the Commission's website.

24 (c) Anyone may file written comments concerning the draft proposed decision. If representations
25 of fact are made, they ~~must~~ shall be supported by documentary or testimonial evidence, submitted
26 ~~with the comments~~ in accordance with section 1187.5 of these regulations. Written comments
27 shall be certified, filed, and served ~~as described~~ in accordance with section 1181.3 of these
28 regulations, by the date determined and publicized by the executive director. A three-week
29 period for comments shall be given, subject to the executive director's authority to expedite all
30 matters pursuant to Government Code section 17530. All written comments timely filed shall be
31 reviewed by Commission staff and may be incorporated into the proposed decision for the test
32 claim.

33 (d) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
34 other evidence filed after the three-week comment period described in subdivision (c) of this
35 section. The Commission need not rely on, and staff need not respond to, late comments,
36 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
37 period expires.

38 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
39 17514, 17530, 17551 and 17553, Government Code.

1 **§ 1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of**
2 **Comments.**

3 (a) Within 30 days of adoption of the decision on a test claim, or the early termination or
4 expiration of a reasonable reimbursement methodology, the successful test claimant shall submit,
5 to the Commission, proposed parameters and guidelines, pursuant to Government Code section
6 17557(a). Proposed parameters and guidelines shall be certified, filed, and served in accordance
7 with section 1181.3 of these regulations. If representations of fact are made, they shall be
8 supported by documentary or testimonial evidence, submitted in accordance with section 1187.5
9 of these regulations.

10 (b) If any of the elements described in section 1183.7 are missing or are not adequately
11 addressed, Commission staff shall, within 10 days of receipt, deem the proposed parameters and
12 guidelines incomplete and shall return the proposal to the claimants with a description of the
13 subjects that are to be redrafted or supplemented.

14 (c) Within 10 days of receipt of completed proposed parameters and guidelines, Commission
15 staff shall send a copy to those who are on the mailing list described in section 1181.4 of these
16 regulations, and shall post it on the Commission's website.

17 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and
18 provide written comments concerning the proposed parameters and guidelines within 15 days of
19 service.

20 (e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
21 these regulations. If representations of fact are made, they shall be supported by documentary or
22 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

23 (f) Within 15 days of service of the comments, parties, interested parties, and interested persons
24 may submit written rebuttals to the Commission, ~~and shall file and serve their rebuttals~~
25 Rebuttals shall be certified, filed, and served in accordance with section 1181.3 of
26 these regulations. If representations of fact are made, they shall be supported by documentary or
27 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

28 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
29 17530, 17553(a), 17557 and 17557.2, Government Code.

30 **§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.**

31 (a) After adoption of a decision on a test claim, but before claimant submits proposed parameters
32 and guidelines, Commission staff may expedite the parameters and guidelines process by
33 preparing and issuing draft expedited parameters and guidelines to assist the claimant. The draft
34 expedited parameters and guidelines shall be served to everyone on the mailing list described in
35 section 1181.4 of these regulations, and shall be posted on the Commission's website.

36 In lieu of filing an original proposal pursuant to Government Code section 17557(a), the
37 successful test claimant may file comments on the draft expedited parameters and guidelines
38 with the Commission which may include proposed modifications. Such comments shall be
39 certified, filed, and served in accordance with section 1181.3 of these regulations. If
40 representations of fact are made, they shall be supported by documentary or testimonial
41 evidence, submitted in accordance with section 1187.5 of these regulations.

1 (b) Parties, interested parties, and interested persons may file comments on the draft expedited
2 parameters and guidelines within 21 days of service of Commission staff's draft proposal. Such
3 comments shall be certified, filed, and served in accordance with section 1181.3 of these
4 regulations. If representations of fact are made, they shall be supported by documentary or
5 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

6 (c) Within 15 days of service of the comments submitted pursuant to subdivision (b) of this
7 section, parties, interested parties, and interested persons may file and serve rebuttals. Such
8 rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these
9 regulations. If representations of fact are made, they shall be supported by documentary or
10 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

11 Note: Authority cited: Sections 17517.5, 17527(g), 17530 and 17553(a), Government Code.
12 Reference: Sections 17553(a), 17556(e) and 17557, Government Code.

13 **§ 1183.10. Reasonable Reimbursement Methodology.**

14 (a) Government Code section 17518.5 defines a "reasonable reimbursement methodology" as a
15 formula for reimbursing local agencies and school districts for costs mandated by the state, as
16 defined in Section 17514.

17 (b) For purposes of developing a reasonable reimbursement methodology pursuant to
18 Government Code sections 17557 or 17557.1, the following definitions apply:

19 (1) "Costs to implement the mandate in a cost-efficient manner" include only those costs for the
20 activities that were determined to be reimbursable by the Commission in the decision on the test
21 claim, and the costs for the most reasonable methods of complying with the mandate pursuant to
22 section 1183.12(d), of these regulations.

23 (2) When surveying or otherwise gathering cost data to develop a formula, "representative
24 sample of claimants" does not include eligible claimants that do not respond to surveys or
25 otherwise participate in submitting cost data.

26 (c) An interested party may submit cost information or other cost projections that can be the
27 basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable
28 reimbursement methodology submitted pursuant to Government Code section 17557.1. Such
29 information shall be certified, filed and served in accordance with section 1181.3 of these
30 regulations. All representations of fact shall be supported by documentary or testimonial
31 evidence, submitted in accordance with section 1187.5 of these regulations.

32 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
33 17518.5, 17557 and 17557.1, Government Code.

34 **§ 1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs.**

35 (a) Notwithstanding Government Code section 17557, within 30 days of the adoption of a
36 decision on a test claim, the successful test claimant and the Department of Finance may notify
37 the executive director in writing of their intent to follow the process described in Government
38 Code sections 17557.1-17557.2 to develop a reasonable reimbursement methodology and
39 statewide estimate of costs.

1 (b) The written notification shall provide all information and filing dates, as specified in
2 Government Code section 17557.1(a), and shall be certified, filed, and served in accordance with
3 section 1181.3 of these regulations.

4 (c) At the request of the test claimant and the Department of Finance, the executive director may
5 provide for up to four extensions of the 180-day period for submittal of the draft reasonable
6 reimbursement methodology and proposed statewide estimate of costs for the initial claiming
7 period and budget year. Any request must be based on good cause as described in section 1187.9
8 and also include an update of all information and filing dates provided in the original written
9 notification submitted pursuant to Government Code section 17557.1(a). If no submittal of a
10 draft and no request for an extension has been made by the filing date specified in the notice of
11 intent to develop a reasonable reimbursement methodology, or if all extensions have been
12 exhausted, the executive director shall issue a letter notifying the test claimant of the duty to
13 submit proposed parameters and guidelines within 30 days under Government Code section
14 17557(a).

15 (d) The test claimant and Department of Finance shall certify, file, and serve any filings made
16 pursuant to Government Code section 17557.1 in accordance with section 1181.3 of these
17 regulations.

18 (e) Commission staff shall notify all recipients that they shall have the opportunity to review and
19 provide written comments concerning the draft reasonable reimbursement methodology and
20 proposed statewide estimate of costs within 15 days of service.

21 (f) Written comments ~~may be~~ shall be certified, filed, and served in accordance with section
22 1181.3 of these regulations.

23 (g) Within seven days of service of the written comments, the test claimant and Department of
24 Finance may submit written rebuttals which shall be certified, filed, and served in accordance
25 with section 1181.3 of these regulations.

26 (h) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
27 a staff recommendation on whether the Commission should approve the draft reasonable
28 reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to
29 Government Code section 17557.2.

30 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
31 17557, 17557.1 and 17557.2, Government Code.

32 **§ 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and**
33 **Guidelines.**

34 (a) If the claimant indicates in the proposed parameters and guidelines or comments that a
35 reasonable reimbursement methodology, as defined in Government Code section 17518.5,
36 should be considered for inclusion in the parameters and guidelines, or if the Department of
37 Finance, Office of the State Controller, any affected state agency, or eligible claimant proposes
38 consideration of a reasonable reimbursement methodology, Commission staff may schedule an
39 informal conference in accordance with section 1187.4 of these regulations to discuss the
40 methodology and plan for submittal of a reasonable reimbursement methodology.

1 (b) A proposed reasonable reimbursement methodology, as described in Government Code
2 section 17518.5, shall include any documentation or assumption relied upon to develop the
3 proposed methodology.

4 (c) Commission staff shall notify all recipients that they shall have the opportunity to review and
5 provide written comments concerning the proposed reasonable reimbursement methodology
6 within 15 days of service.

7 (d) Proposed reasonable reimbursement methodologies and comments regarding those proposals
8 shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If
9 representations of fact are made, they shall be supported by documentary or testimonial
10 evidence, submitted in accordance with section 1187.5 of these regulations.

11 (e) Within 15 days of service of the written comments prepared by other parties and interested
12 parties, the party that proposed the reasonable reimbursement methodology may submit a written
13 rebuttal to the Commission, and shall certify, file, and serve the rebuttal in accordance with
14 section 1181.3 of these regulations. If representations of fact are made, they shall be supported
15 by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these
16 regulations.

17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
18 17518.5, 17557, 17557.1 and 17557.2, Government Code.

19 **§ 1183.13. Adoption of Parameters and Guidelines.**

20 (a) After review of the test claim decision, claimant's proposed parameters and guidelines or
21 draft expedited parameters and guidelines, written comments, and rebuttals, Commission staff
22 shall prepare a draft proposed decision and parameters and guidelines. Commission staff's
23 recommendation may include a reasonable reimbursement methodology developed pursuant to
24 Government Code section 17518.5.

25 (b) Written comments on the draft proposed decision and parameters and guidelines shall be
26 certified, filed, and served in accordance with section 1181.3 of these regulations, by the date
27 noticed by the executive director. A three-week period for comments shall be given, subject to
28 the executive director's authority to expedite all matters pursuant to Government Code section
29 17530. If representations of fact are made, they shall be supported by documentary or testimonial
30 evidence, submitted in accordance with section 1187.5 of these regulations. All written
31 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
32 proposed decision and parameters and guidelines.

33 (c) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
34 other evidence filed after the three-week comment period described in subdivision (b) of this
35 section. The Commission need not rely on, and staff need not respond to, late comments,
36 exhibits, or other evidence submitted in response to a draft proposed decision and parameters and
37 guidelines after the comment period expires.

38 (d) The Commission shall conduct a hearing in accordance with article 7 of these regulations
39 before adoption of the proposed decision and parameters and guidelines.

40 (e) Within 10 days of the adoption of decision and parameters and guidelines, the executive
41 director shall send copies to the Office of the State Controller and to everyone on the mailing list

1 described in section 1181.4 of these regulations, and shall post a copy on the Commission's
2 website.

3 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
4 17518.5, 17530, 17553(a) and 17557, Government Code.

5 **§ 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement**
6 **Methodology.**

7 (a) The test claimant and the Department of Finance may file a joint request for early termination
8 of a reasonable reimbursement methodology with the Commission by submitting a request made
9 pursuant to Government Code section 17557.2(e) which shall be certified, filed, and served in
10 accordance with section 1181.3 of these regulations.

11 (b) Commission staff shall notify all recipients that they shall have the opportunity to review and
12 provide written comments on the joint request for early termination of a reasonable
13 reimbursement methodology within 15 days of service.

14 (c) Written comments ~~may be~~ shall be certified, filed, and served in accordance with section
15 1181.3 of these regulations.

16 (d) Within seven days of service of the written comments, the test claimant and Department of
17 Finance may submit written rebuttals which shall be certified, filed, and served in accordance
18 with section 1181.3 of these regulations.

19 (e) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
20 recommendation on whether the Commission should approve the joint request for early
21 termination of a reasonable reimbursement methodology pursuant to Government Code section
22 17557.2(e).

23 (f) If the Commission approves a joint request for early termination, the Commission shall notify
24 the test claimant of the duty to submit proposed parameters and guidelines to the Commission
25 pursuant to Government Code section 17557(a), and section 1183.13 of these regulations.

26 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
27 17557.2, Government Code.

28 **§ 1183.16. Expiration of Reasonable Reimbursement Methodology.**

29 (a) At least one year before the expiration of a reasonable reimbursement methodology,
30 Commission staff shall notify the test claimant and the Department of Finance, that they may do
31 one of the following within 60 days:

32 (1) Jointly propose amendments to the reasonable reimbursement methodology by submitting:
33 (A) the draft reasonable reimbursement methodology, (B) a description of the steps the test
34 claimant and the Department of Finance undertook to determine the level of support by local
35 agencies or school districts for the draft reasonable reimbursement methodology, (C) an
36 agreement that the reasonable reimbursement methodology developed and approved
37 under Government Code section 17557.2 shall be in effect for a period of five years unless a
38 different term is approved by the Commission, and (D) an estimate of the mandate's annual cost
39 for the subsequent budget year.

40 (2) Jointly propose that the reasonable reimbursement methodology remain in effect.

1 (3) Allow the reasonable reimbursement methodology to expire and notify the Commission that
2 the test claimant will submit proposed parameters and guidelines to the Commission pursuant to
3 Government Code section 17557(a) and section 1183.8 of these regulations or request that
4 Commission staff prepare expedited parameters and guidelines pursuant to section 1183.9 of
5 these regulations to replace the reasonable reimbursement methodology.

6 (b) Copies of the notice provided under subdivision (a) shall be filed and served in accordance
7 with section 1181.3 of these regulations.

8 (c) The test claimant and the Department of Finance may jointly propose amendments to the
9 reasonable reimbursement methodology or the continuation of a reasonable reimbursement
10 methodology by submitting a request made pursuant to Government Code section 17557.2(f),
11 which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

12 (d) Commission staff shall notify all recipients that they shall have the opportunity to review and
13 provide written comments on the jointly proposed amendments or request for continuation of the
14 reasonable reimbursement methodology within 30 days of service.

15 (e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
16 these regulations.

17 (f) Within 15 days of service of the written comments prepared by other parties and interested
18 parties, the test claimant and Department of Finance may submit written rebuttals which shall be
19 certified, filed, and served in accordance with section 1181.3 of these regulations.

20 (g) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
21 a staff recommendation on whether the Commission should approve the jointly proposed
22 amendments or the continuation of a reasonable reimbursement methodology pursuant to
23 Government Code section 17557.2(g).

24 (h) Within 10 days of the adoption of the jointly proposed amendments or the continuation of a
25 reasonable reimbursement methodology, the executive director shall send copies to the Office of
26 the State Controller, and to parties and interested parties who are on the mailing list described in
27 section 1181.4 of these regulations.

28 (i) If the test claimant or the Department of Finance fail to respond within 60 days to the notice
29 described in subdivision (a) of this section, Commission staff shall prepare and issue draft
30 expedited parameters and guidelines, pursuant to section 1183.9 of these regulations, within 30
31 days of the parties' failure to respond.

32 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
33 17557, 17557.1 and 17557.2, Government Code.

34 **§ 1183.17. Amendments to Parameters and Guidelines.**

35 (a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines
36 shall include the proposed language for the specific sections of the existing parameters and
37 guidelines that are to be changed, and include a narrative explaining why the amendment is
38 required.

39 A request to amend parameters and guidelines may be filed to make any of the following
40 changes to the parameters and guidelines:

- 1 (1) Delete any reimbursable activity that is repealed by statute or executive order after the
2 adoption of the original or last amended parameters and guidelines.
- 3 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do
4 not require a new legal finding that there are "no costs mandated by the state" under Government
5 Code section 17556(e).
- 6 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable
7 activities in accordance with Government Code section 17518.5. Any request to include a
8 reasonable reimbursement methodology based on, in whole or in part, costs that have been
9 included in claims submitted to the Controller, shall include a statement to this effect on the
10 cover or first page of the request.
- 11 (4) Clarify reimbursable activities consistent with the original decisions on the test claim and
12 parameters and guidelines.
- 13 (5) Add new reimbursable activities that are reasonably necessary for the performance of the
14 original state-mandated program pursuant to section 1183.1(d) of these regulations.
- 15 (6) Define what is not reimbursable consistent with the original decisions on the test claim and
16 parameters and guidelines.
- 17 (7) Consolidate the parameters and guidelines for two or more programs.
- 18 (8) Amend the "boilerplate" language.
- 19 (b) For purposes of this section, "boilerplate" language is defined as the language in the
20 parameters and guidelines that is not unique to the state-mandated program that is the subject of
21 the parameters and guidelines.
- 22 (c) The addition or substitution of requesters and supporting declarations based on the original
23 facts alleged in an existing parameters and guidelines amendment request is not an
24 "amendment." However, new proposals for amendments must be submitted as a new parameters
25 and guidelines amendment request.
- 26 (d) A claimant or state agency requesting an amendment to existing parameters and guidelines
27 shall certify, file, and serve the request in accordance with section 1181.3 of these regulations. If
28 representations of fact are made, they shall be supported by documentary or testimonial
29 evidence, submitted in accordance with section 1187.5 of these regulations.
- 30 (e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff
31 shall send a copy to those who are on the mailing list described in section 1181.4 of these
32 regulations, and shall post the request on the Commission's website.
- 33 (f) Commission staff shall notify all recipients that they shall have the opportunity to review and
34 provide written comments concerning the proposed amendment of the parameters and guidelines
35 within 21 days of service.
- 36 (g) Written comments on the request to amend the parameters and guidelines shall be certified,
37 filed, and served in accordance with section 1181.3 of these regulations. If representations of fact
38 are made, they shall be supported by documentary or testimonial evidence, submitted in
39 accordance with section 1187.5 of these regulations.

1 (h) Written rebuttals to the comments may be filed within 21 days of service of the comments.
2 Written rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these
3 regulations. If representations of fact are made, they shall be supported by documentary or
4 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

5 (i) After review of the proposed amendment to the parameters and guidelines, written comments,
6 and rebuttals submitted, Commission staff shall prepare a draft proposed decision and
7 recommend whether the requester's proposed amendment to the parameters and guidelines
8 should be adopted.

9 (j) Written comments on the draft proposed decision and recommendation on the proposed
10 amendment to the parameters and guidelines shall be certified, filed, and served with the
11 Commission in accordance with section 1181.3 of these regulations, by the date noticed by the
12 executive director. A three-week period for comments shall be given, subject to the executive
13 director's authority to expedite all matters pursuant to Government Code section 17530. If
14 representations of fact are made, they shall be supported by documentary or testimonial
15 evidence, submitted in accordance with section 1187.5 of these regulations. All written
16 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
17 proposed decision and recommendation on the proposed amendment to the parameters and
18 guidelines.

19 (k) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
20 other evidence filed after the three-week comment period described in subdivision (j) of this
21 section. The Commission need not rely on, and staff need not respond to, late comments,
22 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
23 period expires.

24 (l) An amendment shall be made only after the Commission has conducted a hearing in
25 accordance with article 7 of these regulations.

26 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
27 17518.5, 17530, 17553 and 17557, Government Code.

28 **Article 4. Review of Office of State Controller's Claiming Instructions**

29 **§ 1184.1. Review of Office of State Controller's Claiming Instructions.**

30 (a) Upon request of a local agency or school district, the Commission shall review claiming
31 instructions issued by the Office of State Controller.

32 (b) A request to review claiming instructions shall include the following:

33 (1) A copy of the disputed claiming instructions.

34 (2) If available, correspondence or other documentation that verifies the local agency or school
35 district sought to resolve the dispute through the Office of State Controller.

36 (3) A narrative that details the suggested changes and the reasons why the local agency or school
37 district finds the claiming instructions need to be modified.

38 (4) The name, address, telephone number, and e-mail address of the agency contact person.

39 (c) An original request to review claiming instructions shall be ~~submitted to the Commission by~~
40 ~~the local agency or school district~~ certified, filed, and served in accordance with section 1181.3

- 1 of these regulations. If representations of fact are made, they shall be supported by documentary
2 or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.
- 3 (d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall
4 notify the local agency or school district that submitted the request if the submittal is complete or
5 incomplete. A request to review the claiming instructions shall be considered incomplete if any
6 of the elements required in subdivision (b) or (c) of this section are illegible or not included.
7 Incomplete requests shall be returned to the local agency or school district. If a complete request
8 is not received by the Commission within 30 days from the date the incomplete request was
9 returned, the Commission shall deem the request to be withdrawn.
- 10 (e) Within 10 days of receipt of a complete request to review claiming instructions, Commission
11 staff shall send a copy to all persons who are on the mailing list described in section 1181.4 of
12 these regulations. Commission staff shall provide notice that written comments concerning the
13 request to review claiming instructions may be submitted within 30 days of service of the notice
14 of complete filing. A copy of the notice shall also be posted on the Commission's website.
- 15 (f) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
16 these regulations. If representations of fact are made, they shall be supported by documentary or
17 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.
- 18 (g) Within 30 days of service of the written comments, the requester may submit a written
19 rebuttal to the Commission which shall be certified, filed, and served in accordance with section
20 1181.3 of these regulations. If representations of fact are made, they shall be supported by
21 documentary or testimonial evidence, submitted in accordance with section 1187.5 of these
22 regulations.
- 23 (h) Before hearing a request to review claiming instructions, Commission staff shall prepare a
24 draft proposed decision that shall include a review of the request and any comments filed, and a
25 staff recommendation on whether the request should be approved or denied.
- 26 (i) The requester and any state agency or interested party may file written comments on the draft
27 proposed decision. Written comments shall be certified, filed, and served as described in
28 accordance with section 1181.3 of these regulations, by the date determined and publicized by
29 the executive director. If representations of fact are made, they must shall be supported by
30 documentary or testimonial evidence submitted with the comments in accordance with section
31 1187.5 of these regulations. A three-week period for comments shall be given, subject to the
32 executive director's authority to expedite all matters pursuant to Government Code section
33 17530. All written comments timely filed shall be reviewed by Commission staff and may be
34 incorporated into the proposed decision on the request to review and modify the claiming
35 instructions.
- 36 (j) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
37 other evidence filed after the three-week comment period described in subdivision (i) of this
38 section. The Commission need not rely on, and staff need not respond to, late comments,
39 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
40 period expires.
- 41 (k) The Commission shall conduct a hearing in accordance with article 7 of these regulations on
42 the request to review claiming instructions.

1 (l) If the Commission determines that the claiming instructions need to be modified, the
2 Commission shall direct the Office of State Controller to modify the claiming instructions to
3 conform to the parameters and guidelines.

4 (m) An approved change to the claiming instructions shall be subject to the following schedule:

5 (1) A request for review filed before the deadline for initial claims as specified in the claiming
6 instructions shall apply to all years eligible for reimbursement as defined in the original
7 parameters and guidelines.

8 (2) A request for review filed after the initial claiming deadline must be submitted on or before
9 the annual reimbursement claim filing deadline set out in Government Code section 17560
10 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

11 (n) A request to review claiming instructions may be withdrawn by written application to the
12 executive director any time before a decision is adopted or by oral application at the time of
13 hearing. The requesters shall file and serve the written application in accordance with section
14 1181.3 of these regulations. Commission staff shall post a copy of the notice on the
15 Commission's website for 60 days prior to dismissal of the request to review claiming
16 instructions. If no other local agency or school district takes over the request to review claiming
17 instructions by substitution of parties within 60 days of service and posting of the application to
18 withdraw, the executive director shall issue a letter to everyone on the mailing list described in
19 section 1181.4 of these regulations dismissing the request to review claiming instructions and
20 shall post the letter on the Commission's website.

21 Note: Authority cited: Sections 17527(g) and 17527(h), Government Code. Reference: Sections
22 17530, 17560 and 17571, Government Code.

23 **Article 5. Incorrect Reduction Claims**

24 **§ 1185.1. Incorrect Reduction Claim Filing.**

25 (a) To obtain a determination that the Office of State Controller incorrectly reduced a
26 reimbursement claim, a claimant shall file an "incorrect reduction claim" with the Commission
27 as follows:

28 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
29 controller, may file on behalf of a county.

30 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
31 resolution from the city council, may file on behalf of a city.

32 (3) A district superintendent may file on behalf of a school district.

33 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
34 the governing body by ordinance or resolution, may file on behalf of a community college
35 district.

36 (5) A general manager or other officer with authority delegated by the governing body by
37 ordinance or resolution may file on behalf of a special district.

38 (b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,
39 it must notify the Commission of its intent to do so at the time it files its incorrect reduction
40 claim and meet the requirements of section 1185.3 of these regulations.

1 (c) All incorrect reduction claims shall be filed with the Commission no later than three years
2 following the date a claimant first receives from the Office of State Controller a final state audit
3 report, letter, or other written notice of adjustment to a reimbursement claim, which complies
4 with Government Code section 17558.5(c) by specifying the claim components adjusted, the
5 amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the
6 claimant, and the reason for the adjustment. The filing shall be returned to the claimant for lack
7 of jurisdiction if this requirement is not met.

8 (d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement
9 claim filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

10 (e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by
11 the Commission.

12 (f) All incorrect reduction claims, or amendments thereto, shall contain at least the following
13 elements and documents:

14 (1) A copy of the Office of State Controller's claiming instructions that were in effect during the
15 fiscal years of the reimbursement claims.

16 (2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall
17 include a comprehensive description of the reduced or disallowed areas of costs.

18 (3) All representations of fact shall be supported by testimonial or documentary evidence, ~~and~~
19 ~~shall be submitted with the claim~~ in accordance with section 1187.5 of these regulations.

20 (4) A copy of any final state audit report, letter, or other written notice of adjustment from the
21 Office of State Controller that explains the claims components adjusted, amounts reduced, and
22 the reasons for the reduction or disallowance.

23 (5) A copy of the subject reimbursement claims the claimant submitted to the Office of State
24 Controller.

25 (g) An incorrect reduction claim, or amendment thereto, shall be certified, filed, and served in
26 accordance with section 1181.3 of these regulations ~~signed at the end of the document, under~~
27 ~~penalty of perjury by the claimant or its authorized representative, with the declaration that the~~
28 ~~incorrect reduction claim is true and complete to the best of the declarant's personal knowledge~~
29 ~~or information or belief. The date signed, the declarant's title, address, telephone number, and e-~~
30 ~~mail address shall be included.~~

31 (h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and
32 accompanying documents with the Commission in accordance with section 1181.3 of these
33 regulations.

34 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
35 17530, 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

36 **§ 1185.2. Review of Incorrect Reduction Claims.**

37 (a) Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify the
38 claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction claims
39 will be considered incomplete if any of the elements in section 1185.1(a) and (b) and (d) through
40 (h) are illegible or not included or if the requirements of those subdivisions are not met.

41 Incomplete incorrect reduction claims shall be returned to the claimant. If a complete incorrect

1 reduction claim is not received by the Commission within 30 days from the date the incomplete
2 claim was returned to the claimant, the executive director shall deem the filing to be withdrawn.

3 (b) Any incorrect reduction claim, or portion of an incorrect reduction claim, that the
4 Commission lacks jurisdiction to hear for any reason, including that the incorrect reduction claim
5 was not filed within the period of limitation required by section 1185.1(c) of these regulations,
6 may be dismissed by the executive director with a written notice stating the reason for dismissal.

7 (c) Within 10 days of receipt of a complete incorrect reduction claim, Commission staff shall
8 provide a copy of the claim to the Office of State Controller.

9 (d) Commission staff shall notify the Office of State Controller that written comments and
10 supporting documentation in connection with an incorrect reduction claim shall be filed no more
11 than 90 days from the date the copy of the claim is provided to the Office of State Controller.
12 Written comments and supporting documentation ~~may~~ shall be certified, filed, and served in
13 accordance with section 1181.3 of these regulations. If ~~the written comments make~~
14 representations of fact are made, they ~~representations~~ shall be supported by documentary or
15 testimonial evidence and shall be submitted with the comments in accordance with section
16 1187.5 of these regulations.

17 (e) The claimant and interested parties may submit written rebuttals to the Office of State
18 Controller's comments within 30 days of service of the Office of State Controller's comments.
19 Written rebuttals and supporting documentation shall be certified, filed, and served pursuant to
20 accordance with section 1181.3. If ~~the written rebuttal involves~~ representations of fact are made,
21 they ~~representations~~ shall be supported by documentary or testimonial evidence ~~and shall be~~
22 submitted with the rebuttal in accordance with section 1187.5 of these regulations.

23 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
24 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

25 **§ 1185.3. Consolidation of Claims Initiated by an Individual Claimant.**

26 (a) On behalf of a class of claimants, an individual claimant may initiate the consolidation of
27 claims alleging an incorrect reduction as described in Government Code section 17558.7, if all of
28 the following apply:

29 (1) The method, act, or practice that the claimant alleges led to the reduction has led to similar
30 reductions of other parties' claims, and all of the claims involve common questions of law or
31 fact.

32 (2) The common questions of law or fact among the claims predominate over any matter
33 affecting only an individual claim.

34 (3) The consolidation of similar claims by individual claimants would result in consistent
35 decision making by the Commission.

36 (4) The claimant filing the consolidated claim would fairly and adequately protect the interests of
37 the other claimants.

38 (b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the
39 Commission of its intent at the time of filing on a form provided by the Commission. The
40 consolidated incorrect reduction claim shall be filed in accordance with section 1185.1 of these
41 regulations and contain a narrative that explains the elements in subdivision (a) of this section.

1 All representations of fact shall be supported by documentary or testimonial evidence, submitted
2 in accordance with section 1187.5 of these regulations.

3 (c) Within 10 days of receipt of a consolidated incorrect reduction claim, Commission staff shall
4 notify the claimant if the consolidated incorrect reduction claim is complete or incomplete. A
5 consolidated incorrect reduction claim is incomplete if the claim has not been filed in accordance
6 with subdivision (b) of this section, or is illegible. Incomplete consolidated incorrect reduction
7 claims shall be returned to the claimant. If a complete consolidated incorrect reduction claim is
8 not received by the Commission within 30 days from the date the incomplete claim was returned
9 to the claimant, the executive director shall deem the filing to be withdrawn.

10 (d) Any consolidated incorrect reduction claim, or portion of a consolidated incorrect reduction
11 claim, that the Commission lacks jurisdiction to hear for any reason may be dismissed by the
12 executive director in accordance with section 1185.2(b) of these regulations.

13 (e) If the consolidated incorrect reduction claim is complete, Commission staff shall request the
14 Office of the State Controller to provide the Commission, within 30 days, a list of claimants for
15 whom the Controller has reduced similar claims under the same mandate, and the date each
16 claimant was notified of an adjustment.

17 (f) Upon receipt of the list from the Office of the State Controller, the Commission shall notify
18 the list of other claimants experiencing similar reductions by the Controller under the same
19 mandate and other interested parties of the original claimant's intent to consolidate an incorrect
20 reduction claim.

21 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.7(g), Government Code.
22 Reference: Sections 17558.5(c) and 17558.7, Government Code.

23 **§ 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed**
24 **Decision.**

25 (a) The Commission shall conduct a hearing in accordance with article 7 of these regulations
26 before adopting a decision on an individual or consolidated incorrect reduction claim.

27 (b) Before hearing an individual or consolidated incorrect reduction claim, Commission staff
28 shall prepare a proposed decision for the incorrect reduction claim that shall include a review of
29 the incorrect reduction claim, comments and rebuttals filed on the claim and, to the extent that it
30 is relevant to the claim, a review of the test claim decision and decision and parameters and
31 guidelines. The proposed decision shall also include a staff recommendation on whether the
32 claimant's reimbursement claim was incorrectly reduced.

33 (c) At least eight weeks before the hearing or at a time required by the executive director or
34 stipulated to by the claimant and the Office of State Controller, Commission staff shall distribute
35 the draft proposed decision to all those on the mailing list described in section 1181.4 of these
36 regulations.

37 (d) A three-week period for comments shall be given, subject to the executive director's
38 authority to expedite all matters pursuant to Government Code section 17530. Written comments
39 may be filed and shall be certified, filed, and served as described in accordance with section
40 1181.3 of these regulations, by the date determined and publicized by the executive director.~~A~~
41 ~~three-week period for comments shall be given, subject to the executive director's authority to~~
42 ~~expedite all matters pursuant to Government Code section 17530. If representations of fact are~~

1 made, they shall be supported by documentary or testimonial evidence, submitted in accordance
2 with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by
3 Commission staff and may be incorporated into the proposed decision for the incorrect reduction
4 claim.

5 (e) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
6 other evidence filed after the three-week comment period described in subdivision (d) of this
7 section. The Commission need not rely on, and staff need not respond to, late comments,
8 exhibits, or other evidence submitted in response to a draft proposed decision after the comment
9 period expires.

10 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
11 17530 and 17551(d), Government Code.

12 **§ 1185.8. Withdrawal of Incorrect Reduction Claims.**

13 (a) An incorrect reduction claim, except for a claim by the original claimant in a consolidated
14 incorrect reduction claim, may be withdrawn by written application any time before a decision is
15 adopted or by oral application at the time of hearing. If an application is made, the executive
16 director shall issue a letter to the claimant and the State Controller dismissing the claim.

17 (b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction
18 claim, may be withdrawn by written application any time before a decision is adopted or by oral
19 application at the time of hearing. The original claimant shall certify, file, and serve the written
20 application in accordance with section 1181.3 of these regulations and Commission staff shall
21 post a copy of the notice on the Commission's website for 60 days prior to dismissal of the
22 incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60
23 days of providing notice of its intent to take over the claim, perfect the filing by submitting the
24 written narrative as required by section 1185.1. If none of the joint claimants takes over the claim
25 by substitution of parties within 60 days of service and posting of the application to withdraw,
26 the executive director shall issue a letter to everyone on the mailing list described in section
27 1181.4 of these regulations dismissing the claim and providing the joint claimants with an
28 opportunity to perfect their individual claims within 60 days of service by submitting the written
29 narrative as required by section 1185.1. The letter shall be posted on the Commission's website.

30 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
31 17551(d), Government Code.

32 **Article 6. State Mandates Apportionment System**

33 **§ 1186.2. Request for Inclusion.**

34 (a) Any local agency, school district, the Department of Finance or the State Controller's Office
35 may request that the Commission review a mandated cost program for possible inclusion in the
36 State Mandates Apportionment System in accordance with Government Code section 17615.1.

37 (b) In order to obtain a review and determination regarding inclusion in the system, a local
38 agency, school district or state agency must certify, file, and serve a "Request for Inclusion" ~~with~~
39 ~~the Commission~~ in accordance with section 1181.3 of these regulations.

40 (c) The request for inclusion must contain at least the following:

41 (1) The chapter number of the law which established the mandated cost program(s).

1 (2) A detailed narrative describing the mandated cost program with an explanation of the reasons
2 why the mandated cost program should be included in the State Mandates Apportionment
3 System.

4 (3) Any other pertinent information which will substantiate the request or which would have a
5 bearing on the decision of the Commission in this matter.

6 (d) The Commission shall consider the recommendation submitted from the Controller for each
7 new mandate submitted for inclusion in the State Mandates Apportionment System in
8 accordance with Government Code section 17615.4(c).

9 (e) Requests for inclusion will be considered incomplete if any of the preceding elements or
10 documents required in subdivision (c) of this section are illegible or not included. Incomplete
11 requests for inclusion shall be returned to the requester for completion.

12 (f) Requests for inclusion filings and any state agency recommendations shall be subject to the
13 requirements of article 7 of these regulations beginning at section 1187.1. If representations of
14 fact are made, they shall be supported by documentary or testimonial evidence, submitted in
15 accordance with section 1187.5 of these regulations.

16 Note: Authority cited: Sections 17527(g), 17615 and 17615.1, Government Code. Reference:
17 Sections 17615, 17615.1 and 17615.4, Government Code.

18 **§ 1186.4. Request for Removal.**

19 (a) Any local agency, school district, or state agency may request that the Commission review a
20 mandated program included in the State Mandates Apportionment System that has been modified
21 or amended by the Legislature or an executive order for possible removal of the program from
22 the system in accordance with Section 17615.7 of the Government Code.

23 (b) In order to obtain a review and determination regarding removal of a program from the
24 system, a local agency, school district, or state agency must certify, file, and serve a "Request for
25 Removal" ~~with the Commission~~ in accordance with section 1181.3 of these regulations.

26 (c) The request for removal must contain at least the following elements:

27 (1) The chapter number or executive order of the law which established the mandated cost
28 program.

29 (2) The chapter number of the law or the executive order which significantly modified or
30 amended the costs of the program or a detailed description of the circumstances or events which
31 have caused the changes.

32 (3) A detailed narrative describing the mandated cost program with an explanation of the reasons
33 why the mandated program should no longer be included in the State Mandates Apportionment
34 System.

35 (4) Any other information which will substantiate the request or which would have a bearing on
36 the decision of the Commission in this matter.

37 (d) Requests for Removal will be considered incomplete if any of the preceding elements or
38 documents required in subdivision (c) of this section are illegible or not included. Incomplete
39 Requests for Removal shall be returned to the requester for completion.

1 (e) Request for removal filings and any state agency recommendations shall be subject to the
2 requirements of article 7 of these regulations beginning at section 1187. If representations of fact
3 are made, they shall be supported by documentary or testimonial evidence, submitted in
4 accordance with section 1187.5 of these regulations.

5 Note: Authority cited: Sections 17527(g) and 17615.7, Government Code. Reference: Section
6 17615.7, Government Code.

7 **Article 7. Quasi-Judicial Hearing Procedures and Decisions**

8 **§ 1187.5. Evidence Submitted to the Commission.**

9 (a) The hearings will not be conducted according to technical rules relating to evidence and
10 witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on
11 which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and
12 unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of
13 supplementing or explaining other evidence but shall not be sufficient in itself to support a
14 finding unless it would be admissible over objection in civil actions.

15 (b) Oral or written representations of fact offered by any person at an article 7 hearing shall be
16 under oath or affirmation. All written representations of fact submitted to the Commission must
17 be signed under penalty of perjury by persons who are authorized and competent to do so and
18 must be based upon the declarant's personal knowledge, ~~or~~ information, or belief.

19 (c) Official notice may be taken in the manner and of the information described in Government
20 Code Section 11515.

21 (d) Each party shall have the right to present witnesses, introduce exhibits, and propose to the
22 chairperson questions for opposing witnesses. Evidence may be submitted to support or rebut
23 any issue. If declarations are to be used in lieu of testimony, the party proposing to use the
24 declaration shall comply with Government Code Section 11514.

25 Note: Authority cited: Sections 17527(e), 17527(g), 17553, 17557, 17610, 17621 and 17622,
26 Government Code. Reference: Sections 11514, 11515, 17527(e), 17551, 17553, ~~and~~ 17557,
27 17559 and 17570, Government Code.

28 **§ 1187.7. Witnesses and Subpoenas.**

29 (a) A party shall arrange for the presence of its own witnesses at a hearing on a claim.

30 (b) A subpoena may be issued upon a majority vote of the Commission. A party requesting a
31 subpoena shall submit a written application to the Commission at least six weeks prior to the
32 Commission meeting at which the request will be considered.

33 (c) An application for a subpoena to compel the attendance of a witness shall be made by
34 affidavit and shall give the name and address of the person to be subpoenaed, shall describe the
35 matters to be testified on, shall set forth in detail the relevance to the issues involved in the claim,
36 shall specify the date, time, and place of the hearing on the claim and that, to the best of the
37 applicant's personal knowledge, ~~or~~ information, or belief, the person to be subpoenaed has
38 knowledge of the matters. If the applicant is unable to obtain the name of the person who has
39 knowledge of the matters, the name of the director of the state or local agency or superintendent
40 of a school district may be used for the application.

1 (d) An application for subpoena duces tecum for the production by a witness of books, papers,
2 correspondence, memoranda, or other records, including records of the claimant, shall be made
3 by affidavit and shall give the name and address of the person to be subpoenaed, shall describe
4 the matters or things desired to be produced, shall set forth in detail the relevance to the issues
5 involved in the claim, shall specify the date on which the matters shall be produced, and that, to
6 the best of the applicant's personal knowledge, ~~or information,~~ or belief, the witness has the
7 matters or things in his or her possession or under his or her control and that none of the matters
8 or things desired to be produced are public records accessible to the public pursuant to Section
9 6250 et seq., of the Government Code. If the applicant is unable to obtain the name of the person
10 who has possession or control of the matters or things desired to be produced, the name of the
11 director or superintendent or custodian of records of the state or local agency or school district
12 may be used for the application.

13 (e) When a request for subpoena or subpoena duces tecum is approved by the Commission, the
14 subpoena or subpoena duces tecum shall be issued signed by the executive director, but
15 otherwise be blank.

16 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces tecum shall
17 be completed by the requesting party, and the name, address, and telephone number of the
18 requesting party shall be included on the form. Service of subpoenas and subpoenas duces tecum
19 shall be made with a copy of the affidavit and shall be arranged for by requesting parties.

20 (g) Except as otherwise provided in this section, service of subpoenas or subpoenas duces tecum
21 shall be in accordance with the provisions of Section 1985 et seq., of the Code of Civil
22 Procedure.

23 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
24 17527(d), 17551 and 17553(a), Government Code.

25 **§ 1187.8. Representation at Hearing.**

26 (a) A party may appear in person or through an authorized representative. When using an
27 authorized representative, a party shall designate in writing the authorized representative to act as
28 its sole representative and shall certify, file, and serve written notice identifying the authorized
29 representative in accordance with section 1181.3 of these regulations.

30 (b) A representative of a party shall be deemed to control all matters respecting the interest of
31 that party in the proceeding. All correspondence and communications shall be forwarded to the
32 authorized representative.

33 (c) Withdrawal of appearance of any representative may be effected by filing and serving a
34 written notice of withdrawal in accordance with section 1181.3 of these regulations. Any change
35 in representation shall be authorized by the party in writing and filed and served in accordance
36 with section 1181.3 of these regulations.

37 Note: Authority cited: 17527(c), 17527(g), 17551, 17553(a), 17555, 17620, 17621 and 17622,
38 Government Code. Reference: Sections 17527(c), 17551 and 17553, Government Code.

39 **§ 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and** 40 **Continuances of Hearings.**

41 (a) Requests for Extensions of Time

1 Any party or interested party to a matter may request an extension of time by filing a request
2 with the executive director before the date set for filing of comments or rebuttals with
3 Commission staff on that matter. The request shall fully explain the reasons for the extension,
4 propose a new date for filing, and be ~~simultaneously certified, filed, and served~~ in accordance
5 with section 1181.3 of these regulations. If representations of fact are made, they shall be
6 supported by documentary or testimonial evidence, submitted in accordance with section 1187.5
7 of these regulations. So long as a postponement of a hearing would not be required, there is no
8 prejudice to any party or interested party, and there is no other good reason for denial, the
9 request shall be approved. A party to a matter may request an extension of time that would
10 necessitate rescheduling a hearing, but shall also include a request for postponement of the
11 hearing, pursuant to section 1187.9(b). Within two business days of receipt of the request, the
12 executive director shall determine whether the extension will be granted and notify all persons on
13 the mailing list prepared pursuant to section 1181.4 of these regulations.

14 (b) Requests for Postponement of Hearing

15 A party to an article 7 matter may request a postponement of a hearing on that matter, until the
16 next regularly scheduled hearing. Although postponements of hearings are disfavored, each
17 request for a postponement must be considered on its own merits. The request shall fully explain
18 the reasons for the postponement, and be certified, filed, and served in accordance with section
19 1181.3 of these regulations. If representations of fact are made, they shall be supported by
20 documentary or testimonial evidence, submitted in accordance with section 1187.5 of these
21 regulations. Within two business days of receipt of the request, the executive director shall
22 determine whether the postponement will be granted and notify all persons on the mailing list
23 prepared pursuant to section 1181.4 of these regulations. The executive director may postpone
24 the matter only on an affirmative showing of good cause.

25 (1) Circumstances that may indicate good cause include:

26 (A) The unavailability of a party, party representative, or witness because of death, illness, or
27 other excusable circumstances;

28 (B) The substitution of a party representative, but only where there is an affirmative showing that
29 the substitution is required in the interests of justice;

30 (C) The addition of a new party if:

31 1. The new party has not had a reasonable opportunity to prepare for hearing; or

32 2. The other parties have not had a reasonable opportunity to prepare for hearing in regard to the
33 new party's involvement in the matter;

34 (D) A party's excused inability to obtain essential testimony, documents, or other material
35 evidence despite diligent efforts;

36 (E) A significant, unanticipated change in the status of the matter as a result of which the matter
37 is not ready for hearing; or

38 (F) The number and complexity of the issues.

39 (2) Other factors to be considered: In determining whether to grant a postponement, the
40 executive director shall consider the facts and circumstances that are relevant to the
41 determination. These may include:

- 1 (A) The proximity of the hearing date;
- 2 (B) Whether there was any previous postponement, extension of time, or delay of hearing due to
3 any party;
- 4 (C) The length of the postponement requested;
- 5 (D) The availability of alternative means to address the problem that gave rise to the request for a
6 postponement;
- 7 (E) The prejudice that parties or witnesses will suffer as a result of the postponement;
- 8 (F) If the matter was granted expedited scheduling, the reasons for that status and whether the
9 need for a postponement outweighs the need to avoid delay;
- 10 (G) The Commission's backlog of matters and the impact of granting a postponement on other
11 pending matters;
- 12 (H) Whether the claimant or requester representative is engaged in a trial or other hearing that
13 conflicts with the Commission hearing;
- 14 (I) Whether, pursuant to Government Code 17554, all parties have stipulated to a postponement;
15 and
- 16 (J) Whether the interests of justice are best served by a postponement, by moving forward with
17 the hearing on the matter, or by imposing conditions on the postponement.
- 18 (3) Approval of Requests for Postponement
- 19 (A) A request filed by the claimant or requester at least 15 days before the hearing shall be
20 approved by the executive director for good cause.
- 21 (B) A request filed by stipulation of the parties, including the claimant or requester, shall be
22 approved by the executive director for good cause.
- 23 (C) A request filed by the claimant or requester less than 15 days before the hearing may be
24 approved by the executive director for good cause.
- 25 (D) A request filed by an interested party may be approved by the executive director for good
26 cause. If a state agency makes a request before filing comments on the test claim, that request
27 shall be accompanied by a notice of intent to oppose the test claim in whole or in part.
- 28 (4) Postponement on Commission Staff's Own Motion: The executive director may postpone a
29 hearing on a matter for good cause and shall notify all persons on the mailing list prepared
30 pursuant to section 1181.4 of these regulations.
- 31 (c) Continuance of a Hearing
- 32 (1) Prior to the adoption of its written decision on the matter being heard, the Commission on its
33 own motion, or upon a clear showing of good cause at the request of a party, may continue a
34 hearing to another time or place. Written notice of the time and place of the continued hearing,
35 except as provided herein, shall be in accordance with section 1187.1 of these regulations. When
36 a continuance is ordered during a hearing, oral notice of the time and place of the continued
37 hearing may also be given to each party present at the hearing.
- 38 (2) In determining whether there is good cause for a continuance within the meaning of
39 subdivision (a) the following policy should be taken into consideration: Continuances are not

1 favored by the Commission. The parties are expected to submit for decision all matters in
2 controversy at a single hearing and to produce at the hearing all necessary evidence, including
3 witnesses, documents and all other matters considered essential in the proof of a party's
4 allegations. Continuances will be granted only upon a clear showing of good cause.

5 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
6 17527, 17551 and 17553(a), Government Code; and California Rules of Court, Rule 3.1332.

7 **§ 1187.12. Withdrawal of a Matter.**

8 A matter, or any portion of a matter, other than a test claim, may be withdrawn by written
9 application of the claimant or requester any time before a decision is adopted, or by oral
10 application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the
11 claimant upon written application to the executive director any time before a decision is adopted
12 or after enactment of a legislatively determined mandate on the same statute or executive order
13 pursuant to Government Code section 17574. The claimant or requester shall certify, file, and
14 serve the written application in accordance with section 1181.3 of these regulations. Dismissal of
15 items withdrawn pursuant to this section shall be in accordance with the procedures described in
16 section 1187.15~~4~~ of these regulations.

17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
18 17551 and 17553, Government Code.

19 **§ 1187.14. Substitution of Parties and Dismissal of a Matter.**

20 (a) A matter, other than a test claim, that has been withdrawn in accordance with 1187.12 or
21 deemed abandoned in accordance with section 1187.13, may be dismissed by the executive
22 director. Commission staff shall provide written notice of dismissal to everyone on the mailing
23 list for the matter to be dismissed.

24 (b) A test claim that has been withdrawn or deemed abandoned may be dismissed by the
25 Commission on its own motion or by a motion of a party after notice and an opportunity to be
26 heard has been made to the claimant, parties and interested parties as provided below.

27 (1) For test claims that are withdrawn, deemed abandoned, or filed by an agency that is not
28 eligible to seek reimbursement because it is not subject to the taxing and spending limitations of
29 article XIII A and B of the California Constitution, Commission staff shall serve written notice to
30 initiate dismissal of the test claim to everyone on the mailing list for the matter. The notice shall
31 announce that another local agency or school district may take over the claim by substitution of
32 parties within 60 days of the issuance of the notice. The notice shall also announce the
33 opportunity to provide written comments on the proposed dismissal of the test claim. A copy of
34 the notice shall also be posted on the Commission's website.

35 (2) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
36 these regulations. If representations of fact are made, they shall be supported by documentary or
37 testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

38 (3) If no other local agency or school district takes over the test claim by substitution of parties
39 within 60 days of the issuance of the notice, the Commission shall hear the proposed dismissal of
40 the test claim.

1 (c) The hearing on a dismissal of a matter shall be conducted in accordance with article 7 of
2 these regulations.

3 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:
4 Sections 17551 and 17553(a), Government Code.

5 **§ 1187.15. Reconsideration of an Adopted Decision.**

6 (a) Notwithstanding section 1187.11(b) of these regulations, the Commission may make
7 substantive changes to an adopted decision under this section or order a reconsideration of all or
8 part of a matter on petition of any party. The power to order a reconsideration or amend a test
9 claim decision shall expire 30 days after the adopted decision is delivered or mailed to the
10 claimant. If additional time is needed to evaluate a petition for reconsideration filed before the
11 expiration of the 30-day period, the Commission may grant a stay of that expiration for no more
12 than 30 days, solely for the purpose of considering the petition. A request for reconsideration
13 shall be deemed automatically stayed for the 30-day period. If no action is taken on a petition
14 within the time allowed for ordering reconsideration, the petition shall be deemed denied.

15 (b) Except as provided elsewhere in this section, any party, interested party, or Commission
16 member may request that the Commission reconsider and change an adopted decision to correct
17 an error of law.

18 (c) All requests for reconsideration shall be certified, filed, and served~~submitted to the~~
19 ~~Commission~~ in accordance with section 1181.3 of these regulations and shall contain the
20 following:

21 (1) The name and address of the requesting party;

22 (2) A copy of the Commission's adopted decision;

23 (3) A detailed statement of the reasons for the request, including:

24 (A) An explanation of the reasons for the request for reconsideration; and,

25 (B) All documentation the requester intends to submit to support the request;

26 (4) A description of the proposed change; and

27 (5) If representations of fact are made, they shall be supported by documentary or testimonial
28 evidence, submitted in accordance with section 1187.5 of these regulations.

29 (d) Commission member requests may be made orally during a regularly scheduled Commission
30 meeting. Commission staff shall prepare the written request, as specified in subsections (c)(1-4)
31 above.

32 (e) Any signatory to a written agreement that settles a matter may not request reconsideration of
33 that matter if the matter is settled with prejudice.

34 (f) Before the Commission considers the request for reconsideration, Commission staff shall
35 prepare a written analysis regarding whether the adopted decision is contrary to law which shall
36 include but not be limited to a review of the written comments filed by other state agencies,
37 interested parties, and the requester. Commission staff shall make a recommendation in the
38 analysis on whether the request for reconsideration should be granted. The Commission shall
39 consider the request for reconsideration at a scheduled meeting. Five affirmative votes shall be
40 required to grant the request for reconsideration.

1 (g) If the Commission grants the request for reconsideration, a hearing shall be conducted to
2 determine if the adopted decision in question must be revised to correct an error of law.

3 (1) The following procedures shall govern the Commission's reconsideration of the adopted
4 decision:

5 (A) At least eight weeks before the Commission is scheduled to consider whether an adopted
6 decision is contrary to law, or at another time required by the executive director, Commission
7 staff shall prepare a draft proposed decision and distribute it to those identified on the mailing list
8 for the matter established pursuant to section 1181.4 of these regulations and any person who
9 requests a copy.

10 (B) Written comments may be filed with Commission staff concerning the draft proposed
11 decision. All representations of fact shall be supported by documentary or testimonial evidence,
12 submitted in accordance with section 1187.5 of these regulations. Written comments shall be
13 certified, filed, and served in accordance with section 1181.3 of these regulations. A three-week
14 period for comments shall be given, subject to the executive director's authority to expedite all
15 matters pursuant to Government Code section 17530. All written comments timely filed shall be
16 reviewed by Commission staff and may be incorporated into the proposed decision regarding
17 whether the adopted decision is contrary to law and presented to the Commission before the
18 scheduled meeting.

19 (2) The procedures set forth in article 7 shall govern the Commission's hearings and decisions
20 process, except that five affirmative votes shall be required to change an adopted decision.

21 (h) If the Commission changes an adopted decision, the procedures set forth in Sections 1183.7
22 through 1183.14 of these regulations shall govern the adoption of parameters and guidelines and
23 the statewide cost estimate, if applicable.

24 (i) Failure to seek Commission reconsideration of an adopted decision shall not affect a
25 claimant's or state agency's right to seek judicial review pursuant to Government Code section
26 17559(b).

27 (j) This section only applies to reconsiderations requested pursuant to Government Code section
28 17759(a); it does not apply to remands or reconsiderations directed by the courts or by statute.

29 Note: Authority cited: Sections 17527(c), 17527(g), 17553(a) and 17559(a), Government Code.
30 Reference: Sections 17532, 17551 and 17559, Government Code.

31 **Article 8. Rulemaking and Informational Hearings**

32 **Article 10. Mandate Redetermination Process**

33 **§ 1190.1. Filing a Request to Adopt a New Test Claim Decision.**

34 (a) A local agency or a school district, statewide association of local agencies or school districts,
35 the Department of Finance, Office of the State Controller, or other affected state agency, may file
36 a request to adopt a new test claim decision to supersede a previously adopted test claim decision
37 by making a showing that the state's liability pursuant to Article XIII B, section 6(a) of the
38 California Constitution for the previously adopted test claim decision has been modified based
39 on a "subsequent change in law" as defined by Government Code section 17570(a)(2). Such a
40 request is known as a "request for mandate redetermination."

1 (b) All requests for mandate redetermination shall be filed on a form developed by the executive
2 director and shall contain a detailed analysis of how and why the state's liability for mandate
3 reimbursement has been modified pursuant to article XIII B, section 6(a) of the California
4 Constitution and all of the elements and accompanying documents required by the form and
5 Government Code section 17570(d). If representations of fact are made, they shall be supported
6 by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these
7 regulations.

8 (c) The detailed analysis of how and why the state's liability for mandate reimbursement has
9 been modified pursuant to article XIII B, section 6(a) of the California Constitution based on a
10 "subsequent change in law" as defined by Government Code section 17570 requires more than a
11 written narrative or simple statement of the facts and law. It requires the application of the law
12 (Gov. Code § 17570 (a) and (b)) to the facts (i.e. the alleged subsequent change in law)
13 discussing, for each activity addressed in the prior test claim decision, how and why the state's
14 liability for that activity has been modified. Specific references shall be made to statutes and
15 chapters, articles, sections, and page numbers that are alleged to impose or not impose a
16 reimbursable state-mandated program.

17 (d) ~~The requester shall file a~~ A request for mandate redetermination and accompanying
18 documents ~~with the Commission~~ shall be certified, filed, and served in accordance with section
19 1181.3 of these regulations.

20 (e) Within 10 days of receipt of a request for mandate redetermination, Commission staff shall
21 notify the requester if the request is complete or incomplete and refer the requester to these
22 regulations. Requests for mandate redetermination shall be considered incomplete if any of the
23 elements required in subdivisions (b), (c), or (d) of this section are illegible or are not included. If
24 a complete request for mandate redetermination is not received within 30 calendar days from the
25 date the incomplete request was returned, the executive director shall disallow the original
26 request filing date. New requests for mandate redetermination may be accepted on the same
27 subsequent change in law alleged to modify the state's liability pursuant to article XIII B, section
28 6(a) of the California Constitution.

29 (f) A request for mandate redetermination shall be filed on or before June 30 following a fiscal
30 year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal
31 year.

32 (g) A requester may not add a new subsequent change in law to a request for mandate
33 redetermination after the request has been deemed complete.

34 (h) Any request for mandate redetermination that fails to allege a "subsequent change in law," as
35 defined by Government Code section 17570, shall be returned by the executive director with a
36 written notice stating the reason that the request is being returned. These filings may include, but
37 are not limited to, requests that meet the requirements for a proposed parameters and guidelines
38 amendment or a new test claim filing.

39 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
40 Sections 17530 and 17570, Government Code.

41 **§ 1190.2. Review and Response.**

42 (a) Within 10 days of receipt of a complete request for mandate redetermination, Commission

1 staff shall send a written notice to the Department of Finance, Office of the State Controller, any
2 affected state agency, the original test claimant, and any known interested party, that:

3 (1) A copy of the request for mandate redetermination has been posted on the Commission's
4 website, and

5 (2) Written comments concerning the request for mandate redetermination may be filed within
6 30 days and evidence may also be presented at the hearing on the request for mandate
7 redetermination.

8 (b) Content and Form. Written comments on the request for mandate redetermination shall
9 contain the following documentary evidence, if applicable:

10 (1) If representations of fact are made, they must be supported by documentary or testimonial
11 evidence, which shall be submitted in accordance with section 1187.5 of these regulations with
12 the response. All documentary evidence shall be authenticated by declarations under penalty of
13 perjury signed by persons who are authorized and competent to do so and must be based on the
14 declarant's personal knowledge or information or belief.

15 (2) A copy of relevant portions of state constitutional provisions, state and federal statutes, and
16 executive orders, and a copy of administrative decisions and court decisions that may impact the
17 alleged mandate, unless the authorities are also cited in the request to adopt a new test claim
18 decision. The specific statutes and chapters, articles, sections, and page numbers must be
19 identified. Published court decisions arising from state mandate determinations by the Board of
20 Control and the Commission, article XIII B, section 6 of the California Constitution, and
21 Government Code sections 17500 et seq., are exempt from the requirements of this subsection.
22 When an omnibus bill is relevant to the response, only the relevant pages of the statute, including
23 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

24 ~~(c) The written comments and supporting documentation shall be signed at the end of the~~
25 ~~document, under penalty of perjury by an authorized representative, with the declaration that it is~~
26 ~~true and complete to the best of the representative's personal knowledge or information or belief.~~
27 ~~The date of signing, the representative's title, address, telephone number, and e-mail address~~
28 ~~shall be included.~~

29 ~~(d) Filing. Written comments and supporting documentation concerning a request for mandate~~
30 ~~redetermination shall be certified, filed, and served in accordance with Section 1181.3 of these~~
31 ~~regulations. Any representations of fact shall be supported by documentary evidence, submitted~~
32 ~~with the comments, in accordance with section 1187.5 of these regulations.~~

33 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
34 Section 17570, Government Code.

35 **§ 1190.3. Rebuttal.**

36 (a) Parties and interested parties shall be given an opportunity to rebut written comments
37 concerning a request for mandate redetermination by filing written rebuttals within 30 days of
38 service of the comments.

39 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if
40 applicable:

1 (1) If ~~new~~ representations of fact are made, they must be supported by documentary or
2 testimonial evidence, ~~which shall be submitted with the rebuttal~~ in accordance with section
3 1187.5 of these regulations.

4 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
5 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,
6 unless the authorities are also cited in the request to adopt a new test claim decision or any
7 response thereto. The specific statutes and chapters, articles, sections, and page numbers shall be
8 identified. Published court decisions arising from state mandate determinations by the Board of
9 Control and the Commission, article XIII B, section 6 of the California Constitution, and
10 Government Code sections 17500 et seq., are exempt from the requirements of this subsection.
11 When an omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including
12 the Legislative Counsel's Digest and the specific statutory changes at issue shall be filed.

13 (c) The rebuttal to a comment concerning a request for mandate redetermination shall be
14 certified, filed, ~~with Commission staff~~ and served in accordance with section 1181.3 of these
15 regulations.

16 ~~(d) The rebuttal shall be signed at the end of the document, under penalty of perjury, with the~~
17 ~~declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge~~
18 ~~or information or belief. The date of signing, the declarant's title, address, telephone number, and~~
19 ~~e-mail address shall be included.~~

20 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
21 Section 17570, Government Code.

22 **§ 1190.5. Hearing Process and Form of Decision.**

23 Notwithstanding any other provision of these regulations, mandate redetermination process
24 hearings and decisions shall be subject to article 7 of these regulations. There shall be a two-step
25 hearing process for requests to adopt a new test claim decision as follows:

26 (a) The First Hearing:

27 (1) The first hearing shall be limited to the issue of whether the requester has made an adequate
28 showing which identifies a subsequent change in law as defined by Government Code section
29 17570, material to the prior test claim decision, that may modify the state's liability pursuant to
30 article XIII B, section 6(a) of the California Constitution. The Commission shall find that the
31 requester has made an adequate showing if it finds that the request, when considered in light of
32 all of the written comments and supporting documentation in the record of this request, has a
33 substantial possibility of prevailing at the second hearing.

34 (2) At least eight weeks before the hearing or at another time required by the executive director
35 or stipulated to by the parties, Commission staff shall prepare a draft proposed decision and
36 distribute it to the parties, interested parties, and any person who requests a copy, and shall post
37 it on the Commission's website. A request for mandate redetermination is set for the first hearing
38 when Commission staff issues its draft proposed decision. A written notice of the date, time, and
39 place of the first hearing shall be served on everyone on the mailing list described in section
40 1181.4 of these regulations and posted on the Commission's website.

41 (3) Written comments concerning the draft proposed decision may submitted to Commission
42 staff. Written comments shall be certified, filed, and served ~~as described in accordance with~~

1 section 1181.3 of these regulations, by the date determined and publicized by the executive
2 director. A three-week period for comments shall be given, subject to the executive director's
3 authority to expedite all matters pursuant to Government Code section 17530. If representations
4 of fact are made, they shall be supported by documentary or testimonial evidence, submitted in
5 accordance with section 1187.5 of these regulations. All written comments timely filed shall be
6 reviewed by Commission staff and may be incorporated into the proposed decision of the request
7 to adopt a new test claim decision.

8 (A) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
9 other evidence filed after the three-week comment period described in subdivision (a)(3) of this
10 section. The Commission need not rely on, and staff need not respond to, late comments,
11 exhibits, or other evidence submitted in response to a draft proposed decision.

12 (4) Before the first hearing on the request for mandate redetermination, Commission staff shall
13 prepare a proposed decision limited to the issue of whether the requester has made a showing
14 that identifies a subsequent change in law, material to the prior test claim decision, which may
15 modify the state's liability pursuant to article XIII B, section 6(a) of the California Constitution.
16 This proposed decision shall consider the request, written comment, rebuttals and supporting
17 documentation filed by the parties and interested parties. The proposed decision for the first
18 hearing shall find that the requester has made an adequate showing if staff finds that the request,
19 when considered in light of all of the written comments and supporting documentation in the
20 record of this request, has a substantial possibility of prevailing at the second hearing.

21 (5) If, at the first hearing, the Commission finds that:

22 (A) The requester has not made an adequate showing, when considered in light of all of the
23 written comments, rebuttals and supporting documentation in the record and testimony at the
24 hearing, that the request for mandate redetermination has a substantial possibility of prevailing at
25 the second hearing, the Commission shall publish a decision denying the request for mandate
26 redetermination.

27 (B) The requester has made an adequate showing, when considered in light of all of the written
28 comments, rebuttals, and supporting documentation in the record and testimony at the hearing,
29 the Commission shall publish a decision finding that an adequate showing has been made and
30 setting the second hearing on whether the Commission shall adopt a new test claim decision to
31 supersede the previously adopted test claim decision.

32 (6) Everyone on the mailing list described in section 1181.4 of these regulations shall be
33 provided written notice that the Commission's decision has been posted on the Commission's
34 website and, if applicable, that the date, time, and place of the second hearing have also been
35 posted on the Commission's website.

36 (b) The Second Hearing:

37 (1) If the Commission proceeds to the second hearing, it shall consider whether the state's
38 liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified
39 based on the subsequent change in law alleged by the requester, thus requiring adoption of a new
40 test claim decision to supersede the previously adopted test claim decision. If the Commission
41 finds that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution
42 has been modified based on the subsequent change in law alleged by the requester, it shall adopt
43 a new decision that reflects the modified liability of the state.

1 (2) Before the second hearing, Commission staff shall prepare a proposed decision. At least eight
2 weeks before the hearing or at another time required by the executive director or stipulated to by
3 the parties, Commission staff shall prepare a draft proposed decision and distribute it to everyone
4 on the mailing list described in section 1181.4 of these regulations and post it on the
5 Commission's website. The proposed decision shall consider the request, and any written
6 comments and rebuttals and supporting documentation filed.

7 (3) Any party or interested party may file written comments concerning the draft proposed
8 decision with Commission staff. Written comments shall be certified, filed, and served as
9 described in accordance with ~~S~~section 1181.3 of these regulations, by the date determined and
10 publicized by the executive director. A three-week period for comments shall be given, subject to
11 the executive director's authority to expedite all matters pursuant to Government Code section
12 17530. If representations of fact are made, they shall be supported by documentary or testimonial
13 evidence, submitted in accordance with section 1187.5 of these regulations. All written
14 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
15 proposed decision.

16 (A) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
17 other evidence filed after the three-week comment period described in subdivision (b)(3) of this
18 section. The Commission need not rely on, and staff need not respond to, late comments,
19 exhibits, or other evidence submitted in response to a draft proposed decision.

20 (4) If, at the second hearing, the Commission finds that the state's liability pursuant to article
21 XIII B, section 6(a) of the California Constitution:

22 (A) has not been modified based on a subsequent change in law as defined by Government Code
23 section 17570 (a)(2), the Commission shall publish a decision denying the request.

24 (B) has been modified based on a subsequent change in law, as defined by Government Code
25 section 17570 (a)(2) the Commission shall adopt a new decision to supersede the prior decision.
26 The new decision shall be prepared in writing, based on the record, and shall include a statement
27 of reasons for the decision, findings, and conclusions.

28 (5) Everyone on the mailing list described in section 1181.4 of these regulations shall be
29 provided written notice that a copy of the decision has been posted on the Commission's
30 website.

31 (6) After a decision or proposed decision has been served or posted on the Commission's
32 website, it shall not be changed except to correct clerical errors, in which case a corrected
33 decision or proposed decision shall be prepared and posted on the Commission's website.
34 Everyone on the mailing list described in section 1181.4 of these regulations shall be provided
35 written notice that a copy of the revised decision has been posted on the Commission's website.

36 (7) If a new decision is adopted that finds that the State's liability under article XIII B, section
37 6(a) of the California Constitution has been modified, the amount and method of reimbursement
38 shall be determined in accordance with article 3 of these regulations.

39 Note: Authority cited: Section 17527(g), 17553(a) and 17570(d), Government Code. Reference:
40 Sections 17530 and 17570, Government Code.