

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Education Code Section 69432.9(d), Statutes 2014, Chapter 679 (AB 2160); and Education Code Section 69432.9(c)(2) and (d)(1), Statutes 2016, Chapter 82 (AB 2908)

The period of reimbursement begins on July 1, 2015, or on the later effective date for the specified provision (January 1, 2017).

Case No.: 16-TC-02

*Cal Grant: Opt-Out Notice and Grade Point Average Submission*¹

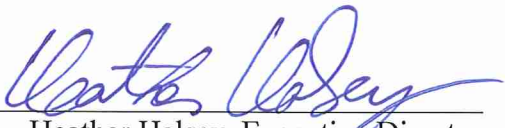
DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500 ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7

(Adopted May 25, 2018)

(Served May 30, 2018)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Parameters and Guidelines on May 25, 2018.



Heather Halsey, Executive Director

¹ Note that the underlying Test Claim was entitled “*Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02*” but that the Parameters and Guidelines have been renamed consistent with the activities approved for reimbursement.

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CHAPTER 2.5, ARTICLE 7.**

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DECISION

The Commission on State Mandates (Commission) heard and decided the Decision and Parameters and Guidelines during a regularly scheduled hearing on May 25, 2018. Patrick Dyer appeared on behalf of the claimant. Donna Ferebee appeared on behalf of the Department of Finance.

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

The Commission adopted the Decision and Parameters and Guidelines by a vote of 4-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Ken Alex, Director of the Office of Planning and Research	Yes
Richard Chivaro, Representative of the State Controller	Absent
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	Yes
Sarah Olsen, Public Member	Absent
Carmen Ramirez, City Council Member	Absent

¹ Note that the underlying Test Claim was entitled “*Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02*” but that the Parameters and Guidelines have been renamed consistent with the activities approved for reimbursement.

Jacqueline Wong-Hernandez, Representative of the Director of the Department of Finance, Chairperson	Yes
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I. Summary of the Mandate

These Parameters and Guidelines address the mandated activities performed by K-12 school districts for pupils in grades 11 and 12 to assist the California Student Aid Commission (CSAC) in determining their eligibility for Cal Grant A or B awards, through which the State provides financial assistance to college students.

On January 26, 2018, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that the test claim statutes impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activities:

1. Provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d) (Stats. 2014, ch. 679; Stats. 2016, ch. 82) as follows:
 - Beginning January 1, 2015, provide written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to the California Student Aid Commission (CSAC); and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
 - Beginning January 1, 2017, provide written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states “the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;” (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.
2. Electronically submit the grade point averages (GPAs) for all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679). This activity does not include the certification of GPAs or providing social security numbers (SSNs) to CSAC.

On February 2, 2018 Commission staff issued the Draft Expedited Parameters and Guidelines, which excluded “calculating GPAs” from the scope of the activity to “electronically submit” the GPAs. This was done to clarify that calculating a GPA is not new and was not approved in the Test Claim Decision, and is therefore not eligible for reimbursement. Consequently, the language in the Parameters and Guidelines now states: *“This activity does not include the calculation or certification of GPAs or providing social security numbers (SSNs) to CSAC.”*²

² Exhibit A, Test Claim Decision, pages 8, 26.

II. Procedural History

On January 26, 2018, the Commission adopted the Decision partially approving the Test Claim.³ On February 2, 2018, Commission staff issued the Test Claim Decision and Draft Expedited Parameters and Guidelines.⁴ On February 23, 2018, the State Controller's Office filed comments concurring with the Draft Expedited Parameters and Guidelines.⁵ Neither the claimant nor the Department of Finance filed comments on the Draft Expedited Parameters and Guidelines. On March 19, 2018, Commission staff issued the Draft Proposed Decision and Parameters and Guidelines.⁶

None of the parties or interested parties filed comments on the Draft Proposed Decision and Parameters and Guidelines.

III. Discussion

The Draft Expedited Parameters and Guidelines were issued in accordance with section 1183.9 of the Commission's regulations, based on the findings in the test claim Decision. No substantive comments were received on the Draft Expedited Parameters and Guidelines, and no "reasonably necessary activities" have been proposed by the claimant.

The Parameters and Guidelines for this program include the findings adopted by the Commission in its Test Claim Decision with respect to the period of reimbursement⁷, eligible claimants, and reimbursable activities. None of the parties filed comments recommending changes. The Commission therefore finds that the Parameters and Guidelines are supported by the findings in the Test Claim Decision and this Decision on the Parameters and Guidelines.

The Parameters and Guidelines contain the following information.

A. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on June 26, 2017, establishing reimbursement eligibility for the 2015-2016 fiscal year, beginning July 1, 2015. However, Statutes 2016, chapter 82 became effective on January 1, 2017, establishing the period of reimbursement for the activity to provide written notice by January 1 to all grade 11 pupils, beginning with the class of 2018.

B. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

The reimbursable activities are summarized below.

³ Exhibit A, Test Claim Decision.

⁴ Exhibit B, Draft Expedited Parameters and Guidelines.

⁵ Exhibit C, State Controller's Comments on the Draft Expedited Parameters and Guidelines.

⁶ Exhibit D, Draft Proposed Decision and Parameters and Guidelines.

⁷ Based on the filing date of the Test Claim on June 26, 2017, the potential period of reimbursement begins July 1, 2015, pursuant to Government Code section 17557(e). However, since test claim statute Statutes 2016, Chapter 82 became effective on January 1, 2017, the period of reimbursement for activities imposed by that statute begins on January 1, 2017.

1. Opt-out Notice

Provide a written notice to all grade 12 pupils, beginning January 1, 2015, and to all grade 11 pupils, beginning January 1, 2017 of the opportunity for the pupil to opt out of consideration for a Cal Grant award. As stated in the Test Claim Decision,⁸ CSAC developed a sample Cal Grant Opt-Out Form in English and Spanish, which is available on its website for school districts to comply with the opt-out requirement.⁹ Because the State has provided an opt-out notice, the Parameters and Guidelines state that reimbursement is not required for school districts to develop their own opt-out notice.

2. Submission of Pupil GPAs to CSAC

Electronically submit the GPAs of all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679).”

The Test Claim Decision stated: “Statutes 2015, chapter 637 amended subdivision (c)(2) to clarify that GPAs be electronically submitted to CSAC on a standardized form.”¹⁰ Thus, the following language is added to Section IV. of the Parameters and Guidelines for clarification:

Beginning January 1, 2016, the GPAs shall be electronically submitted to CSAC on a “standardized form.” (Stats. 2015, ch. 637.)

The Test Claim Decision concluded that certifying GPAs¹¹ and providing SSNs to CSAC,¹² are not reimbursable state-mandated activities. Thus, the Parameters and Guidelines state that these activities are not eligible for reimbursement.

Finally, and consistent with the Test Claim Decision, Sections I. and IV. of the Parameters and Guidelines state that calculating GPAs is not a reimbursable activity because it is not a new requirement and it was not approved by the Commission in the Test Claim Decision.¹³ School districts were required to calculate pupil GPAs submitted to CSAC long before the test claim statutes were enacted. Education Code section 69432.9(c), as last amended by Statutes 2011, chapter 7, stated:

The commission [CSAC] shall require that a grade point average be submitted for all Cal Grant A and B applicants, except for those permitted to provide test scores in lieu of a grade point average. The commission shall require that each report of

⁸ Exhibit A, Test Claim Decision, pages 23-24.

⁹ California Student Aid Commission, Cal Grant GPA Opt-Out Form. http://www.csac.ca.gov/pubs/forms/grnt_frm/gpa_opt_out.pdf, accessed March 1, 2018.

¹⁰ Exhibit A, Test Claim Decision, page 27.

¹¹ Exhibit A, Test Claim Decision, pages 28-30.

¹² Exhibit A, Test Claim Decision, pages 33-35.

¹³ Exhibit A, Test Claim Decision, pages 8, 26 where the Commission notes that calculating GPAs was required by prior law in Education Code section 69432.9 and California Code of Regulations, title 5, section 30008(c).

a grade point average include a certification, executed under penalty of perjury, by a school official, that the grade point average reported is accurately reported. The certification shall include a statement that it is subject to review by the commission or its designee.¹⁴

Additionally, section 30008(c) of CSAC's regulations, adopted in 2001, states:

Every high school grade point average reported to the Commission shall include a certification under penalty of perjury from the school official filing the report that the grade point average is accurately reported to the best of his or her knowledge. The certification shall include a statement that it is subject to review by the Commission or its designee. It is the responsibility of the applicant to have his or her high school grade point average reported.¹⁵

Section 30008(a) of CSAC's regulations includes instructions on how to calculate the high school GPA (e.g., grades for physical education and ROTC are excluded). Thus, the Parameters and Guidelines state that calculating GPAs for Cal Grant eligibility is not eligible for reimbursement.

C. The Remaining Sections of the Parameters and Guidelines

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the following direct costs that are eligible for reimbursement: salaries and benefits, materials and supplies, contracted services, and fixed assets. However, training and travel costs are not included in the Parameters and Guidelines because those activities were not approved in the Test Claim Decision, nor has the claimant requested these costs as reasonably necessary to perform the mandated activities or submitted any evidence to support such a request.¹⁶

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

IV. Conclusion

Based on the foregoing, the Commission hereby adopts the Decision and Parameters and Guidelines.

¹⁴ This statutory language is still in section 69432.9, but now in subdivisions (c)(1) and (c)(3).

¹⁵ California Code of Regulations, title 5, section 30008(a).

¹⁶ California Code of Regulations, title 2, section 1183.6 states: "The parameters and guidelines shall describe the claimable reimbursable costs and contain the following information: [¶] ... [¶] (d) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and reasonably necessary activities required to comply with the mandate. 'Reasonably necessary activities' are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of these regulations."

PARAMETERS AND GUIDELINES

Education Code Section 69432.9(d), Statutes 2014, Chapter 679 (AB 2160); and Education Code Section 69432.9(c)(2) and (d)(1), Statutes 2016, Chapter 82 (AB 2908)

Cal Grant: Opt-Out Notice and Grade Point Average Submission¹

16-TC-02

The period of reimbursement begins on July 1, 2015,
or on the later effective date of January 1, 2017 for specified activities.

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address the mandated activities performed by K-12 school districts for pupils in grades 11 and 12 to assist the California Student Aid Commission (CSAC) in determining their eligibility for Cal Grant A or B awards, through which the State provides financial assistance to college students.

On January 26, 2018, the Commission on State Mandates (Commission) adopted the Decision finding that the test claim statutes impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d) (Stats. 2014, ch. 679; Stats. 2016, ch. 82) and to electronically submit the grade point averages (GPAs) for all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679).

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The claimant filed the Test Claim on June 26, 2017, establishing eligibility for reimbursement for the 2015-2016 fiscal year, beginning July 1, 2015. However, Statutes 2016, chapter 82 became effective on January 1, 2017, establishing the period of reimbursement for the activity to provide a written opt-out notice by January 1 to all grade 11 pupils, beginning with the class of 2018, beginning January 1 2017.

¹ Note that the underlying Test Claim was entitled "*Cal Grant: Grade Point Average and Graduation Certification, 16-TC-02*" but that the Parameters and Guidelines have been renamed consistent with the activities approved for reimbursement.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to State law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, State, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

- A. Provide a written Cal Grant opt-out notice pursuant to Education Code section 69432.9(d) (Stats. 2014, ch. 679; Stats. 2016, ch. 82) as follows:
 1. Beginning July 1, 2015, provide written notice by October 15, 2015 and 2016, to all grade 12 pupils in the class of 2016 and class of 2017, which (1) states "the pupil will

be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;" (2) identifies when the school will first send grade point averages to the California Student Aid Commission (CSAC); and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

2. Beginning January 1, 2017, provide written notice by January 1 to all grade 11 pupils, beginning with the class of 2018, which (1) states "the pupil will be deemed a Cal Grant applicant unless the pupil opts out within a period of time specified in the notice, which shall not be less than 30 days;" (2) identifies when the school will first send grade point averages to CSAC; and (3) provides an opportunity for the pupil to opt out of being automatically deemed a Cal Grant applicant.

Reimbursement is not required to develop an opt-out notice because CSAC has developed an opt-out notice form, which is available on its website.

- B. Beginning July 1, 2015, electronically submit to CSAC the GPAs for all grade 12 pupils each academic year to CSAC, except for pupils who opt out in accordance with section 69432.9(d), pursuant to Education Code section 69432.9(c)(2) (Stats. 2014, ch. 679).

Beginning January 1, 2016, the GPAs shall be electronically submitted to CSAC on a "standardized form." (Stats. 2015, ch. 637.)

Beginning January 1, 2017 the GPAs must be electronically submitted **by October 1 of each academic year**, except for pupils who opt out in accordance with section 69432.9(d). (Ed. Code, § 69432.9(c)(2), Stats. 2016, ch. 82).

Reimbursement is not required to calculate or certify GPAs or provide SSNs to CSAC.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are

withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs may include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state-mandated programs; and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the California Department of Education approved indirect cost rate for the year that funds are expended.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in

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

Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other applicable State funds, shall be identified and deducted from any claim submitted for reimbursement.

Grant funds received by school districts under the College Readiness Block Grant (Ed. Code, § 41580) must be identified by a school district as offsetting revenues on a reimbursement claim *if* the district uses the grant funds for this program.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires State reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from these Parameters and Guidelines and the Decision on the Test Claim and Parameters and Guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the Test Claim and Parameters and Guidelines are legally binding on all parties and provide the legal and factual basis for the Parameters and Guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.