

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Penal Code Section 13515.28;

Statutes 2015, Chapter 469 (SB 29)

The period of reimbursement begins
July 1, 2016.

Case No.: 17-TC-06

*Peace Officer Training: Mental
Health/Crisis Intervention*

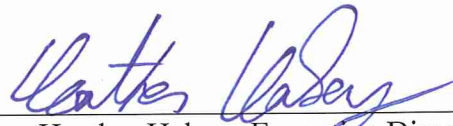
DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted September 27, 2019)

(Served September 30, 2019)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Parameters and Guidelines on September 27, 2019.



Heather Halsey, Executive Director

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 CHAPTER 2.5, ARTICLE 7.

(Adopted September 27, 2019)

(Served September 30, 2019)

DECISION

The Commission on State Mandates (Commission) heard and decided the Decision and Parameters and Guidelines during a regularly scheduled hearing on September 27, 2019. Annette Chinn appeared on behalf of the claimants, the Cities of Claremont and South Lake Tahoe. Susan Geanacou appeared on behalf of the Department of Finance (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 7-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jaqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

I. Summary of the Mandate

These Parameters and Guidelines address mandated activities arising from Penal Code section 13515.28, which was enacted by Statutes 2015, chapter 469, requiring law enforcement Field Training Officers (FTOs) to take a training course on crisis intervention and behavioral health.

On May 24, 2019, the Commission on State Mandates (Commission) partially approved the Test Claim and adopted the Decision finding that the Penal Code section 13515.28, as added by Statutes 2015, chapter 469, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, on cities, counties, and those police protection districts *that wholly supplant the law enforcement functions of the county within their jurisdiction* pursuant to Government Code section 53060.7, that are required to have a Field Training Program under California Code of Regulations, title 11, section 1004, and have appointed or assigned FTOs for that program.¹ The Commission approved this Test Claim for the following reimbursable activities:

- Ensure that each FTO assigned or appointed prior to January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health before June 30, 2017. (Penal Code § 13515.28, Stats 2015, ch. 469.)
- Ensure that each FTO assigned or appointed after January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health within 180 days of being assigned or appointed as an FTO. (Penal Code § 13515.28, Stats 2015, ch. 469.)

FTOs who have completed 40 hours of crisis intervention and behavioral health training; or who have completed eight hours of crisis intervention and behavioral health training in the past 24 months, are *exempt* from these requirements. In addition, reimbursement is not required for the local law enforcement employer to develop or present the training since these activities are not mandated. (Penal Code § 13515.28(a)(2), Stats. 2015, ch. 469.)²

In the Test Claim Decision, the Commission found that Penal Code section 13515.28 does not require local law enforcement employers to develop or present the training.³ In response to Penal Code section 13515.28, POST created a course outline, and issued a bulletin allowing, but not requiring, agencies to present the additional training content using the outline.⁴ The

¹ California Code of Regulations, title 11, section 1004(a), states that “[a]ny department which employs peace officers and/or Level 1 Reserve peace officers shall have a POST-approved Field Training Program.” Section 1004(b) states that a department that does not provide general law enforcement uniformed patrol services, or hires only lateral entry officers possessing a POST basic certificate and who have completed a similar POST approved Field Training Program may request an exemption and not comply with this requirement.

² Exhibit A, Test Claim Decision, page 32.

³ Exhibit A, Test Claim Decision, page 26.

⁴ “Regulation 1081 Minimum Standards for Legislatively Mandated Courses, Crisis Intervention Behavioral Health Training for Field Training Officers, Expanded Course Outline (8 hours),”

claimants included evidence in the test claim filing that they utilized outside organizations to provide the training required by Penal Code section 13515.28; their officers attended training provided by California State Parks, Butte College Public Safety Training Center, South Bay Regional Training Consortium, Yolo County Sheriff's Department, and Embassy Consulting Services.⁵

II. Procedural History

On May 24, 2019, the Commission adopted the Decision partially approving the Test Claim.⁶ On May 24, 2019, Commission staff issued the Test Claim Decision and Draft Expedited Parameters and Guidelines.⁷ On June 14, 2019, the Controller filed comments on the Draft Expedited Parameters and Guidelines, recommending no changes.⁸ Neither the claimants nor Finance filed comments on the Draft Expedited Parameters and Guidelines. On June 24, 2019, Commission staff issued the Draft Proposed Decision and Proposed Parameters and Guidelines.⁹ No comments were filed on the Draft Proposed Decision and Proposed 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. No "reasonably necessary activities" have been proposed by the parties.

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 reimbursement, eligible claimants, and reimbursable activities and the remaining provisions of the Parameters and Guidelines contain standard boilerplate language. 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.

IV. Conclusion

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

https://post.ca.gov/Portals/0/post_docs/resources/CIT/SB29_FTO_8HR_Course_ECO.pdf
(accessed on January 23, 2019).

⁵ Exhibit A, Test Claim, pages 48-61.

⁶ Exhibit A, Test Claim Decision.

⁷ Exhibit B, Draft Expedited Parameters and Guidelines.

⁸ Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

⁹ Exhibit D, Draft Proposed Decision and Proposed Parameters and Guidelines.

PARAMETERS AND GUIDELINES

Penal Code Section 13515.28
Statutes 2015, Chapter 469 (SB 29)

Peace Officer Training: Mental Health/Crisis Intervention

17-TC-06

Period of reimbursement begins July 1, 2016.

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address mandated activities arising from Penal Code section 13515.28, which was enacted by Statutes 2015, chapter 469, requiring law enforcement Field Training Officers (FTOs) to take a training course on crisis intervention and behavioral health.

On May 24, 2019, the Commission on State Mandates (Commission) partially approved the Test Claim and adopted the Decision finding that the Penal Code section 13515.28, as added by Statutes 2015, chapter 469, imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, on cities, counties, and those police protection districts *that wholly supplant the law enforcement functions of the county within their jurisdiction* pursuant to Government Code section 53060.7, that are required to have a Field Training Program under California Code of Regulations, title 11, section 1004, and have appointed or assigned FTOs for that program.¹⁰ The Commission approved this Test Claim for the following reimbursable activities:

- Ensure that each FTO assigned or appointed prior to January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health before June 30, 2017. (Penal Code § 13515.28, Stats 2015, ch. 469.)
- Ensure that each FTO assigned or appointed after January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health within 180 days of being assigned or appointed as an FTO. (Penal Code § 13515.28, Stats 2015, ch. 469.)

FTOs who have completed 40 hours of crisis intervention and behavioral health training; or who have completed eight hours of crisis intervention and behavioral health training in the past 24 months, are *exempt* from these requirements. In addition, reimbursement is not required for the local law enforcement employer to develop or present the training since these activities are not mandated. (Penal Code § 13515.28(a)(2), Stats. 2015, ch. 469.)

¹⁰ California Code of Regulations, title 11, section 1004(a), states that “[a]ny department which employs peace officers and/or Level 1 Reserve peace officers shall have a POST-approved Field Training Program.” Section 1004(b) states that a department that does not provide general law enforcement uniformed patrol services, or hires only lateral entry officers possessing a POST basic certificate and who have completed a similar POST approved Field Training Program may request an exemption and not comply with this requirement.

II. ELIGIBLE CLAIMANTS

Only a city, county, or city and county, or a police protection district *that wholly supplants the law enforcement functions of the county within their jurisdiction* pursuant to Government Code section 53060.7, that are required to have a Field Training Program under California Code of Regulations, title 11, section 1004 and have appointed or assigned FTOs for that program, and that incur increased costs as a result of this mandate, are 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 that fiscal year. The claimant filed the Test Claim on May 10, 2018, establishing eligibility for reimbursement for the 2016-2017 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2016.

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), an eligible claimant 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 claimant 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, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure

section 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. Ensure that each FTO assigned or appointed prior to January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health before June 30, 2017. (Penal Code § 13515.28, Stats 2015, ch. 469.)
- B. Ensure that each FTO assigned or appointed after January 1, 2017 shall attend a one-time, eight-hour training on crisis intervention and behavioral health within 180 days of being assigned or appointed as an FTO. (Penal Code §13515.28, Stats 2015, ch. 469.)

FTOs who have completed 40 hours of crisis intervention and behavioral health training; or who have completed eight hours of crisis intervention and behavioral health training in the past 24 months, are *exempt* from these requirements. (Penal Code § 13515.28(a)(2), Stats. 2015, ch. 469.)

Reimbursement is not required to develop or present the training.

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.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

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 chapter¹¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If 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, state funds, and any other funds that are not the claimant's proceeds of taxes, shall be identified and deducted from this claim.

Training standards and rules for peace officers that are outlined in Penal Code sections 13510 et seq. (which includes section 13515.28) "shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter"¹² Participating agencies agree to

¹¹ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

¹² Penal Code section 13510(a).

abide by the standards established by POST and may apply to POST for state aid.¹³ Any such aid received for training FTO officers consistent with this program must be identified as offsetting revenue in the claimant's initial or annual reimbursement claim.

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 decisions 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.

¹³ Penal Code sections 13522 and 13523.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

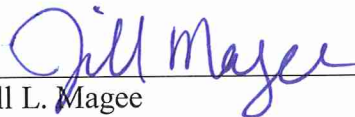
On September 30, 2019, I served the:

- **Decision and Parameters and Guidelines adopted September 27, 2019**

Peace Officer Training: Mental Health/Crisis Intervention, 17-TC-06
Penal Code Section 13515.28; Statutes 2015, Chapter 469 (SB 29)
Cities of Claremont and South Lake Tahoe, Claimants

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 30, 2019 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/17/19

Claim Number: 17-TC-06

Matter: Peace Officer Training: Mental Health/Crisis Intervention

Claimant: Cities of Claremont and South Lake Tahoe

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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