

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
8 Code sections 17510 through 17524 apply to this chapter:

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

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

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

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

22 (e) "Completed" means that all general and specific requirements for a new filing have
23 been satisfied by the claimant or requester.

24 (f) "Filing date" means the date received at the Commission's office during normal
25 business hours by any of the methods described in section 1181.3 of these regulations.
26 "Normal business hours" means from 8 a.m. until 5 p.m. of each day from Monday to
27 Friday, inclusive, other than state holidays, as provided by Government Code section
28 11020(a).

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

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

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

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

1 (k) "New filing" means a test claim, incorrect reduction claim, request to amend
2 parameters and guidelines, joint request for reasonable reimbursement methodology
3 and statewide estimate of costs, request for review of claiming instructions, request for
4 removal or inclusion of a program in the State Mandates Apportionment System,
5 request for review of the apportionment or base year entitlement of a program in the
6 State Mandates Apportionment System, request for mandate redetermination, or a
7 legislatively determined mandate.

8 (l) "Party" includes a party's representative of record who is expressly authorized in
9 writing to act on the party's behalf. A party's representative may be an individual, firm or
10 organization. When a party authorizes a firm or organization to represent them in
11 writing, any current member of the firm or organization may act on the party's behalf
12 without requiring a separate authorization. Party means the following for each matter as
13 specified below:

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

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

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

21 (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" and "Party
22 to a Jointly Proposed Request for Early Termination of Reasonable Reimbursement
23 Methodology" means the test claimant and the Department of Finance.

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

26 (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment
27 System" and "Party to a Request for Review of the Apportionment or Base Year
28 Entitlement of a Program in the State Mandates Apportionment System" means the
29 requester, the Department of Finance, and the Office of State Controller.

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

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

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

39 (o) "Statewide cost estimate" means the approximate sum of money that local agencies
40 or school districts may have incurred to implement a state-mandated program or any
41 increased level of service of an existing mandated program. A statewide cost estimate
42 prepared by a test claimant pursuant to Government Code section 17553(b)(1)(E) shall

1 be an estimate of the first full fiscal year of actual or estimated costs based on the
2 statutes and executive orders alleged in a test claim. In adopting a statewide cost
3 estimate pursuant to Government Code section 17553(a), which shall be an estimate for
4 the initial period of reimbursement to be reported to the Legislature, the Commission
5 may consider the statewide cost estimate prepared by the test claimant, the initial
6 reimbursement claim data, and other relevant information regarding potential mandated
7 local costs, as applicable.

8 (p) "Statewide estimate of costs" is based on a joint reasonable reimbursement
9 methodology proposed by a test claimant and the Department of Finance pursuant to
10 Government Code section 17557.1, that is adopted by the Commission and reported to
11 the Legislature pursuant to Government Code section 17557.2.

12 (q) "Subsequent change in law" pursuant to Government Code 17570 means a change
13 in law that requires a finding that an incurred cost is a cost mandated by the state, as
14 defined by Government Code section 17514, or is not a cost mandated by the state
15 pursuant to Government Code section 17556, or a change in mandates law.
16 Amendments to article XIII B, section 6 of the California Constitution that were approved
17 by the voters on November 2, 2004 and changes in the statutes or executive orders that
18 impose new state-mandated activities and require a finding pursuant to Government
19 Code section 17551(a) are not a "subsequent change in law."

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

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

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

31 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code.
32 Reference: Sections 11020(a), 11123, 17516-17521, 17527(c), 17529, 17530, 17531,
33 17551, 17553, 17555, 17557, 17557.1, 17557.2, 17558, 17558.5, 17558.7, 17558.8,
34 17559, 17561, 17561.5, 17570, 17572, 17573, 17600 and 17612, Government Code;
35 *Redevelopment Agency v. Commission on State Mandates* (1996) 43 Cal.App.4th 1188;
36 and *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

37 **§ 1181.3. Certification, Formatting, Filing, and Service of Written Materials and**
38 **New Filings.**

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

1 (b) Documents filed with the Commission shall not contain personal identifying
2 information that violates state or federal privacy laws, including, but not limited to
3 California Civil Code section 1798 et seq.

4 (c) Formatting, Filing, and Service. New filings and written materials ~~may~~shall be filed as
5 described in this subdivision.

6 (1) Formatting. All new filings and written materials, except for supporting documents
7 that were either not created by the party or were originally created by the party for a
8 purpose other than providing evidence to the Commission, shall conform to all of the
9 following document formatting requirements.

10 (A) All text shall be written in Arial font, minimum 12-point font size.

11 (B) Color is strongly discouraged, and shall not be used as the sole means to
12 emphasize or convey information. If color is used to emphasize or convey information,
13 there shall be additional distinguishing marks, such as underlining or asterisks, to
14 differentiate areas where color is used.

15 (C) Lists shall use a formatting style such as bullet points, numbering, or an ordered list.

16 (D) Headings shall use heading styles to identify the headings' correct order of
17 diminishing hierarchy.

18 (E) Hard returns shall not be used to break up lines of text. Instead, space between
19 lines of text shall be made using paragraph spacing or the space after paragraph
20 function.

21 (F) If columns are used, the columns shall be formatted using the word processing
22 software's columns function.

23 (G) Tables shall use a simple table structure without split or merged cells, nested tables,
24 or blank columns or rows. Rows shall not be broken across multiple pages. One table
25 header row is allowed per table, which shall be repeated at the top of each page if the
26 table spans multiple pages.

27 (H) Hyperlinks shall be named in a manner that is clear, concise and meaningful out of
28 context. Bare URLs are not allowed, except as part of a formal citation to a web-based
29 source.

30 (I) Images shall include alternative text that describes the image, unless the image has
31 no informational value because it is purely decorative or the information it provides is
32 redundant to the main body of text.

33 (42) E-Filing. Except as provided in subdivision (c)(23) of this section, all new filings and
34 written materials shall be electronically filed (or e-filed) with the Commission via the
35 Commission's e-filing system, available on the Commission's website. Supporting
36 documents that were not created by the party or were created for a different purpose
37 shall still be required to follow the formatting requirements found in subdivisions
38 (c)(2)(B)(i)-(iii) of this section.

39 (A) All new filings and written materials shall be filed via the Commission's e-filing
40 system, available on the Commission's website. Documents e-filed with the
41 Commission shall be in a legible and searchable format using a "true PDF" (i.e.,

1 documents digitally created in PDF, converted to PDF or printed to PDF) or optical
2 character recognition (OCR) function, as necessary.

3 ~~(BA)~~ Any new filing required to be filed on a form prescribed by the Commission shall be
4 digitally signed, using the digital signature technology and authentication process
5 contained within the Commission forms. The completed digital form shall not be
6 converted to PDF and shall be e-filed separately from any accompanying documents.
7 Accompanying documents shall be e-filed together ~~in a single file~~ in accordance with the
8 requirements of subdivisions (c)(12)(GB) and (C) of this section, ~~and shall not exceed~~
9 ~~500 megabytes. Accompanying documents exceeding 500 megabytes shall also comply~~
10 ~~with subdivision (c)(1)(D) of this section.~~

11 ~~(GB)~~ Documents e-filed with the Commission. All e-filed documents, other than forms
12 prescribed by the Commission, shall:

13 (i) be in unlocked PDF file format, to allow Commission staff to electronically date stamp
14 the document and append additional pages for posting on the Commission's website
15 with a proof of service for e-service by the Commission, in lieu of the filer serving the
16 document to the entire mailing list for the matter; and

17 (ii) include a scanned copy of the signed signature page, rather than a digitally signed
18 document. The scanned copy shall be in black and white (not gray scale or color).

19 (iii) be in a legible and searchable format using a "true PDF" (i.e., documents digitally
20 created in PDF, converted to PDF or printed to PDF) or optical character recognition
21 (OCR) function, as necessary.

22 ~~(DC)~~ E-filed documents larger than 500 megabytes shall be e-filed in multiple volumes
23 and labeled as such (i.e., "Volume I, Volume II" etc.) and shall, in that case, include a
24 table of contents with electronic bookmarks which at minimum link to each document
25 within the exhibits, and for documents created for the purpose of filing with the
26 Commission also link to each heading, subheading, and component (including but not
27 limited to the table of contents, declarations, exhibits, proof of service) of the document.

28 Filing of color documents is strongly discouraged. However, if a color image(s) is
29 necessary for readability or comprehension, the color image(s) shall be e-filed in a
30 separate and final volume of exhibits. ~~E-filed documents shall include electronic~~
31 ~~bookmarks to each heading, subheading, and component (including but not limited to~~
32 ~~the table of contents, declarations, exhibits, proof of service) of the document.~~

33 Documents not available or obtainable in electronic form may be scanned and OCRred
34 and filed in a separate volume, however it is prohibited to e-file scanned documents that
35 are available or obtainable electronically. E-filed documents that must be scanned, shall
36 be scanned in black and white (not gray scale or color).

37 ~~(ED)~~ The filer is responsible for maintaining the signed original new filing or written
38 material for the duration of the process for the matter, including any period of appeal
39 (this may be an electronic document, depending on how the filer creates and maintains
40 its records).

41 ~~(FE)~~ An automated notice that the document was successfully sent is immediately
42 available to the filer using the Commission's e-filing system and should be saved or
43 printed for the filer's records. Commission staff shall also reply by e-mail confirming

1 actual receipt of the legible, searchable document by the Commission within two
2 business days of receipt. In the absence of a confirmation e-mail from Commission
3 staff, it is the responsibility of the filer to obtain confirmation that the Commission
4 actually received the filing.

5 (~~GF~~) By using e-filing, the filer agrees, in the event of failure of e-filing, to re-file the
6 document no later than the business day after the business day on which notice of the
7 failure of e-filing is received by the filer. The filer may re-file by any means authorized by
8 these rules, in order to maintain the original filing date. "Failure of e-filing" occurs when
9 the filer receives notification, in any manner, of non-receipt of an e-filed document or of
10 any other inability of Commission staff to access the document, including the failure to
11 meet the requirements of subdivisions (c)(2)(B)(i)-(iii) of this section.

12 (~~HG~~) Documents e-filed with the Commission are served by Commission staff to
13 persons who have provided an e-mail address for the mailing list for the matter in
14 accordance with section 1181.4 of these regulations. E-filed documents do not need to
15 be served by the filer and proof of service does not need to be provided by the filer for
16 persons who have provided an e-mail address for the mailing list in accordance with
17 section 1181.4. Nothing in this regulation excuses a filer from serving hard copies of
18 written material on persons who appear on the mailing list and have not provided an e-
19 mail address for the mailing list, or from providing a proof of service with the e-filing to
20 the Commission for the service of the document on those persons.

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

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

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

32 (~~23~~) Hard Copy Filing and Service in Cases of Undue Hardship or Significant Prejudice.
33 If e-filing legible and searchable PDF documents, as described in subdivision (c)(~~42~~) of
34 this section, would cause the filer undue hardship or significant prejudice, filing may
35 occur by first class mail, overnight delivery or personal service only upon approval of a
36 written request to the executive director.

37 (A) Filing. If the executive director authorizes filing by first class mail, overnight delivery,
38 or personal service, the filer shall file the unbound original document with the
39 Commission.

40 (B) Service. If written materials are filed in hard copy, the filing shall simultaneously be
41 served on everyone on the mailing list using the same method used for the filing. Unless
42 otherwise provided in this section, a proof of service shall be included with any written
43 material filed with the Commission. Proof of personal service requires a declaration of

1 the messenger of the time and place that the written material was served. Service is not
2 required for new filings because mailing lists for matters are only prepared, pursuant to
3 section 1181.4 of these regulations, after a new filing is deemed complete. Completed
4 new filings will be served on the mailing list by Commission staff with the Notice of
5 Complete Filing.

6 (34) Time of Filing. New filings or written materials filed with the Commission no later
7 than 5 p.m. on a business day (i.e., Monday through Friday, except state holidays) are
8 deemed filed on that business day. New filings or written materials filed with the
9 Commission after 5 p.m. on a business day, or on a Saturday, Sunday, or state holiday,
10 are deemed filed on the following business day.

11 Note: Authority cited: Sections 16.5, 17527(g), 17553(a), 17570(d) and 11104.5,
12 Government Code. Reference: Sections 1633.1 et seq., 1798 et seq., Civil Code; and
13 Sections 7405, 11020(a), 17530, 17551, 17557(d), 17558.7, 17570, 17573(b), 17574(c)
14 and 17573(g), Government Code.

15 **§ 1181.13. Commission Meeting by Teleconference.**

16 The Commission may hold an open or closed meeting by teleconference if it is difficult
17 or impossible for the Commission to achieve a quorum. A meeting held by
18 teleconference shall comply with the Bagley-Keene Open Meeting Act, including the
19 requirements to provide notice of the teleconference locations and make them open to
20 the public.

21 The Commission may also hold an open or closed meeting by teleconference under
22 alternative provisions of the Act, with some members participating remotely from remote
23 locations (which are not disclosable or open to the public) while a quorum of its
24 members are physically present at the same teleconference location.

25 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference:
26 Sections 11123, 11123.2, 17526, 17527(b) and 17527(c), Government Code.

27 **Article 3. Test Claims**

28 **§ 1183.1. Test Claim Filing.**

29 (a) In order to obtain a mandate determination, a local agency or school district shall file
30 a test claim with the Commission pursuant to Government Code sections 17551 and
31 17553 as follows:

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

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

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

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

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

3 (b) Claimants may agree to file a test claim as a joint effort if the claimants attest to all of
4 the following in the test claim filing:

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

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

8 (3) The claimants have designated one person to act as the sole representative for all
9 claimants.

10 Otherwise, the first claim filed on a statute or executive order by a similarly situated
11 claimant is the test claim and no duplicate test claims will be accepted by the
12 Commission. Other similarly situated affected agencies may participate in the process
13 by filing comments in writing on any agenda item as provided in section 1181.10 of
14 these regulations, and may attend any Commission hearing on the test claim and
15 provide written or oral comments to the Commission. Affected agencies that are not
16 similarly situated, meaning that test claim statutes affect them differently, may file a test
17 claim on the same statutes as the first claim, but must demonstrate how and why they
18 are affected differently.

19 (c) Except as provided in Government Code sections 17573 and 17574, any test claim
20 or amendment filed with the Commission must be filed not later than 12 months (365
21 days) following the effective date of a statute or executive order, or within 12 months
22 (365 days) of first incurring increased costs as a result of a statute or executive order,
23 whichever is later.

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

29 (e) A test claim, or amendment thereto, and accompanying documents shall be certified,
30 filed, and served in accordance with section 1181.3 of these regulations. All
31 representations of fact shall be supported by documentary or testimonial evidence in
32 accordance with section 1187.5 of these regulations.

33 (f) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff
34 shall notify the claimant if the test claim is complete or incomplete. Test claims will be
35 considered incomplete if any of the requirements of Government Code section 17553 or
36 this section are illegible, not included, or are not met. If a complete test claim is not
37 received within 30 calendar days from the date the incomplete test claim was returned,
38 the executive director may disallow the original test claim filing date. A new test claim
39 may be accepted on the same statute or executive order alleged to impose a
40 reimbursable state-mandated program.

41 (g) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to
42 hear for any reason, including that the test claim was not filed within the period of

1 limitation required by subdivision (c) of this section, may be rejected or dismissed by the
2 executive director with a written notice stating the reason therefor. However, for an
3 otherwise timely and complete test claim over which the Commission would have
4 jurisdiction, except that it was filed by a local agency that is not eligible to seek
5 reimbursement because it is not subject to the taxing and spending limitations of articles
6 XIII A and B of the California Constitution, the Commission shall follow the process
7 outlined in section 1187.14(b).

8 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference:
9 Sections 17521, 17530, 17551, 17553, 17557(e), 17573, 17574, 24000, 24300.5,
10 26881, 26900, 26970, 26972, 34852, ~~35034, 35035~~, 37209, 40805.5 and 56723,
11 Government Code; and Sections 35034 and 35035, Education Code.

12 **§ 1183.5. Executive Director's Authority to Consolidate or Sever Test Claims.**

13 (a) The executive director may consolidate part or all of any test claim with another test
14 claim or sever a test claim, if necessary to ensure the complete, fair, or timely
15 consideration of any test claim.

16 (b) At least 10 days before the action is taken, the executive director shall
17 simultaneously serve on the parties and interested parties on the mailing list described
18 in section 1181.24 of these regulations, and post on the Commission's website, a notice
19 of any proposed action to consolidate or sever.

20 Note: Authority cited: Section 17527(g), 17553 and 17554, Government Code.
21 Reference: Sections 17530, 17553 and 17554, Government Code.

22 **§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.**

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

29 (b) At least eight weeks before the hearing, or at a time required by the executive
30 director or stipulated to by the parties, Commission staff shall prepare a draft proposed
31 decision and distribute it to the parties, interested parties, and those on the mailing list
32 described in section 1181.34 of these regulations, and shall post it on the Commission's
33 website.

34 (c) Anyone may file written comments concerning the draft proposed decision. If
35 representations of fact are made, they shall be supported by documentary or testimonial
36 evidence in accordance with section 1187.5 of these regulations. Written comments
37 shall be certified, filed, and served in accordance with section 1181.3 of these
38 regulations, by the date determined and noticed by the executive director. A three-week
39 period for comments shall be given, subject to the executive director's authority to
40 expedite all matters pursuant to Government Code section 17530. All written comments
41 timely filed shall be reviewed by Commission staff and may be incorporated into the
42 proposed decision for the test claim.

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

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

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

9 **§ 1184.1. Review of Office of State Controller's Claiming Instructions.**

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

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

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

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

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

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

20 (c) An original request to review claiming instructions shall be certified, filed, and served
21 in accordance with section 1181.3 of these regulations. If representations of fact are
22 made, they shall be supported by documentary or testimonial evidence in accordance
23 with section 1187.5 of these regulations.

24 (d) Within 10 days of receipt of a request to review claiming instructions, Commission
25 staff shall notify the local agency or school district that filed the request if the filing is
26 complete or incomplete. A request to review the claiming instructions shall be
27 considered incomplete if any of the elements required in subdivision (b) or (c) of this
28 section are illegible or not included. Incomplete requests shall be returned to the local
29 agency or school district. If a complete request is not received by the Commission within
30 30 days from the date the incomplete request was returned, the executive director
31 ~~may~~ ~~Commission shall~~ deem the request to be withdrawn.

32 (e) Within 10 days of receipt of a complete request to review claiming instructions,
33 Commission staff shall issue a copy to all persons who are on the mailing list described
34 in section 1181.4 of these regulations. Commission staff shall provide notice that written
35 comments concerning the request to review claiming instructions may be filed within 30
36 days of service of the notice of complete filing. A copy of the notice shall also be posted
37 on the Commission's website.

38 (f) Written comments shall be certified, filed, and served in accordance with section
39 1181.3 of these regulations. If representations of fact are made, they shall be supported

- 1 by documentary or testimonial evidence in accordance with section 1187.5 of these
2 regulations.
- 3 (g) Within 30 days of service of the written comments, the requester may file a written
4 rebuttal to the Commission which shall be certified, filed, and served in accordance with
5 section 1181.3 of these regulations. If representations of fact are made, they shall be
6 supported by documentary or testimonial evidence in accordance with section 1187.5 of
7 these regulations.
- 8 (h) Before hearing a request to review claiming instructions, Commission staff shall
9 prepare a draft proposed decision that shall include a review of the request and any
10 comments filed, and a staff recommendation on whether the request should be
11 approved or denied.
- 12 (i) The requester and any state agency or interested party may file written comments on
13 the draft proposed decision. Written comments shall be certified, filed, and served in
14 accordance with section 1181.3 of these regulations, by the date determined and
15 noticed by the executive director. If representations of fact are made, they shall be
16 supported by documentary or testimonial evidence in accordance with section 1187.5 of
17 these regulations. A three-week period for comments shall be given, subject to the
18 executive director's authority to expedite all matters pursuant to Government Code
19 section 17530. All written comments timely filed shall be reviewed by Commission staff
20 and may be incorporated into the proposed decision on the request to review and
21 modify the claiming instructions.
- 22 (j) It is the Commission's policy to discourage the introduction of late comments,
23 exhibits, or other evidence filed after the three-week comment period described in
24 subdivision (i) of this section. The Commission need not rely on, and staff need not
25 respond to, late comments, exhibits, or other evidence filed in response to a draft
26 proposed decision after the comment period expires.
- 27 (k) The Commission shall conduct a hearing in accordance with article 7 of these
28 regulations on the request to review claiming instructions.
- 29 (l) If the Commission determines that the claiming instructions need to be modified, the
30 Commission shall direct the Office of State Controller to modify the claiming instructions
31 to conform to the parameters and guidelines.
- 32 (m) An approved change to the claiming instructions shall be subject to the following
33 schedule:
- 34 (1) A request for review filed before the deadline for initial claims as specified in the
35 claiming instructions shall apply to all years eligible for reimbursement as defined in the
36 original parameters and guidelines.
- 37 (2) A request for review filed after the initial claiming deadline must be filed on or before
38 the annual reimbursement claim filing deadline set out in Government Code section
39 17560 following a fiscal year to establish eligibility for reimbursement for that fiscal year.
- 40 (n) A request to review claiming instructions may be withdrawn by written application to
41 the executive director any time before a decision is adopted or by oral application at the
42 time of hearing. The requesters shall file and serve the written application in accordance

1 with section 1181.3 of these regulations. Commission staff shall post a copy of the
2 notice on the Commission's website for 60 days prior to dismissal of the request to
3 review claiming instructions. If no other local agency or school district takes over the
4 request to review claiming instructions by substitution of parties within 60 days of
5 service and posting of the application to withdraw, the executive director shall issue a
6 letter to everyone on the mailing list described in section 1181.4 of these regulations
7 dismissing the request to review claiming instructions and shall post the letter on the
8 Commission's website.

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

11 **Article 5. Incorrect Reduction Claims**

12 **§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

13 (a) Within 30 days of receipt of the Commission's notice regarding the original
14 claimant's notice of intent to consolidate an incorrect reduction claim, any other eligible
15 claimant may, on a form provided by the Commission, file a notice of intent to join the
16 consolidated incorrect reduction claim.

17 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with
18 section 1185.1(c) and contain at least the following elements and documents:

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

22 (2) A copy of the subject reimbursement claims submitted to the Office of State
23 Controller.

24 (3) A notice of intent to join a consolidated incorrect reduction claim shall include a
25 certification by the joining claimant authorizing the original claimant to act as its
26 representative in the consolidated incorrect reduction claim, and a declaration under
27 penalty of perjury that the filing is true and complete to the best of the declarant's
28 personal knowledge, information, or belief. The date signed, the declarant's title,
29 address, telephone number, and e-mail address shall be included. All representations of
30 fact shall be supported by testimonial or documentary evidence in accordance with
31 section 1187.5 of these regulations.

32 (4) The joining claimant shall certify, file, and serve one original notice of intent to join
33 and accompanying documents in accordance with section 1181.3 of these regulations.

34 (c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect
35 reduction claim, Commission staff shall notify the joining claimant if the notice of intent
36 to join is complete or incomplete. Notices of intent to join a consolidated incorrect
37 reduction claim will be considered incomplete if any of the elements required in
38 subdivision (b) of this section are illegible or not included. Incomplete notices of intent
39 shall be returned to the joining claimant. If a complete notice of intent to join a
40 consolidated incorrect reduction claim is not received by the Commission within 30 days
41 from the date the incomplete notice of intent was returned to the joining claimant, the
42 executive director may ~~Commission shall~~ deem the filing ~~to be~~ withdrawn.

1 (d) Any notice of intent to join the consolidated incorrect reduction claim, or portion
2 thereof, that the Commission lacks jurisdiction to hear for any reason, including that the
3 notice was not filed within the period of limitation required by section 1185.1(c) of these
4 regulations, may be rejected or dismissed by the executive director with a written notice
5 stating the reason therefor.

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

8 **§ 1185.6. Executive Director's Authority to Consolidate or Sever Incorrect**
9 **Reduction Claims.**

10 The executive director may consolidate or sever ~~part or all of any~~ incorrect reduction
11 claim in part or whole, when~~with another incorrect reduction claim,~~ if necessary to
12 ensure the complete, fair, or timely consideration of any incorrect reduction claim.

13 (a) At least 30 days before the action is taken, the executive director shall
14 simultaneously serve on all persons on the mailing list described in section 1181.4 of
15 these regulations a notice of any proposed action to consolidate or sever and shall post
16 the notice on the Commission's website.

17 (b) During the 30-day notice period, a claimant may file a written request that an
18 individual incorrect reduction claim be severed from a proposed consolidation, which
19 shall be filed and served, in accordance with section 1181.3 of these regulations. Timely
20 requests to sever shall be approved by the executive director.

21 (c) Late requests for severing an individual incorrect reduction claim shall be denied.

22 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.8(b), Government Code.
23 Reference: Sections 17530, 17554 and 17558.8, Government Code.

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

25 **§ 1187.5. Evidence Submitted to the Commission.**

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

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

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

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

5 Note: Authority cited: Sections 17527(e), 17527(g), 17553, ~~17557~~, 17558.7, 17570,
6 17615.1 and 17615.8, ~~17610~~, ~~17621~~ and ~~17622~~, Government Code; and Section
7 17000.6, Welfare and Institutions Code. Reference: Sections 11514, 11515, 17518.5,
8 17527(e), 17551, 17553, 17557, 17557.2, 17559, ~~and~~ 17570, 17571 and 17615.7,
9 Government Code.

10 **§ 1187.7. Witnesses and Subpoenas.**

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

12 (b) A subpoena may be issued upon a majority vote of the Commission. A party
13 requesting a subpoena shall file a written application with the Commission at least six
14 weeks prior to the Commission meeting at which the request will be considered.

15 (c) An application for a subpoena to compel the attendance of a witness shall be made
16 by affidavit and shall give the name and address of the person to be subpoenaed, shall
17 describe the matters to be testified on, shall set forth in detail the relevance to the
18 issues involved in the matter, shall specify the date, time, and place of the hearing on
19 the matter and that, to the best of the applicant's personal knowledge, information, or
20 belief, the person to be subpoenaed has knowledge of the matter. If the applicant is
21 unable to obtain the name of the person who has knowledge of the matter, the name of
22 the director of the state or local agency or superintendent of a school district may be
23 used for the application.

24 (d) An application for subpoena duces tecum for the production by a witness of books,
25 papers, correspondence, memoranda, or other records, including records of the
26 claimant or requester, shall be made by affidavit and shall give the name and address of
27 the person to be subpoenaed, shall describe the documents or things desired to be
28 produced, shall set forth in detail the relevance to the issues involved in the matter, shall
29 specify the date on which the documents or things shall be produced, and that, to the
30 best of the applicant's personal knowledge, information, or belief, the witness has the
31 documents or things in his or her possession or under his or her control and that none
32 of the documents or things desired to be produced are public records accessible to the
33 public pursuant to Section ~~62507920.000~~ et seq., of the Government Code. If the
34 applicant is unable to obtain the name of the person who has possession or control of
35 the documents or things desired to be produced, the name of the director or
36 superintendent or custodian of records of the state or local agency or school district may
37 be used for the application.

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

41 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces
42 tecum shall be completed by the applicant, and the name, address, and telephone
43 number of the applicant shall be included on the form. Service of subpoenas and

1 subpoenas duces tecum shall be made with a copy of the affidavit and shall be
2 arranged for by applicants.

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

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

8 **§ 1187.8. Representation at Hearing.**

9 (a) A party may appear in person or through an authorized representative. An
10 authorized representative may be an individual, firm, or organization. When using an
11 authorized representative, a party shall designate in writing the authorized
12 representative to act as its sole representative and shall certify, file, and serve written
13 notice identifying the authorized representative in accordance with section 1181.3 of
14 these regulations.

15 (b) A representative of a party shall be deemed to control all matters respecting the
16 interest of that party in the proceeding. All correspondence and communications shall
17 be issued to the authorized representative. Any current member of a designated firm or
18 organization may appear as the party's representative, without requiring the party
19 withdraw the designation and designate a new representative.

20 (c) Withdrawal of appearance of any representative may be effected by certifying, filing,
21 and serving a written notice of withdrawal in accordance with section 1181.3 of these
22 regulations. Any change in representation shall be authorized by the party in writing and
23 certified, filed, and served in accordance with section 1181.3 of these regulations.

24 Note: Authority cited: 17527(c), 17527(g), ~~17551~~, 17553(a), ~~17555~~, 17558.7, 17570,
25 17615.1 and 17615.8, ~~17620~~, ~~17621~~ and ~~17622~~, Government Code; and Section
26 17000.6, Welfare and Institutions Code. Reference: Sections 17527(c), 17551, and
27 17553, 17557, 17557.2, 17570, 17571 and 17615.7, Government Code.