

**COMMISSION ON STATE MANDATES**

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June 9, 2006

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

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

**Re: Draft Staff Analysis and Proposed Parameters and Guidelines**  
*Agency Fee Arrangements, 00-TC-17, 01-TC-14*  
Statutes 1980, chapter 816; Statutes 2000, chapter 893; Statutes 2001, chapter 805  
Clovis Unified School District, Claimant

Dear Mr. Petersen:

The draft staff analysis and proposed parameters and guidelines are complete and enclosed for your review and comment.

**Written Comments**

Any party or interested party may file written comments on the draft staff analysis and proposed parameters and guidelines by **June 23, 2006**. The Commission's regulations require comments filed with the Commission to be simultaneously served on the parties and interested parties and to be accompanied by a proof of service. To request an extension of time to file comments, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Hearing**

This matter is tentatively set for hearing on **Friday, July 28, 2006**, at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c), of the Commission's regulations.

**Special Accommodations**

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions, please contact Tina Poole at (916) 323-8220.

Sincerely,

A handwritten signature in black ink that reads "Nancy Patton".

NANCY PATTON  
Assistant Executive Director

Enclosures

**ITEM \_\_\_\_**  
**PROPOSED PARAMETERS AND GUIDELINES,**  
**DRAFT STAFF ANALYSIS**

Government Code Sections 3543, 3546, and 3546.3

Statutes 1980, Chapter 816

Statutes 2000, Chapter 893

Statutes 2001, Chapter 805

California Code of Regulations, Title 8, Sections 34030 and 34055

*Agency Fee Arrangements (00-TC-17, 01-TC-14)*

Clovis Unified School District, Claimant

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**EXECUTIVE SUMMARY**

The Executive Summary will be included with the Final Staff Analysis.

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## Claimants

Clovis Unified School District

## Chronology

06/27/01 Claimant files original test claim (00-TC-17)  
05/15/02 Claimant files test claim amendment (01-TC-14)  
12/09/05 Commission on State Mandates (Commission) adopted Statement of Decision  
12/14/05 Commission Staff issued draft parameters and guidelines  
12/30/05 Claimant files comments on draft parameters and guidelines  
06/07/06 Draft staff analysis and proposed parameters and guidelines issued

## Background and Summary of the Claim

On December 9, 2005, the Commission adopted the Statement of Decision for *Agency Fee Arrangements* (00-TC-17, 01-TC-14). The Commission found that Government Code section 3546, subdivisions (a) and (f), and California Code of Regulations, title 8, sections 34030, subdivision (a), and 34055, subdivision (a), impose new programs or higher levels of service for K-14 school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.<sup>1</sup> Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Upon receiving notice from the exclusive representative of a classified public school employee who is in a unit for which an exclusive representative has been selected, the employer shall deduct the amount of the fair share service fee authorized by this section from the wages and salary of the employee and pay that amount to the employee organization. (Gov. Code, § 3546, subd. (a).)<sup>2</sup>
- School district employers of a public school employee shall provide the exclusive representative of a public employee with the home address of each member of a bargaining unit. (Gov. Code, § 3546, subd. (f).)<sup>3</sup>
- Within 20 days following the filing of the petition to rescind or reinstate an organizational security arrangement, the school district employer shall file with the regional office of PERB an alphabetical list containing the names and job titles or classifications of the persons employed in the unit described in the petition as of the last date of the payroll period immediately preceding the date the petition was filed. (Cal. Code Regs., tit. 8, §§ 34030, subd. (a), and 34055, subd. (a).)<sup>4</sup>

The Commission concluded that Government Code sections 3543, 3546, subdivisions (b) through (e), and 3546.3, as added or amended by Statutes 1980, chapter 816, Statutes 2000,

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<sup>1</sup> Exhibit A.

<sup>2</sup> As added by Statutes 2000, chapter 893, operative January 1, 2001.

<sup>3</sup> As amended by Statutes 2001, chapter 805, operative January 1, 2002.

<sup>4</sup> As amended and operative on January 1, 2001.

chapter 893, and Statutes 2001, chapter 805 are not reimbursable state-mandated programs within the meaning of article XIII B, section 6, and Government Code section 17514.

## **Discussion**

In an effort to expedite the parameters and guidelines process, staff prepared and issued the draft parameters and guidelines on December 14, 2005. The proposed reimbursable activities were limited to those approved in the Statement of Decision.

In comments dated December 30, 2005<sup>5</sup>, the claimant offered no additional reimbursable activities, no reasonable methods of complying with the mandate and stated that the approved activities are not sufficiently related to any workload unit which could reasonably support a statewide reimbursement methodology. The claimant also stated objections to the boilerplate language to preserve appeal rights and suggested technical amendments for clarification.

Staff made non-substantive, technical changes for purposes of clarification, consistency with language in parameters and guidelines, and conformity to the Statement of Decision and statutory language. Substantive changes were made to the following sections of the draft parameters and guidelines:

### ***I. Summary of the Mandate***

The claimant requested that “K-14 school districts” be changed to “school districts, county offices of education, and community college districts” for clarity. Staff agreed and modified the language accordingly.

### ***II. Eligible Claimants***

As requested by the claimant, staff modified this section to clarify that school districts, county offices of education, and community college districts are eligible claimants.

### ***IV. Reimbursable Activities***

Staff modified this section of the draft parameters and guidelines to clearly identify the activities that are not reimbursable.

## **Staff Recommendation**

Staff recommends that the Commission adopt the draft parameters and guidelines, as prepared by staff, beginning on page 5.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

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<sup>5</sup> Exhibit B.