

## COMMISSION ON STATE MANDATES

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April 15, 2011

Mr. Michael H. Fine  
Riverside Unified School District  
Business Services & Government Relations  
6050 Industrial Avenue  
Riverside, CA 92504

Ms. Bonnie Ann Dowd  
Palomar Community College District  
1140 West Mission Road  
San Marcos, CA 92069

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

**RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Hearing Date**  
*Student Records, 02-TC-34*  
Education Code Sections 49069.3, 49069.5, 49076.5, and 76234,  
Statute 1989, Chapter 593 (SB 1546); Statutes 1993, Chapter 561 (AB 1539);  
Statutes 1998, Chapter 311 (SB 933); Statutes 2000, Chapter 67 (AB 2453)  
Riverside Unified School District and Palomar Community College District,  
Co-Claimants

Dear Mr. Fine and Ms. Dowd:

The draft staff analysis and proposed statewide cost estimate for this matter are enclosed for your review and comment.

### Written Comments

Any party or interested person may file written comments on the draft staff analysis and proposed statewide cost estimate by **Thursday, May 5, 2011**. If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. Please see the Commission's website at [http://www.csm.ca.gov/dropbox\\_procedures.shtml](http://www.csm.ca.gov/dropbox_procedures.shtml) for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.) The comments will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2, subdivision (c).

### Hearing

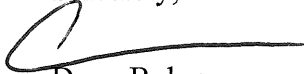
This matter is set for hearing on **Thursday, May 26, 2011**. You will be notified of the location of the hearing at a later date. The final staff analysis will be issued on or about May 12, 2011. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a

Mr. Fine and Ms. Dowd  
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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)(2), of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-8218 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan  
Executive Director

**ITEM \_\_\_\_**  
**DRAFT STAFF ANALYSIS**  
**PROPOSED STATEWIDE COST ESTIMATE**  
**\$802,888**

Education Code Sections 49069.3, 49069.5, 49076.5, 76234

Statutes 1989, Chapter 593  
Statutes 1993, Chapter 561  
Statutes 1998, Chapter 311  
Statutes 2000, Chapter 67;

*Student Records*  
02-TC-34

Riverside Unified School District and Palomar Community College District, Co-Claimants

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**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This program addresses various areas of pupil and student record management for kindergarten through 12<sup>th</sup> grade (K-12) school districts and community college districts including access to and the privacy of pupil and student records.

The Commission on State Mandates (Commission) adopted a statement of decision concluding that Education Code sections 49069.3, 49069.5, and 49076.5 for K-12 school districts and Education Code 76234 for community college districts constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The test claim was filed on June 23, 2003. The Commission adopted the statement of decision on May 29, 2009, and the parameters and guidelines on July 29, 2010.<sup>1</sup> Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by January 31, 2011, and late claims by January 31, 2012.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, including community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2001.

**Reimbursable Activities**

The Commission approved the following activities for reimbursement:

A. K-12 School Districts

1. Provide access to records of grades and transcripts, and any individualized education plans of a current or former pupil under the jurisdiction of a foster

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<sup>1</sup> Exhibit A.

family agency to the foster family agency. (Ed. Code, § 49069.3 (Stats. 2000, ch. 67).)

2. Cooperate with the county social service or probation department to ensure that a pupil's education record is transferred to the receiving local education agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement and upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency. (Ed. Code, § 49069.5, subd. (b) (Stats. 1998, ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
3. Cooperate with the county social service or probation department to ensure that educational background information for a pupil's health and educational record is transferred to the receiving local educational agency in a timely manner after the K-12 school district has been informed of the pupil's next educational placement.  
Educational background information transferred pursuant to Education Code section 49069.5, subdivision (c), includes but is not limited to: (1) a health and education summary as described in Welfare and Institutions Code section 16010 (Stats. 2001, ch. 353); (2) the location of the pupil's records; (3) the last school and teacher of the pupil; (4) the pupil's current grade level; and (5) any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law. (Ed. Code, § 49069.5, subds. (c) and (d) (Stats. 1998., ch. 311.) (Period of reimbursement July 1, 2001-Dec. 31, 2003).)
4. Transfer the educational and health record of a pupil in foster care to the pupil's new local educational agency within five working days of receipt of information regarding the new educational placement of the pupil. (Ed. Code, § 49069.5, subd. (e) (Stats. 1998, ch. 311).)
5. Release any information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. (Ed. Code, § 49076.5, subd. (a) (Stats. 1993, ch. 561).)

**B. Community College Districts**

1. Inform the alleged victim of sexual assault or physical abuse (as defined by Ed. Code, § 76234), within three days of the results of any disciplinary action by the community college and the results of any appeal, whenever there is included in any student record information concerning any disciplinary action taken by a community college concerning the alleged sexual assault or physical abuse. (Ed. Code, § 76234 (Stats. 1989, ch. 593).)

**Offsetting Revenue Provisions**

The Commission found that the fee authority to charge a fee that does not exceed the actual cost of furnishing copies of any pupil records, set forth in Education Code section 49065, is applicable to the state-mandated programs here. This fee authority does not extend to furnishing the first two transcripts of former pupils' records, or the first two verifications of various records of former pupils, or the search for or retrieval of any pupil record. Therefore, any revenue

resulting from the fee authority set forth in Education Code section 49065 is offsetting revenue and shall be deducted from the costs claimed for furnishing pupil records.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by 22 school districts and compiled by the SCO. The actual claims data showed that 80 claims were filed for nine fiscal years for a total of \$802,888.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Amendments to Education Code section 49069.5 in 2003 removed two of the five reimbursable activities for school districts. Reimbursement for those activities ended on December 31, 2003. Of the 50 claims that staff reviewed in detail, none of them contained costs for those two deleted activities after fiscal year 2003-2004.

### Assumptions

- 1) *The amount claimed for reimbursement may increase if late or amended claims are filed.*

There are currently 1,047 school districts and 72 community college districts in California. Of those, only 22 school districts filed reimbursement claims for this program between 2001 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until January 31, 2012.

- 2) *The total costs of this program may also increase in future years if there is an increase in the number of requests to:*

#### K-12 School Districts

- provide access to records of current or former pupils to foster family agencies;
- transfer educational and health records to new educational agencies;
- release identity and location information to designated peace officers;

#### Community College Districts

- inform victims of sexual assault or physical abuse of any disciplinary action taken by the community college.

- 3) *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*

- The Commission approved only a small portion of this program as a mandate. Therefore, most school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
- They did not have supporting documentation to file a reimbursement claim.

- 4) *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits on this program and reduce any claim it deems to be excessive or unreasonable.

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<sup>2</sup> Claims data reported as of March 18, 2011.

Methodology

*Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.*

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 80 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes nine fiscal years for a total of \$802,888 for the *Student Records* program. This averages to \$89,210 annually in costs for the state for this nine-year period.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of School District Claims Filed with SCO</b>	<b>Estimated Cost</b>
2001-2002	5	\$32,464
2002-2003	6	\$38,314
2003-2004	6	\$46,467
2004-2005	6	\$70,554
2005-2006	7	\$65,714
2006-2007	8	\$78,325
2007-2008	10	\$119,826
2008-2009	10	\$131,350
2009-2010	22	\$219,874
<b>TOTAL</b>	<b>80</b>	<b>\$802,888</b>

**Staff Recommendation**

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$802,888** for costs incurred in complying with the *Student Records* program.