

**1. TEST CLAIM TITLE**

Child Abuse & Neglect Reporting Act II

**2. CLAIMANT INFORMATION**

Lake Elsinore Unified School District

Name of Local Agency or School District

George Landon

Claimant Contact

Deputy Superintendent, Admin.Fiscal Support

Title

545 Chaney Street

Street Address

Lake Elsinore, CA 92530

City, State, Zip

951.253.7095

Telephone Number

N/A

Fax Number

George.Landon@leusd.k12.ca.us

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Arthur M. Palkowitz

Claimant Representative Name

Attorney

Title

Stutz Artiano Shinoff & Holtz, APC

Organization

2488 Historic Decatur Road, Suite 200

Street Address

San Diego, CA 92106

City, State, Zip

(619) 232-3122

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E-Mail Address

<i>For CSM Use Only</i>
Filing Date:
<b>RECEIVED</b> June 01, 2015 <b>Commission on State Mandates</b>
Test Claim #:

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .*

Statutes of 2014, Chapter 797 (A.B. 1432), Effective January 1, 2015; Education Code Section 44691 and repeal Section 44690; Penal Code Section 11165.7

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:  
5. Written Narrative: pages 4 to 15.  
6. Declarations: pages 16 to 20.  
7. Documentation: pages 21 to 26

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

## **5. WRITTEN NARRATIVE**

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (A) A detailed description of the new activities and costs that arise from the mandate.
- (B) A detailed description of existing activities and costs that are modified by the mandate.
- (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
- (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (F) Identification of all of the following funding sources available for this program:
  - (i) Dedicated state funds
  - (ii) Dedicated federal funds
  - (iii) Other nonlocal agency funds
  - (iv) The local agency's general purpose funds
  - (v) Fee authority to offset costs
- (G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.
- (H) Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.

## **6. DECLARATIONS**

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;
- (C) describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program);
- (D) If applicable, describe the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Section 17573, and the authority to file a test claim pursuant to paragraph (1) of Section 17574(c).
- (E) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

## **7. DOCUMENTATION**

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement; and
- (E) statutes, chapters of original legislatively determined mandate and any amendments.

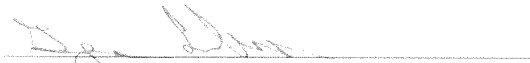
**8. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

**George Landon**

Print or Type Name of Authorized Local Agency  
or School District Official



Signature of Authorized Local Agency or  
School District Official

**Deputy Superintendent**

Print or Type Title

5-29-15

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below:*

Test Claim: Child Abuse and Neglect Reporting Act II  
 Claimants: Lake Elsinore Unified School District  
 5. Written Narrative

**BEFORE THE  
 COMMISSION ON STATE MANDATES  
 STATE OF CALIFORNIA**

Test Claim of:	) No. CSM _____
	)
Lake Elsinore Unified School District,	) Statutes 2014, Chapter 797, A.B. 1432;
	) Education Code Sections 44690; 44691;
	) Penal Code Section 11165.7
Claimants.	)
	) <u>Child Abuse and Neglect Reporting Act II</u>
	) (CANRA)
	)
	)
	)
	)
	)
	)
	)
	I.

**STATEMENT OF THE CLAIM**

This test claim alleges reimbursable costs mandated by the State for school districts, county offices of education, charter schools, state special schools and Department of Education diagnostic centers to provide annual training to their employees in child abuse detection and mandatory reporting obligations under the Child Abuse and Neglect Reporting Act II (“CANRA”) pursuant to the requirements in Statutes 2013-2014 Chapter 797 (A.B. No. 1432).

The training must cover child abuse and neglect detection and child abuse and neglect reporting procedures, and notice that the failure to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable by up to six months in jail, a fine of \$1,000, or both.

Prior to AB 1432, the annual training of mandated reporters in school districts was not required. In the education setting, “mandated reporters” include all certificated and classified

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

employees, administrators, athletic coaches and school resources officers – basically anyone who has regular contact with children.

This new law will have an immediate impact on school districts at the beginning of the new calendar year. Any new employee hired between January 1, 2015, and the end of the 2014-2015 school year must be trained within the first six weeks of their employment. For example, any walk-on athletic coaches hired for spring sports, substitutes, and other midyear hires must receive the training promptly.

Claimant alleges that the test claim statutes and regulation impose a reimbursable state mandated program for school districts under article XIII B, section 6 and Government Code section 17514. It was the intent of the Legislature in enacting the test claim statutes and regulations to provide a mandatory system of appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect. In order to accomplish these goals, the Legislature declared that school districts provide training to their employees annually.

## II.

### **AUTHORITY FOR THE CLAIM**

The Commission on State Mandates has the authority pursuant to Government Code section 17551, subdivision (a) to hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the State for costs mandated by the State as required by Section 6 of Article XIII B of the California Constitution.

(*Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.) The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law. (*County of San Diego v. State of California*, (1997) 15 Cal.4th 68,109.)

Lake Elsinore Unified School District (“Claimants”) is a school district as defined in Government Code section 17519. This test claim is filed pursuant to title 2, California Code of Regulations section 1183.1.

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision in approving the test claim Child Abuse and Neglect Reporting (01-TC-21), finding that the test claim statutes impose a partially reimbursable state-mandated program upon school

districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

**A. California Constitution Requires the State to Reimburse Schools**

Article XIII B, section 6 of the California Constitution states:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that article XIII A and XIII B impose.” (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.) Thus the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government]...” (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.) Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform and activity. (*San Diego Unified School Dist. v. Commission on State Mandates*, (2004) 33 Cal.4th 859, 874.)
2. The mandated activity either:
  - a. Carries out the governmental function of providing a service to the public;
  - or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state. (*San Diego Unified School Dist., supra* 33 Cal.4th at 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public. (*San Diego Unified School Dist., supra* 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal 3d 830, 835.)

**B. The New Program Is Mandated When The Schools Incur Increased Costs.**

Government Code section 17514 provides that “[c]osts mandated by the state’ means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of article XIII B of the California Constitution.”

Government Code section 17564 provides that “[n]o claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551, or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars.”

Claimants alleges increased costs mandated by the state in the amount of ten million dollars (\$10,000,000.00) for schools in the districts impacted by the test claim statutes, which exceeds the \$1000 minimum claim amount articulated in Government Code section 17564(a).

There is no evidence that any on-going revenue has been appropriated specifically to fund the costs of the mandated activities in this claim. Accordingly, the evidence in the record supports the finding that the claimant has incurred increased costs mandated by the state pursuant to Government Code section 17514. However, to the extent a district receives any funding or grant funding and applies those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district.

**Identify the specific sections of statutes or executive orders alleged to contain a mandate. Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:**

1. Statutes 2014 Chapter 797 (A.B. No. 1432); Sections 3, 4.

**Statutes 2014 Chapter 797 (A.B. No. 1432); Section 3**

SEC. 3. Section 44691 is added to the Education Code, to read:

44691. (a) The State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, shall do all of the following:

- (1) Develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of

Education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.

(2) Provide statewide guidance on the responsibilities of mandated reporters who are school personnel in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). This guidance shall include, but not necessarily be limited to, both of the following:

(A) Information on the identification of child abuse and neglect.

(B) Reporting requirements for child abuse and neglect.

(3) Develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module to be provided by the State Department of Social Services.

(b) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall do both of the following:

(1) Except as provided in subdivision (c), provide annual training, using the online training module provided by the State Department of Social Services, to their employees and persons working on their behalf who are mandated reporters, as defined in Section 11165.7 of the Penal Code, pursuant to this section and subdivision (d) of Section 11165.7 of the Penal Code on the mandated reporting requirements. Mandated reporter training shall be provided to school personnel hired during the course of the school year. This training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Develop a process for all persons required to receive training pursuant to this section to provide proof of completing the training within the first six weeks of each school year or within the first six weeks of that person's employment. The process developed under this paragraph may include, but not necessarily be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing board or body of the school district, county office of education, state special school and diagnostic center, or charter school.



(c) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools that do not use the online training module provided by the State Department of Social Services shall report to the State Department of Education the training being used in its place.

**Statutes 2014 Chapter 727 (A.B. No. 1432); Section 4.**

SEC. 4. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

- (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner or other person who performs autopsies.
- (29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium,

CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, “child visitation monitor” means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) “Animal control officer” means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) “Humane society officer” means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.<sup>1</sup>

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both

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<sup>1</sup> (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43)(A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

(b) Except as provided in paragraph (35) <sup>2</sup>of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) ~~\*\*\* Except as provided in subdivision (d), employers~~ are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) ~~\*\*\* Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall \*\*\* include, but not necessarily be limited to, training \*\*\* in child abuse and neglect identification and child abuse and neglect reporting.~~

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

SEC. 5.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.**

Estimated \$100,000.00

**(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

Estimated \$100,000.00

**(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

Estimated \$10,000,000.00 (Ten Million)

**(F) Identification of all of the following funding sources available for this program:**

**(i) Dedicated state funds**

Claimant is unaware at this time of any other dedicated state funds available for this program.

**(ii) Dedicated federal funds**

Claimant is unaware at this time of any other dedicated state funds available for this program.

**(iii) Other nonlocal agency funds**

Claimant is unaware at this time of any other dedicated state funds available for this program.

**(iv) The local agency's general purpose funds**

Claimant is unaware at this time of any other dedicated state funds available for this program.

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
5. Written Narrative

**(v) Fee authority to offset costs.**

Claimant is unaware at this time of any other dedicated state funds available for this program.

**(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.**

Child Abuse and Neglect Reporting (01-TC-21)

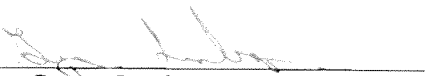
**H. Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.**

Claimant is unaware at this time of the identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.

**CLAIM CERTIFICATION**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Date: 5-29-15

  
George Landon  
Deputy Superintendent Administrative  
& Fiscal Support Services  
Lake Elsinore Unified School District

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
Section: 6 –Declaration

**SECTION NUMBER: 6**  
**Heading: DECLARATION**

I, George Landon, Deputy Superintendent & Fiscal Support Services for the Lake Elsinore Unified School District, declare as follows:

**Section A. The actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.**

It is estimated the annual increased costs incurred by the claimant to implement the alleged mandate for one hour of training for employees that are mandated reporters is as follows:

Certificated employees	\$ 80,406
Classified employees	\$ 26,856
Total	\$107,262

**Section B. Identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs:**

None known at this time.

**Section C. Describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections or page numbers alleged to impose a reimbursable state mandated program):**

Statutes 2013-2014 Chapter 797 (A.B. No. 1432); Section 3  
Section 44691 is added to the Education Code, to read:

44691. (a) The State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, shall do all of the following:

(1) Develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.



Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
Section: 6 –Declaration

(2) Provide statewide guidance on the responsibilities of mandated reporters who are school personnel in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). This guidance shall include, but not necessarily be limited to, both of the following:

- (A) Information on the identification of child abuse and neglect.
- (B) Reporting requirements for child abuse and neglect.

(3) Develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module to be provided by the State Department of Social Services.

(b) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall do both of the following:

(1) Except as provided in subdivision (c), provide annual training, using the online training module provided by the State Department of Social Services, to their employees and persons working on their behalf who are mandated reporters, as defined in Section 11165.7 of the Penal Code, pursuant to this section and subdivision (d) of Section 11165.7 of the Penal Code on the mandated reporting requirements. Mandated reporter training shall be provided to school personnel hired during the course of the school year. This training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine

(2) Develop a process for all persons required to receive training pursuant to this section to provide proof of completing the training within the first six weeks of each school year or within the first six weeks of that person's employment. The process developed under this paragraph may include, but not necessarily be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing board or body of the school district, county office of education, state special school and diagnostic center, or charter school.

(c) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools that do not use the online

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
Section: 6 –Declaration

training module provided by the State Department of Social Services shall report to the State Department of Education the training being used in its place.

Statutes 2014 Chapter 727 (A.B. No. 1432); Section 4.  
Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, “mandated reporter” is defined as any of the following:

(41) An employee or administrator of a public or private postsecondary **educational** institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43)(A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, “commercial computer technician” means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
Section: 6-Declaration

complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary **educational** institutions.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) \* \* \* **Except as provided in subdivision (d), employers** are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) \* \* \* **Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf** specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. **The training shall \* \* \* include, but not necessarily be limited to, training \* \* \* in child abuse and neglect identification and child abuse and neglect reporting.**

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

Test Claim: Child Abuse and Neglect Reporting Act II  
Claimants: Lake Elsinore Unified School District  
Section: 6-Declaration

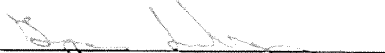
**Section D.**

Not Applicable.

**Section F.**

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.

Dated: May 21, 2015

  
George Landon  
Deputy Superintendent Administrative  
& Fiscal Support Services  
Lake Elsinore Unified School District

## CHILD ABUSE—TRAINING—MANDATED REPORTERS

2014 Cal. Legis. Serv. Ch. 797 (A.B. 1432) (WEST) (Approx. 4 pages)

2014 Cal. Legis. Serv. Ch. 797 (A.B. 1432) (WEST)

CALIFORNIA 2014 LEGISLATIVE SERVICE

2014 Portion of 2013-2014 Regular Session

Additions are indicated by **Text**; deletions by

\*\*\*.

Vetoed are indicated by ~~Text~~ ;stricken material by ~~Text~~ .

## CHAPTER 797

A.B. No. 1432

## CHILD ABUSE—TRAINING—MANDATED REPORTERS

AN ACT to repeal Section 44690 of, and to repeal and add Section 44691 of, the Education Code, and to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.

[Filed with Secretary of State September 29, 2014.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 1432, Gatto. Mandated child abuse reporting; school employees: training.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, which includes a teacher or one of certain other types of school employees, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or has observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law requires the State Department of Education to develop staff development seminars and any other appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect. Existing law requires school districts that do not train their employees in the duties of mandated reporters under the child abuse reporting laws to report to the State Department of Education the reasons why this training is not provided.

This bill would require the State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, to develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse, to provide statewide guidance on the responsibilities of mandated reporters, and to develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module to be provided by the State Department of Social Services.

The bill would require school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools to do both of the following: (1) annually train, using the online training module provided by the State Department of Social Services, or other training, as specified, employees and persons working on their behalf who are mandated reporters on the mandated reporting requirements, as specified; and (2) develop a process for all persons required to receive training under the bill to provide proof of completing this training within the first 6 weeks of each school year or within 6 weeks of that person's employment. By imposing these additional duties on local educational agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

<< Repealed: CA EDUC § 44690 >>

SECTION 1. Section 44690 of the Education Code is repealed.

<< Repealed: CA EDUC § 44691 >>

SEC. 2. Section 44691 of the Education Code is repealed.

SEC. 3. Section 44691 is added to the Education Code, to read:

<< CA EDUC § 44691 >>

44691. (a) The State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, shall do all of the following:

(1) Develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.

(2) Provide statewide guidance on the responsibilities of mandated reporters who are school personnel in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). This guidance shall include, but not necessarily be limited to, both of the following:

(A) Information on the identification of child abuse and neglect.

(B) Reporting requirements for child abuse and neglect.

(3) Develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module to be provided by the State Department of Social Services.

(b) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall do both of the following:

(1) Except as provided in subdivision (c), provide annual training, using the online training module provided by the State Department of Social Services, to their employees and persons working on their behalf who are mandated reporters, as defined in Section 11165.7 of the Penal Code, pursuant to this section and subdivision (d) of Section 11165.7 of the Penal Code on the mandated reporting requirements. Mandated reporter training shall be provided to school personnel hired during the course of the school year. This training shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Develop a process for all persons required to receive training pursuant to this section to provide proof of completing the training within the first six weeks of each school year or within the first six weeks of that person's employment. The process developed under this paragraph may include, but not necessarily be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing board or body of the school district, county office of education, state special school and diagnostic center, or charter

school.

(c) School districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools that do not use the online training module provided by the State Department of Social Services shall report to the State Department of Education the training being used in its place.

SEC. 4. Section 11165.7 of the Penal Code is amended to read:

<< CA PENAL § 11165.7 >>

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2

(commencing with Section 500) of the Business and Professions Code.

(22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical



services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary **educational** institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43)(A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary **educational** institutions.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) ~~\*\*\*~~ **Except as provided in subdivision (d), employers** are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement

required pursuant to subdivision (a) of Section 11166.5.

(d) ~~\*\*\*~~ Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall ~~\*\*\*~~ include, but not necessarily be limited to, training ~~\*\*\*~~ in child abuse and neglect identification and child abuse and neglect reporting.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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