

ITEM 3
TEST CLAIM
PROPOSED DECISION

Education Code Sections 44690 and 44691; and Penal Code Section 11165.7

As Added or Amended by:
Statutes 2014, Chapter 797 (AB 1432)

Training for School Employee Mandated Reporters

14-TC-02

Lake Elsinore Unified School District, Claimant

TABLE OF CONTENTS

Exhibit A

Test Claim, 14-TC-02, filed June 1, 2015 1

Exhibit B

Finance Comments on Test Claim, filed July 6, 2015 27

Exhibit C

Claimant’s Rebuttal to Finance Comments, filed August 6, 2015 35

Exhibit D

Draft Proposed Decision, issued September 24, 2015 44

Exhibit E

Supporting Documentation 78

1. Senate Appropriations Committee fiscal summary of AB 1432, as amended August 4, 2014
2. Assembly Committee on Public Safety bill analysis on AB 1432, as amended February 11, 2014
3. Assembly Committee on Education bill analysis on AB 1432, as amended March 26, 2014
4. CDSS Mandated Reporter online training, home-page, accessed July 23, 2015
5. “Reporting on Alternative Training Provided for Mandated Reporters” form developed by CDE
6. CDSS Mandated Reporter online training, lesson 2, “failure to report,” accessed September 16, 2015
7. Assembly Bill No. 1432 (2013-2014 Reg. Sess.), as amended May 7, 2014

8. Assembly Committee on Appropriations bill analysis on AB 1432, as amended May 7, 2014
9. Assembly Bill No. 1432 (2013-2014 Reg. Sess.), as amended May 23, 2014
10. Assembly Floor analysis on AB 1432, as amended August 4, 2014

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

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For CSM Use Only

Filing Date:

RECEIVED
 June 01, 2015
**Commission on
 State Mandates**

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.

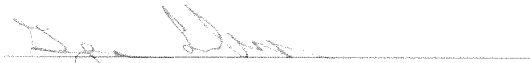
8. CLAIM CERTIFICATION

*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.)
) Child Abuse and Neglect Reporting Act II
) (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.¹

(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

¹ (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) ²of 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)

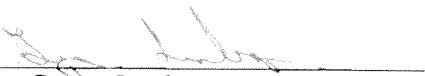
H. Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.

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

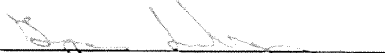
Section D.

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.

End of Document © 2015 Thomson Reuters. No claim to original U.S. Government Works.



Exhibit B

EDMUND G. BROWN JR. - GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

RECEIVED
July 06, 2015
*Commission on
State Mandates*

July 6, 2015

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

As requested in your Notice of Complete Test Claim Filing and Schedule for Comments of June 4, 2015, for the Training for School Employees Mandated Reporters Statutes of 2014, Chapter 797 (AB 1432, Gatto) submitted by the Lake Elsinore Unified School District (Claimant), the Department of Finance (Finance) has reviewed the test claim and respectfully submits the following comments.

To the extent that AB 1432 establishes new responsibilities, we would like to note that many resources and methods are available for the specified local educational agencies (LEAs) to meet this responsibility effectively and cost efficiently. As identified in the statute, the Department of Social Services (DSS) provides free online training modules that provide a certificate of completion for an employee upon completion. DSS additionally provides a list of trainers to provide in-person training; some at no-cost and as short as one hour. The California Department of Education also has available many free resources on their website specifically developed for LEAs and numerous free training modules are available on the Internet.

Given the wide availability of free resources, free online training, and free in-person training, we anticipate the cost to LEAs to provide training for their mandated reporters to be minimal.

If you have any questions regarding this letter, please contact Juan Mireles, Principal Program Budget Analyst for the Department of Finance at (916) 445-0328.

Sincerely,

JEFF BELL
Program Budget Manager

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

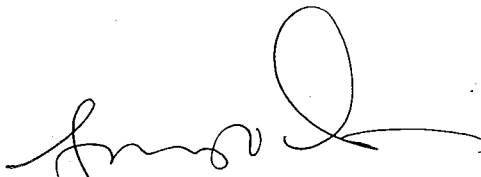
On July 7, 2015, I served the:

DOF Comments

Training for School Employees Mandated Reporters, 14-TC-02
Education Code Section 44690 and 44691; Penal Code Section 11165.7
Statutes 2014, Chapter 797 (AB 1432)
Lake Elsinore Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 7, 2015 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/19/15

Claim Number: 14-TC-02

Matter: Training for School Employee Mandated Reporters

Claimant: Lake Elsinore Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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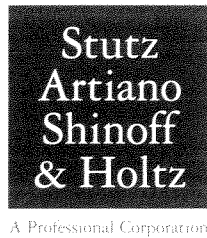
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August 6, 2015

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Case Name: Training for School Employees Mandated Reporters (14-TC-02)
Rebuttal to Comments
Claimant: Lake Elsinore Unified School District

Dear Ms. Halsey:

Lake Elsinore Unified School District (“Claimant”) files this rebuttal in response to the Department of Finance comments.

A. Introduction

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

B. Legal Authority

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

This new law will require annual training regarding the detection and reporting of child abuse. 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.

Heather Halsey
Executive Director

Page 2

There will be incurred costs for District employees' time to participate in the training, as well as the necessity to have substitutes for certificated employees. School Districts may, but are not required, to use the online training module provided by the State Department of Social Services or any other online resources.¹

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.

Department of Finance ("DOF") comments agree there will be new responsibilities for AB 1432 and the evidence is clear Districts will incur costs for staff time in participating in the annual training. Department of Finance ("DOF") comments fail to address the budgeting or appropriations for funding allocated to the activities listed in the test claim statutes.

CERTIFICATION

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.



Arthur M. Palkowitz

Attorney for the Claimant

¹ Ed. Code 44691(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.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On August 10, 2015, I served the:

Claimant Rebuttal Comments

Training for School Employees Mandated Reporters, 14-TC-02

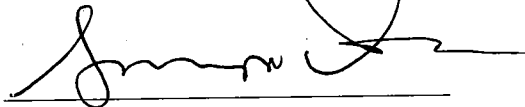
Education Code Section 44690 and 44691; Penal Code Section 11165.7

Statutes 2014, Chapter 797 (AB 1432)

Lake Elsinore Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 10, 2015 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/7/15

Claim Number: 14-TC-02

Matter: Training for School Employee Mandated Reporters

Claimant: Lake Elsinore Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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September 24, 2015

Mr. Arthur Palkowitz
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Training for School Employee Mandated Reporters, 14-TC-02
Education Code Section 44690 and 44691; Penal Code Section 11165.7
As Added or Amended by: Statutes 2014, Chapter 797 (AB 1432)
Lake Elsinore Unified School District, Claimant

Dear Mr. Palkowitz:

The draft proposed decision for the above-named matter is enclosed for review and comment.

Written Comments

Written comments may be filed on the draft proposed decision by **October 15, 2015**. 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. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Thursday, December 3, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about November 19, 2015. 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 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM __
TEST CLAIM
DRAFT PROPOSED DECISION

Education Code Section 44690 and 44691; and Penal Code Section 11165.7

As Added or Amended by:
Statutes 2014, Chapter 797 (AB 1432)

Training for School Employee Mandated Reporters

14-TC-02

Lake Elsinore Unified School District, Claimant

EXECUTIVE SUMMARY

Overview

This test claim addresses Statutes 2014, chapter 797, which requires K-12 school districts and county offices of education to provide child abuse and neglect training to employees and persons working on their behalf who are identified as mandated reporters. Statutes 2014, chapter 797 amended Penal Code section 11165.7(d) to require “school districts” and county offices of education to comply with training requirements imposed by Education Code section 44691. Education Code section 44691 is placed in Title 2 of the Education Code, which addresses elementary and secondary education, or K-12 education only. These code sections require K-12 school districts and county offices of education to perform the following activities:

- Except as provided in subdivision (c), provide annual training, using the online training module provided by the California Department of Social Services (CDSS), to their employees and persons working on their behalf who are mandated reporters as defined in Section 11165.7 of the Penal Code. Mandated reporter training shall be provided to school personnel hired during the course of the school year and “shall include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars.” (Ed. Code § 44691(b)(1); Penal Code § 11165.7(d).)
- Develop a process for all persons required to receive training, 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. (Ed. Code § 44691(b)(2).)
- School districts that do not use the online training provided by CDSS, shall report to the California Department of Education (CDE) the training being used in its place. (Ed. Code § 44691(c).)¹

¹ Exhibit X, “Reporting on Alternative Training Provided for Mandatory Reporters” form provided by CDE for districts who are required to report the alternative training methods used, dated January 2015, available at: <http://www.cde.ca.gov/lr/ss/ap/>, accessed July 23, 2015.

As discussed below, the activities in Education Code section 44691(b) and (c) and Penal Code section 11165.7(d), are newly required of school districts. Under prior law, school districts were encouraged to provide training to their employees, but were not required to do so.² Staff finds that the newly required activities impose a new program or higher level of service, however, the test claim statute raises a number of issues regarding the scope of the new mandated activities, which are analyzed below.

Procedural History

This test claim was filed with the Commission on State Mandates (Commission) on June 1, 2015³ and deemed complete and issued for comment on June 4, 2015. On July 6, 2015, the Department of Finance (Finance) filed comments on the test claim.⁴ On August 6, 2015 the claimant filed rebuttal comments to the Finance’s comments.⁵ On September 24, 2015, Commission staff issued the draft proposed decision.⁶

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁷

Claims

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation:

² Former Penal Code section 11165.7(d), as last amended by Statutes 2001, chapter 754.

³ Exhibit A, Test Claim, page 1. Based upon the filing date of June 1, 2015, the potential period of reimbursement begins July 1, 2014. However, since the test claim statutes became effective on January 1, 2015, the potential period of reimbursement begins on the effective date of the statute that imposes a state-mandate: January 1, 2015.

⁴ Exhibit B, Department of Finance Comments on Test Claim.

⁵ Exhibit C, Claimant’s Rebuttal to Finance Comments.

⁶ Exhibit D, Draft Proposed Decision.

⁷ *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

Subject	Description	Staff Recommendation
<p>Education Code section 44691 and Penal Code section 11165.7(d), as added and amended by Statutes 2014, chapter 797 (AB 1432).</p>	<p>Statutes 2014, chapter 797 amended Penal Code section 11165.7(d) to require “school districts” and county offices of education to comply with training requirements imposed by Education Code section 44691 as follows:</p> <ul style="list-style-type: none"> • Except as provided in subdivision (c), provide annual training, using the online training module provided by CDSS, to their employees and persons working on their behalf who are mandated reporters as defined in Section 11165.7 of the Penal Code. Mandated reporter training shall be provided to school personnel hired during the course of the school year and shall include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars. (Ed. Code § 44691(b)(1); Penal Code § 11165.7(d).) • Develop a process for all persons required to receive training, 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. (Ed. Code § 44691(b)(2).) • School districts that do not use the online training provided by CDSS, shall report to the CDE the training being used in its 	<p><i>Approve</i> – Staff finds that Education Code section 44691 and Penal Code section 11165.7, as added and amended by Statutes 2014, chapter 797, impose a reimbursable state-mandated program on K-12 school districts and county offices of education to provide training, as specified in the proposed decision, to develop a process for all persons required to receive training to provide proof of completing the training, and, if the online training provided by CDSS is not used, report to the CDE the training being used in its place. to beginning January 1, 2015.</p> <p>All other activities and provisions in Education Code section 44691 and Penal Code 11167.5, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.</p>

	place. (Ed. Code § 44691(c).)	
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Staff Analysis

A. The Test Claim Statute Imposes a State Mandate on K-12 School Districts to Provide Training to Specified School District Employees, and Specified Persons Who Are Working on a School District’s Behalf to Carry Out the School District’s Core Mandatory Function, Who Are Mandated Reporters; and to Develop a Process for All Persons Required to Receive Training Pursuant to Education Code Section 44691 to Provide Proof of Completing the Training.

Statutes 2014, chapter 797 amended Penal Code section 11165.7(d) to require “school districts” and county offices of education to comply with training requirements imposed by Education Code section 44691. Education Code section 44691 is placed in Title 2 of the Education Code, which addresses elementary and secondary education, or K-12 education only. These code sections require K-12 school districts and county offices of education to perform the following activities:

- Except as provided in subdivision (c), provide annual training, using the online training module provided by CDSS, to their employees and persons working on their behalf who are mandated reporters as defined in Section 11165.7 of the Penal Code. Mandated reporter training shall be provided to school personnel hired during the course of the school year and shall include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars. (Ed. Code § 44691(b)(1); Penal Code § 11165.7(d).)
- Develop a process for all persons required to receive training, 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. (Ed. Code § 44691(b)(2).)
- School districts that do not use the online training provided by CDSS, shall report to the CDE the training being used in its place. (Ed. Code § 44691(c).)⁸

As discussed below, the activities in Education Code section 44691(b),(c), and Penal Code section 11165.7(d), are newly required of school districts. Under prior law, school districts were encouraged to provide training to their employees, but were not required to do so.⁹ However, the test claim statute raises a number of issues regarding the scope of the new mandated activities, which are analyzed below.

1. The test claim statute requires K-12 school districts to provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect and the proper action that

⁸ Exhibit X, “Reporting on Alternative Training Provided for Mandatory Reporters” form provided by CDE for districts who are required to report the alternative training methods used, dated January 2015, available at: <http://www.cde.ca.gov/lr/ss/ap/>, accessed July 23, 2015.

⁹ Former Penal Code section 11165.7(d), as last amended by Statutes 2001, chapter 754.

school personnel should take in suspected cases of child abuse and neglect. The development of training is not required by the plain language of the statute.

Education Code section 44691(b) requires K-12 school districts to provide training to “employees and persons working on their behalf who are mandated reporters” as defined in Penal Code section 11165.7. The training provided must consist of the information described in section 11165.7(a); i.e., training “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 addition, the training must include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars.¹⁰ The training must be provided annually, within the first six weeks of each school year, and within the first six weeks of employment for personnel hired during the course of the school year.¹¹

School districts can comply with the training requirement by using the free, self-paced online training module developed by the CDSS. Additionally, Education Code section 44691(b) states “[e]xcept as provided in subdivision (c)... [s]chool districts...who 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.” Staff finds that the plain language of Education Code section 44691(b) and (c) permits a school district to choose an alternative training program, and not use the training developed by CDSS. However, the statute does not require a district to develop a child abuse training program for mandated reporters.

Staff finds that Education Code section 44691(b),(c), and Penal Code section 11167.5(d), require K-12 school districts to provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training 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 addition, the training shall include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars. The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. If a school district does not use the training developed by CDSS, it is required by Education Code section 44691(c) to report to CDE the training being used in its place. The development of child abuse and neglect training is not required by the plain language of the statute.

2. The test claim statute imposes a state-mandated requirement on K-12 school districts to provide training to all school district certificated and classified employees that are mandated reporters, *except* those working for a school district police or security department, and to provide training to those persons who are mandated reporters who are working on a school district’s behalf to carry out the school district’s core mandatory function to educate students.

Education Code sections 44691(a),(b), and Penal Code section 11167.5(d) require school districts to provide child abuse and neglect training for “their *employees and persons working on their behalf who are mandated reporters*” as defined in Penal Code section 11165.7(a).

¹⁰ Education Code section 44691(b)(1); Penal Code section 11165.7(d).

¹¹ Education Code section 44691(b)(1) and (2).

Penal Code section 11165.7(a)(16) identifies “an employee of a school district police or security department” as a mandated reporter. Pursuant to *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355 (*POBRA*), school districts are not mandated by the state to provide child abuse and neglect training for employees “of a school district police or security department” because the cost of these activities is triggered by a local discretionary decision to maintain a police or security department and not rely on the law enforcement services of counties and cities.

Penal Code section 11165.7(d) also identifies certificated and classified employees of a school district, and other persons (such as nurses and psychologists) who may work on behalf of a school district to provide educational services to students. As recognized by the courts, school districts may have discretion with respect to the number of employees they hire and how they carry out their core mandatory function to educate students. Nevertheless, when carrying out their core mandatory function, new activities required by state law are mandated by the state.¹²

Accordingly, staff finds that the test claim statute imposes a state-mandate on K-12 school districts to provide training to all school district certificated and classified employees who are mandated reporters, except those working for a school district police or security department, and to provide training to those persons who are mandated reporters who are working on a school district’s behalf to carry out the school district’s core mandatory function to educate students.

3. The test claim statute mandates school districts to develop a process for all persons required to receive training pursuant to this section to provide proof of completing the training.

Education Code section 44691(b)(2) requires school districts to “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.” Section 44691(b)(2) further provides that 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 or county office of education.

Staff finds that the activity to develop the process that provides proof of completion of the child abuse and neglect training, pursuant to Education Code section 44691(b)(2) is newly required by the test claim statute and mandated by the state.

B. The Required Activities Impose a New Program or Higher Level of Service Within the Meaning of Article XIII B, Section 6 of the California Constitution.

Staff finds that the new state-mandated activities constitute a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution because they are unique to local school districts and provide an increased level of service to the public.¹³ The test claim statute was enacted to address “an alarming increase in the incidents of unreported child abuse where one or more additional school employees were aware of the incident—

¹² *Department of Finance (POBRA)*, 170 Cal.App.4th 1355, page 1367; *San Diego Unified School Dist.*, *supra*, 33 Cal.4th at page 888.

¹³ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

illustrating gaping holes in these mandated reporters' knowledge of CANRA.”¹⁴ According to the Assembly Floor analysis, “[t]he absence of training is a failure of our system that leaves millions of students at risk every single day”.¹⁵ Staff finds that providing training to ensure reporting of child abuse provides a service to the public.

C. The Test Claim Statute Imposes Costs Mandated by the State Pursuant to Article XIII B, Section 6 of the California Constitution and Government Code Section 17514.

Staff finds that the test claim statute imposes costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The claimant submitted a declaration from George Landon, Deputy Superintendent & Fiscal Support Services, which declares on May 21, 2015, that an additional \$107,262 will be incurred for “the annual increased costs incurred by the claimant to implement the alleged mandate for one hour of training for employees that are mandated reporters.” Claimant also asserts that the statewide cost to implement the alleged mandate is estimated at \$10,000,000.¹⁶ There is no analysis or evidence provided regarding how this estimate was calculated. In addition, there is no evidence that the exceptions in Government Code section 17556 apply to this test claim, or evidence disputing the claimant’s assertion of costs.

Conclusion

Based on the foregoing analysis, the Commission finds that Education Code section 44691 and Penal Code section 11165.7, as added and amended by Statutes 2014, chapter 797, impose a reimbursable state-mandated program on K-12 school districts and county offices of education for the following activities, beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:
 - a. Certificated and classified employees of the school district that are mandated reporters identified in the Penal Code, *except* those working for a school district police or security department; and
 - b. Those persons who are mandated reporters identified in the Penal Code that are working on a school district’s behalf to carry out the school district’s core mandatory function to educate students.

The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. The

¹⁴ Exhibit X, Assembly Committee on Public Safety bill analysis on AB 1432, as amended February 11, 2014.

¹⁵ Exhibit X, Assembly Floor analysis on AB 1432, as amended August 4, 2014.

¹⁶ Exhibit A, Test Claim, page 14.

development child abuse and neglect training is *not* mandated by the state and is not reimbursable. (Ed. Code § 44691(b)(1), (c); Penal Code § 11165.7(d).)

2. Develop a process for all persons required to receive training 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 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. (Ed. Code § 44691(b)(2).)
3. If the online training provided by CDSS is not used, report to the CDE the training being used in its place. (Ed. Code § 44691(c).)

All other provisions in Education Code section 44691 and Penal Code 11167.5, as added or amended by Statutes 2014, chapter 797, do not impose a reimbursable state-mandated program.

Staff Recommendation

Staff recommends that the Commission adopt the proposed decision to approve this test claim. Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 44690 and 44691;
and Penal Code Section 11165.7

As Added or Amended by:

Statutes 2014, Chapter 797 (AB 1432)

Filed on June 1, 2015

Lake Elsinore Unified School District,
Claimant

Case No.: 14-TC-02

*Training for School Employee Mandated
Reporters*

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

(Adopted December 3, 2015)

DRAFT PROPOSED DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on December 3, 2015. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/deny] the test claim at the hearing by a vote of [vote count will be included in the adopted decision].

Summary of the Findings

This test claim addresses Statutes 2014, chapter 797, which imposes new child abuse and neglect training requirements imposed on K-12 school districts and county offices of education for employees and persons working on their behalf who are identified as mandated reporters.

The Commission finds that Education Code section 44691 and Penal Code section 11165.7, as added and amended by Statutes 2014, chapter 797, impose a reimbursable state-mandated program on K-12 school districts and county offices of education for the following activities, beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:

- a) Certificated and classified employees of the school district that are mandated reporters identified in the Penal Code, *except* those working for a school district police or security department; and
- b) Those persons who are mandated reporters identified in the Penal Code that are working on a school district’s behalf to carry out the school district’s core mandatory function to educate students.

The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. The costs to develop child abuse and neglect training are *not* mandated by the state. (Ed. Code § 44691(b)(1), (c); Penal Code § 11165.7(d).)

- 2. Develop a process for all persons required to receive training 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 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. (Ed. Code § 44691(b)(2).)
- 3. If the online training provided by CDSS is not used, report to the CDE the training being used in its place. (Ed. Code § 44691(c).)

All other provisions in Education Code section 44691 and Penal Code 11167.5, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.

COMMISSION FINDINGS

I. Chronology

- 06/01/2015 This test claim was filed with the Commission.¹⁷
- 06/04/2015 The test claim was deemed complete and issued for comment.
- 07/06/2015 The Department of Finance (Finance) filed comments on the test claim.¹⁸
- 08/06/2015 Lake Elsinore Unified School District (claimant) filed rebuttal to Finance’s comments.¹⁹
- 09/24/2015 Commission staff issued the draft proposed decision.²⁰

¹⁷ Exhibit A, Test Claim, page 1. Based upon the filing date of June 1, 2015, the potential period of reimbursement begins July 1, 2014. However, since the test claim statutes became effective on January 1, 2015, the potential period of reimbursement begins on the effective date of the statute that imposes a state mandate.

¹⁸ Exhibit B, Department of Finance Comments on Test Claim.

¹⁹ Exhibit C, Claimant’s Rebuttal to Department of Finance Comments.

²⁰ Exhibit D, Draft Proposed Decision.

II. Background

A. Prior Law

A child abuse reporting law was first added to the Penal Code in 1963, and initially required medical professionals to report suspected child abuse to local law enforcement or child welfare authorities. The law was regularly expanded to include more professions required to report suspected child abuse (now termed “mandated reporters”), and in 1980, California reenacted and substantively amended the law, entitling it the “Child Abuse and Neglect Reporting Act,” or “CANRA.” The court in *Planned Parenthood Affiliates v. Van de Kamp* (1986) 181 Cal.App.3d 245, pages 258-260, provides an overview of the complete Child Abuse and Neglect Reporting Act, following the 1980 reenactment at Penal Code section 11164 et seq. (footnotes omitted):

The law is designed to bring the child abuser to justice and to protect the innocent and powerless abuse victim. (See Comment, Reporting Child Abuse: When Moral Obligations Fail (1983) 15 Pacific L.J. 189.) The reporting law imposes a mandatory reporting requirement on individuals whose professions bring them into contact with children. (*Id.*, at pp. 189-190.) Physical abuse, sexual abuse, willful cruelty, unlawful corporal punishment and neglect must be reported.

¶...¶

The reporting law applies to three broadly defined groups of professionals: “health practitioners,” child care custodians, and employees of a child protective agency. “Health practitioners” is a broad category subdivided into “medical” and “nonmedical” practitioners, and encompasses a wide variety of healing professionals, including physicians, nurses, and family and child counselors. (§§ 11165, subs. (i), (j); 11165.2.) “Child care custodians” include teachers, day care workers, and a variety of public health and educational professionals. (§§ 11165, subd. (h); 11165.1 [first of two identically numbered sections]; 11165.5.) Employees of “child protective agencies” consist of police and sheriff’s officers, welfare department employees and county probation officers. (§ 11165, subd. (k).)

The Legislature acknowledged the need to distinguish between instances of abuse and those of legitimate parental control. “[T]he Legislature recognizes that the reporting of child abuse ... involves a delicate balance between the right of parents to control and raise their own children by imposing reasonable discipline and the social interest in the protection and safety of the child [I]t is the intent of the Legislature to require the reporting of child abuse which is of a serious nature and is not conduct which constitutes reasonable parental discipline.” (Stats. 1980, ch. 1071, § 5, p. 3425.)

To strike the “delicate balance” between child protection and parental rights, the Legislature relies on the judgment and experience of the trained professional to distinguish between abusive and nonabusive situations. “[A]ny child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency ‘[R]easonable suspicion’ means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a

reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.” (§ 11166, subd. (a), italics added.) As one commentator has observed, “[t]he occupational categories ... are presumed to be uniquely qualified to make informed judgments when suspected abuse is not blatant.” (See Comment, Reporting Child Abuse: When Moral Obligations Fail, supra., 15 Pacific L.J. at p. 214, fn. omitted.)

The mandatory child abuse report must be made to a “child protective agency,” i.e., a police or sheriff’s department or a county probation or welfare department. The professional must make the report “immediately or as soon as practically possible by telephone.” The professional then has 36 hours in which to prepare and transmit to the agency a written report, using a form supplied by the Department of Justice. The telephone and the written reports must include the name of the minor, his or her present location, and the information that led the reporter to suspect child abuse. (§§ 11166, subd. (a); 11167, subd. (a); 11168.) Failure to make a required report is a misdemeanor, carrying a maximum punishment of six months in jail and a \$1,000 fine. (§ 11172, subd. (e).) . . .

Under the existing CANRA, all school district teachers and employees including instructional aides, teacher assistances, classified employees, and employees of a school district police or security department are mandated reporters. The previous version of CANRA also specified that employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed, however employers were not required to provide this training. School districts that did not provide training were required to report to the California Department of Education the reasons why the training is not provided.²¹

B. Prior Commission Decisions

1. Child Abuse and Neglect Reporting Act (“CANRA”)

The Child Abuse and Neglect Reporting Act requires a mandated reporter, which includes a teacher and 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.

The *CANRA*, 01-TC-21 test claim, filed by San Bernardino Community College District, alleged that amendments enacted between 1975 and 2001 to California’s mandatory child abuse reporting laws impose a reimbursable state-mandated program on school districts and community college districts.

On July 31, 2009, the Commission adopted the decision on the test claim, finding that K-12 school districts are not required to receive child abuse and neglect reports pursuant to Penal Code section 11165.9 and engage in follow-up reporting and investigation activities, but community college district police departments are required by the test claim statutes to perform these activities. In addition, the Commission determined that the statutes required all law enforcement agencies, including those maintained by K-12 school districts and community college districts, to

²¹ Exhibit X, Senate Appropriations Committee fiscal summary, as amended August 4, 2014, at page 1.

receive reports of “known or suspected instances of child abuse” that require notification and cross-reporting to the appropriate agencies. However, pursuant to *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355 (*POBRA*), reimbursement under article XIII B, section 6 of the California Constitution was denied for these requirements because school districts and community college districts are authorized, but not required by the Education Code to employ peace officers and, thus, they are not mandated by state law to comply with these requirements.²²

The Commission further concluded that Penal Code sections 11165.7 and 11174.3, as added or amended by statutes enacted between 1987 through 2001, mandate new programs or higher levels of service for K-12 school districts within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, beginning July 1, 2000, for the following specific new activities:

- Reporting to the State Department of Education the reasons why training is not provided, whenever school districts do not train their employees specified in Penal Code section 11165.7, subdivision (a), in the duties of mandated reporters under the child abuse reporting laws. (Pen. Code, § 11165.7(d).)²³
- Informing a selected member of the staff of the following requirements prior to the interview whenever a suspected victim of child abuse or neglect is to be interviewed during school hours, on school premises, and has requested that a staff member of the school be present at the interview:

The purpose of the staff person’s presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Penal Code section 11167.5. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Pen. Code, § 11174.3(a).)

2. Interagency Child Abuse and Neglect Investigation Reports (ICAN)

In a separate test claim, *Interagency Child Abuse and Neglect Investigation Reports (ICAN)*, 00-TC-22, the County of Los Angeles alleged that amendments to California’s mandatory child abuse reporting laws impose a reimbursable state-mandated program on local agencies. The test claim pled a number of changes to the law, particularly a reenactment in 1980, and substantive amendments in 1997 and 2000.

²² Education Code sections 38000 and 72330.

²³ This activity has been deleted and replaced by the test claim statute, effective January 1, 2015.

The Commission approved the test claim on December 6, 2007, for any city, county, and city and county that incurs increased costs beginning July 1, 1999, or later for specified activities added by subsequent statutes for the following categories of activities:

For agencies authorized to receive reports from mandated reporters of suspected child abuse to:

- Refer those reports to the correct agency when the recipient agency lacks jurisdiction;
- Cross-report to other local agencies with concurrent jurisdiction and to the district attorneys' offices;
- Report to licensing agencies;
- Make additional reports in the case of a child's death from abuse or neglect;
- Distribute the standardized forms to mandated reporters;
- Investigate reports of suspected child abuse for purposes of preparing and submitting the state "Child Abuse Investigation Report" Form SS 8583, or subsequent designated form, to the Department of Justice;
- Forward to the Department of Justice a report in writing of every case the agency investigates of known or suspected child abuse or severe neglect which is determined to be substantiated or inconclusive;
- Notify suspected abusers of listing in the Child Abuse Central Index; and
- Retain records, as specified.

In addition, a small number of activities were also approved for county licensing agencies and district attorneys' offices, as provided.

C. The Test Claim Statute; Statutes 2014, Chapter 797 (AB 1432)

Education Code section 44691(a), as added by Statutes 2014, chapter 797, effective on January 1, 2015, requires the California Department of Education (CDE), in consultation with the Office of Child Abuse Prevention (OCAP) in the California Department of Social Services (CDSS), to:

- Develop and disseminate information to all school districts, county offices of education, state special schools and diagnostic centers operated by the state, and charter schools, and their school personnel, regarding the detection and reporting of child abuse;
- Provide statewide guidance on the responsibilities of mandated reporters who are school personnel; and
- 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 CDSS.

Education Code section 44691(b) requires school districts to annually train, using an online training module provided by the CDSS or other training as specified, employees and persons working on their behalf who are mandated reporters as defined in Penal Code section 11165.7,

on the mandated reporting requirements. The list of school district employees defined as mandated reporters and required to be trained is broad and includes the following: teacher; instructional aide; teacher's aide or assistant; a classified employee; an administrative officer or certificated pupil personnel employee; an employee of a county office of education whose duties bring the employee into contact with children on a regular basis; an employee of a school district police or security department; and an athletic coach, athletic administrator, or athletic director that provides any combination of instruction for K-12 pupils.²⁴ The training shall be provided to school personnel hired during the course of the school year, and shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable by up to six months confinement in county jail, or by a fine of \$1,000, or both. In addition, school districts are required to develop a process for all persons required to receive training under the bill to provide proof of completing this training within the first six weeks of each school year or within six weeks of that person's employment. The process may include, but not be limited to, the use of a sign-in sheet or the submission of a certificate of completion to the applicable governing body of the school district.

Finally, section 44691(c) requires school districts that do not use the online training module provided by CDSS, to report to CDE the training being used in its place.

Penal Code section 11165.7 defines who is a mandated reporter and, as amended by Statutes 2014, chapter 797, replaces the requirement that schools report why they do not provide training, with the requirement that school districts and county offices of education train mandated reporters in their duties under the child abuse laws, including child abuse and neglect identification and reporting pursuant to Education Code section 44691.

According to the author of the test claim statute the additions to law are needed because:

In recent years, there has been an alarming increase in the incidents of unreported child abuse where one or more additional school employees were aware of the incident—illustrating gaping holes in these mandated reporters' knowledge of CANRA [California Child Abuse Neglect Reporting Act]. In the Redwood City School District, a teacher was arrested in the abuse of two five-year-old special needs students. In the wake of this horrible incident, five staff members were fired for failing to report the abuse despite their knowledge of it.

In the Brentwood Union School District, eleven employees knew but failed to tell authorities about an incident in which a special education teacher, who had already been convicted of child abuse, kicked an autistic student. The incident resulted in a \$950,000 settlement to the student's family. Although district documents in the Brentwood case illustrate that school officials conducted an internal investigation into the incident, parents ultimately reported the incident to police.

Despite the Child Abuse and Neglect Reporting Act's clear reporting requirements, school districts are merely 'encouraged' rather than required to provide employees who qualify as mandated reporters with training on either abuse identification or abuse

²⁴ Penal Code section 11165.7(a).

reporting. The absence of training is a failure of our system that leaves millions of students at risk every single day.²⁵

According to the Child Abuse Mandated Reporter Training Project cited in the committee analysis:

[I]n California, it is estimated that four children die each day in this country as a result of child abuse and neglect. The Federal Child Abuse Reporting Act was passed in 1974 to address this issue. Over the years, numerous amendments have expanded the definition of child abuse and the list of persons who are required to report suspected child abuse. The CAMRTP is funded by the DSS, Office of Child Abuse Prevention (OCAP) and the goal of this project is to have free training available for mandated child abuse reporters so they may carry out their responsibilities properly. Currently the CAMRTP provides free online training modules that are specifically tailored for educators.²⁶

To implement the test claim statute, CDSS developed a free, self-paced online training course (“Mandated Reporter Training for Educators”), which takes between 90 and 180 minutes and includes instruction on the following topics: what the law requires of you as a mandated reporter, how to spot indicators of possible child abuse or neglect, how to talk to children about suspected abuse, how to make a report, what happens after a report is filed, and special issues related to child abuse reporting in the school environment.²⁷

In addition, for those districts that do not use the CDSS online training module, CDE has developed a form for reporting the alternative training used, in accordance with Education Code section 44691(c). The form asks the district to identify the name and title of the alternative training, the contact information for the training provider, and a description of the training, including topics covered. The form also asks an “optional” question about why alternate training was used and why the district did not use the training module created by CDSS.²⁸

III. Positions of the Parties

A. Claimant

Lake Elsinore Unified School District’s June 1, 2015 test claim filing alleges that the 2014 amendments to the child abuse reporting statute in Penal Code section 11165.7, and the addition

²⁵ Exhibit X, Assembly Committee on Public Safety bill analysis on AB 1432, as amended February 11, 2014.

²⁶ Exhibit X, Assembly Committee on Education bill analysis on AB 1432, as amended March 26, 2014. The Federal Child Abuse Reporting Act is found in 42 United States Code, section 13031, and applies to “[a] person who, while engaged in a professional capacity or activity described in subsection (b) of this section on Federal land or in a federally operated (or contracted) facility ...”

²⁷ Exhibit X, Mandated Reporter training home-page, available at: <http://educators.mandatedreporter.ca.com/default.htm>, accessed July 23, 2015.

²⁸ Exhibit X, “Reporting on Alternative Training Provided for Mandatory Reporters,” developed by CDE, available at: <http://www.cde.ca.gov/ls/ss/ap/>, accessed July 23, 2015.

of Education code section 44691, result in reimbursable increased costs mandated by the state. The test claim alleges new activities for school districts as follows:²⁹

- Provide annual training to their employees in child abuse detection and mandatory reporting obligations under CANRA, including, child abuse and neglect detection, reporting procedures, and notice that failure to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable up to six months in jail, a fine of \$1,000, or both. Training must occur within six weeks of the school year, or within six weeks of employment for a new hire. (Ed. Code § 44691(b)(1); Penal Code § 11165.7(d).)
- Develop a process for all persons required to receive training under this section to provide proof of completing the training within the first six weeks of the school year or within the first six weeks of that person’s employment. (Ed. Code § 44691(b)(2).)
- Report to CDE the training being used in place of the CDSS online module, for those school districts that do not use the online training module developed by CDSS. (Ed. Code § 44691(c).)

The filing includes a declaration from the Lake Elsinore Unified School District Deputy Superintendent & Fiscal Support Services, George Landon, stating that the district will incur unreimbursed costs estimated at \$107,262 for fiscal year 2014-2015 for “the annual increased costs incurred by the claimant to implement the alleged mandate for one hour of training for employees that are mandated reporters.”³⁰ In rebuttal to Finance comments, the District reiterates its assertions from the claim filing and argues that Finance fails to address the budgeting or appropriations for funding allocated to the activities alleged in the claim.³¹

B. Department of Finance

On July 6, 2015, the Department of Finance submitted comments on the test claim that to the extent new responsibilities are established for local educational agencies, there are many resources and methods available to meet this responsibility effectively and cost efficiently. Finance asserts the cost to school districts for the training should be minimal due to the free online training modules provided by the CDSS; the list of in-person trainers compiled by CDSS, some at no-cost and as short as an hour; as well as other free resources made available on the CDE website specifically developed for school districts.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

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...

²⁹ Exhibit A, Test Claim, pages 7-8, 12-13.

³⁰ Exhibit A, Test Claim, page 20.

³¹ Exhibit C, District’s Rebuttal to Finance Comments, page 2.

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 articles XIII A and XIII B impose.”³² Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”³³

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 an activity.³⁴
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.³⁵
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.³⁶
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.³⁷

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.³⁸ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.³⁹ In making its decisions, the Commission must strictly construe article XIII B,

³² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

³³ *County of Los Angeles v. State of California (County of Los Angeles I)* (1987) 43 Cal.3d 46, 56.

³⁴ *San Diego Unified School Dist. v. Commission on State Mandates (San Diego Unified School Dist.)* (2004) 33 Cal.4th 859, 874.

³⁵ *Id.* at 874-875 (reaffirming the test set out in *County of Los Angeles, supra*, 43 Cal.3d 46, 56.)

³⁶ *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.

³⁷ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (Cal. Ct. App. 1st Dist. 2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

³⁸ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

³⁹ *County of San Diego, supra*, 15 Cal.4th 68, 109.

section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁴⁰

A. The Test Claim Statute Imposes a State-Mandate on K-12 School Districts to Provide Training to Specified School District Employees, and Specified Persons Who Are Working on a School District’s Behalf to Carry Out the School District’s Core Mandatory Function, Who Are Mandated Reporters; and to Develop a Process for All Persons Required to Receive Training Pursuant to Education Code Section 44691 to Provide Proof of Completing the Training.

1. The test claim statute requires K-12 school districts to provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training 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. The development of training is not required by the plain language of the statute.

Education Code section 44691(b) requires K-12 school districts to provide training to “employees and persons working on their behalf who are mandated reporters as defined in Penal Code section 11165.7.” The training provided must consist of the information described in section 44691(a); i.e., training “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 addition, the training must “include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars.”⁴¹ The training must be provided annually, within the first six weeks of each school year, and within the first six weeks of school personnel hired during the course of the school year.⁴²

School districts can comply with the training requirement by using the free, self-paced online training module developed by the CDSS. The online training program provided by CDSS takes between 90 and 180 minutes and includes instruction on the following: what the law requires of a mandate reporter; how to spot indicators of possible child abuse or neglect; how to talk to children about suspected abuse; how to make a report; what happens after a report is filed; and special issues related to child abuse reporting in the school environment; and the potential penalties for failure to report.⁴³ Under these circumstances, only the staff time taken by school district employees and persons working on their behalf to take the training would be required.

Additionally, Education Code section 44691(b) states “[e]xcept as provided in subdivision (c)... [s]chool districts...who do not use the online training module provided by the State Department

⁴⁰ *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

⁴¹ Education Code section 44691(b)(1); Penal Code section 11165.7(d).

⁴² Education Code section 44691(b)(1) and (2).

⁴³ Exhibit X, CDSS Mandated Reporter training, home page, available at: <http://educators.mandatedreporterca.com/default.htm>, accessed July 23, 2015; CDSS Mandated Reporter training, lesson 2, “failure to report,” available at: <http://educators.mandatedreporterca.com/lesson2/lesson2p6.htm>, accessed September 16, 2015.

of Social Services shall report to the State Department of Education the training being used in its place.” The Commission finds that the plain language of Education Code section 44691(b) and (c) permits a school district to choose an alternative training program, and not use the training developed by CDSS. However, the statute does not require a district to develop a child abuse training program for mandated reporters. The legislative history of the test claim statute supports this conclusion as well. An earlier version of the bill, dated May 7, 2014 provided:

school districts...[shall] annually provide training, as appropriate, to their employees and persons working on their behalf, who are mandated reporters, on the mandated reporting requirements...⁴⁴

This version did not contain any language requiring school districts to provide the training using the online training module provided by CDSS. Thus, under this version, a school district could develop their own training course to comply with the bill. The committee analysis for this version of the bill discussed the cost that some districts had previously incurred to develop child abuse and neglect training when the training was encouraged by the state. Los Angeles Unified School District (LAUSD), for example, had previously spent \$85,000 to develop a child abuse awareness training video and an annual online assessment.⁴⁵

The subsequent version of the bill, amended May 23, 2015, tightened the language and stated that school districts shall:

Except as provided in subdivision (c), *provide annual training, using the online training module provided by the department* to their employees and persons working on their behalf who are mandated reporters...⁴⁶

The exception provided in subdivision (c) acknowledges that some school districts, such as LAUSD, already developed training, and therefore, are permitted to continue to use the training already developed, in order to comply with the statute. The plain language of the test claim statute, as enacted, does not require school districts to develop a training program. Moreover, if a school district does not use the training developed by CDSS, it is mandated by Education Code section 44691(c) to report to CDE the training being used in its place.

Accordingly, the Commission finds that Education Code section 44691(b) and (c) and Penal Code section 11167.5(d), require K-12 school districts to provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training 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 addition, the training shall include information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars. The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. If a school district does not use the training developed by CDSS, it is mandated by Education Code section 44691(c) to report to

⁴⁴ Exhibit X, Assembly Bill No. 1432 (2013-2014 Reg. Sess.) as amended May 7, 2014.

⁴⁵ Exhibit X, Assembly Committee on Appropriations bill analysis on AB 1432, as amended May 7, 2014.

⁴⁶ Assembly Bill No. 1432 (2013-2014 Reg. Sess.), as amended May 23, 2014.

CDE the training being used in its place. The development of child abuse and neglect training is not required by the plain language of the statute.

2. The test claim statute imposes a state-mandated requirement on K-12 school districts to provide training to all school district certificated and classified employees that are mandated reporters, *except* those working for a school district police or security department, and to provide training to those persons who are mandated reporters that are working on a school district's behalf to carry out the school district's core mandatory function to educate students.

Education Code sections 44691(a),(b) and Penal Code section 11167.5(d) require school districts to provide child abuse and neglect training for “their *employees and persons working on their behalf who are mandated reporters*” as defined in Penal Code section 11165.7(a).

As described below, the Commission finds that the test claim statute imposes a state-mandated program on K-12 school districts to provide training to all school district certificated and classified employees that are mandated reporters, except those working for a school district police or security department, and those persons who are mandated reporters that are working on a school district's behalf to carry out the school district's core mandatory function to educate students.

- a) *K-12 school districts are not mandated by the state to provide child abuse and neglect training for employees of a school district police or security department.*

As stated above, the test claim statute requires school districts to provide child abuse and neglect training for school district employees who are mandated reporters. Penal Code section 11165.7(a)(16) identifies “an employee of a school district police or security department” as a mandated reporter. The Commission finds, however, that school districts are not mandated by the state to provide child abuse and neglect training for employees “of a school district police or security department” because the cost of these activities is triggered by a local discretionary decision.

In 2009, the Department of Finance challenged a decision of the Commission, arguing that school districts were not mandated by state law to comply with the requirements of the Peace Officer Procedural Bill of Rights Act (POBRA) because school districts were authorized, but not required to hire peace officers or maintain a police department. The court in *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355 (*POBRA*) stated there was no dispute that school districts are not legally compelled by state law to hire police and security officers based on the plain language of Education Code section 38000.⁴⁷ Education Code section 38000(a) specifically states that “[t]he governing board of a school district *may establish a security department* under the supervision of a chief of security as designated by, and under the direction of, the superintendent of the school district.” Section 38000(b) states that “[t]he governing board of a school district *may establish a school police department* under the supervision of a school chief of police and, in accordance with Chapter 5 (commencing with Section 45100) of Part 25, may employ peace officers, as defined in subdivision (b) of Section 830.32 of the Penal Code, to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district.”

⁴⁷ *Department of Finance (POBRA)*, *supra*, 170 Cal.App.4th 1355, 1366.

The court also held there was no concrete evidence in the record that school districts are practically compelled to maintain their own police or security departments when they can rely on the general law enforcement resources of cities and counties. The court agreed that police protection is an essential and basic function of cities and counties, and that the requirements imposed by the POBRA statutes for city and county law enforcement personnel were “prima facie reimbursable,” even though cities and counties have discretion as to the number of personnel they hire. However, police protection is not an essential and basic function of a school district. “It is not essential unless there is a showing that, as a practical matter, exercising the authority to hire peace officers is the only reasonable means to carry out their core mandatory functions” to educate students. A finding of practical compulsion requires a concrete showing that reliance upon the general law enforcement resources of cities and counties will result in such severe adverse consequences. Accordingly, although school districts were required by law to comply with the POBRA statutes, reimbursement was not required because the statutes did not impose a state-mandated program on school districts.⁴⁸

The court’s holding in *Department of Finance (POBRA)* decision applies in this case. School districts are not legally compelled by state law to hire police and security personnel. In addition, there is no evidence in the record that school districts are practically compelled to hire such personnel when they can rely on the general law enforcement resources of cities and counties.

Accordingly, the Commission finds that school districts are not mandated by the state to provide child abuse and neglect training pursuant to Education Code section 44691 (b),(c), and Penal Code section 11165.7(d), for employees “of a school district police or security department.”

b) *Providing child abuse and neglect training for all other school district employees and persons working on the district’s behalf to carry out the school district’s core mandatory function to educate students is mandated by the state.*

The following employees of a K-12 school district are currently defined as mandated reporters in Penal Code section 11165.7(a): teacher; instructional aide; teacher’s aide or assistant employed by a public school; a classified employee of a public school; a certificated pupil personnel employee of a public school; an administrator or employee of a public organization whose duties require direct contact and supervision of children; an employee of a county office of education whose duties bring the employee into contact with children on a regular basis; and an athletic coach, athletic administrator, or athletic director that provides any combination of instruction for K-12 pupils.⁴⁹

There are other mandated reporters listed in Penal Code section 11165.7(a) that may also be employed by a school district, including nurses and psychologists licensed under the Business and Professions Code.⁵⁰ Under existing law, school districts are required to “give diligent care to the health and physical development of pupils, and may employ certified persons for the work.”⁵¹ Pursuant to Education Code section 49426, nurses may be employed by a school

⁴⁸ *Id.*, pages 1367-1368.

⁴⁹ Penal Code section 11165.7(a)(1)-(5), (8), (9), (42).

⁵⁰ Penal Code section 11165.7(a)(21).

⁵¹ Education Code section 49400.

district if the person is a registered nurse licensed under the Business and Professions Code who has completed the additional educational requirements for a health and development services credential. School nurses perform several duties, which include conducting immunization programs, accessing and evaluating the health and developmental status of pupils to identify specific physical disorders or other factors relating to the learning process, and contributing significant information in order to modify the pupils' educational plans.⁵² Similarly, psychologists are identified as mandated reporters⁵³ and, pursuant to Education Code sections 49422 and 49424, school psychologists employed by a district must hold a services credential with a specialization in health, a school psychologist credential, or a general pupil personnel services credential. The primary objective of a school psychologist "is the application of scientific principles of learning and behavior to ameliorate school-related problems and to facilitate the learning and development of children in the public schools of California."⁵⁴

The test claim statute also requires school districts to provide training to persons working on their behalf who are mandated reporters under the Penal Code. For example, federal law requires states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services.⁵⁵ The term "related services" means those services necessary for a pupil to receive a free and appropriate education and may include counseling, psychological, rehabilitation, and medical services, and these services are required to be provided by school districts.⁵⁶ The Legislature has stated its intent that psychological and health services for individuals with exceptional needs shall be available to each school site.⁵⁷ To implement legislative intent, Education Code sections 56361.5, 56366, and 56369 provide that a school district may contract with hospitals, nonpublic and nonsectarian schools, and other public agencies to provide special education or related services to individuals with exceptional needs. If a person is employed by a hospital, nonpublic and nonsectarian school, or another public agency that contracts with a school district to provide special education services, and is also identified as a mandated reporter (i.e., a physician, psychologist, nurse, or counselor licensed under the Business and Professions Code; or a teacher's aide employed at a private school),⁵⁸ then the school district is required by the test claim statute to provide to those persons the child abuse and neglect training.

The list of mandated reporters required to receive child abuse and neglect training by a school district is broad and includes certificated and classified employees, and many of those persons working on behalf of a district. As recognized by the courts, school districts may have discretion with respect to the number of employees they hire and how they carry out their core mandatory

⁵² Education Code section 49426.

⁵³ Penal Code section 11165.7(a)(21).

⁵⁴ Education Code section 49424.

⁵⁵ Title 20, United States Code, section 1401(26); Code of Federal Regulations, title 34, section 300.34.

⁵⁶ Education Code sections 56000, 56030, and 56363.

⁵⁷ Education Code section 56001(l).

⁵⁸ Penal Code section 11165.7(a)(2), (21).

function to educate students. Nevertheless, when carrying out their core mandatory function, new activities required by state law are mandated by the state.⁵⁹

Accordingly, the Commission finds that the test claim statute imposes a state-mandate on K-12 school districts to provide training to all school district certificated and classified employees that are mandated reporters, except those working for a school district police or security department, and those persons who are mandated reporters that are working on a school district's behalf to carry out the school district's core mandatory function to educate students.

- c) The test claim statute mandates school districts to develop a process for all persons required to receive training pursuant to Education Code section 44691 to provide proof of completing the training.

Education Code section 44691(b)(2) requires school districts to “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.” Section 44691 further provides that 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 or county office of education.

The Commission finds that the activity to develop the process that provides proof of completion of the child abuse and neglect training, pursuant to Education Code section 44691(b)(2) is newly required and mandated by the state.

B. The State Mandated Activities Impose a New Program or Higher Level of Service Within the Meaning of Article XIII B, Section 6 of the California Constitution.

As stated above, the Commission finds that the following activities are newly required and mandated by the state on K-12 school districts beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:
 - a) Certificated and classified employees of the school district who are mandated reporters identified in the Penal Code, *except* those working for a school district police or security department; and
 - b) Those persons who are mandated reporters identified in the Penal Code who are working on a school district's behalf to carry out the school district's core mandatory function to educate students.

The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. The

⁵⁹ *Department of Finance (POBRA), supra*, 170 Cal.App.4th 1355, page 1367; *San Diego Unified School Dist., supra*, 33 Cal.4th at page 888.

costs to develop child abuse and neglect training are *not* mandated by the state. (Ed. Code § 44691(b)(1), (c); Penal Code § 11165.7(d).)

2. Develop a process for all persons required to receive training 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 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. (Ed. Code § 44691(b)(2).)
3. If the online training provided by CDSS is not used, report to the CDE the training being used in its place. (Ed. Code § 44691(c).)

These activities constitute a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution because they are unique to local school districts and provide an increased level of service to the public.⁶⁰ As described in the Background, the test claim statute increases the level of service provided to the public because it was enacted in light of the finding that “there has been an alarming increase in the incidents of unreported child abuse where one or more additional school employees were aware of the incident—illustrating gaping holes in these mandated reporters’ knowledge of CANRA.”⁶¹ According to the Assembly Floor analysis, “[t]he absence of training is a failure of our system that leaves millions of students at risk every single day”.⁶² The Commission finds that providing training to ensure reporting of child abuse provides a service to the public.

Accordingly, the newly required activities impose a state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.

C. The Test Claim Statute Imposes Costs Mandated by the State Pursuant to Article XIII B, Section 6 of the California Constitution and Government Code Section 17514.

Government Code section 17514 provides in relevant part the following:

Costs 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...which mandates a new program or higher level of service within the meaning of Section 6 of Article XIII B of the California Constitution. (Emphasis added.)

Government Code section 17564(a) requires that a test claim need only allege costs exceeding \$1,000. In addition, section 17556 provides several exceptions to “costs mandated by the state.”

The claimant, Lake Elsinore Unified School District, submitted a declaration from George Landon, Deputy Superintendent & Fiscal Support Services, which declares on May 21, 2015 that an additional \$107,262 will be incurred for “the annual increased costs incurred by the claimant

⁶⁰ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

⁶¹ Exhibit X, Assembly Committee on Public Safety bill analysis on AB 1432, as amended February 11, 2014.

⁶² Exhibit X, Assembly Floor analysis on AB 1432, as amended August 4, 2014.

to implement the alleged mandate for one hour of training for employees that are mandated reporters.” Claimant also asserts that the statewide cost to implement the alleged mandate is estimated at \$10,000,000.⁶³ There is no analysis or evidence provided regarding how this estimate was calculated. There is no evidence that the exceptions in Government Code section 17556 apply to this test claim, or evidence disputing the claimant’s assertion of costs.

Therefore, the Commission finds that the test claim statute imposes costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, with the period of reimbursement beginning January 1, 2015.

V. Conclusion

Based on the foregoing analysis, the Commission finds that Education Code section 44691 and Penal Code section 11165.7, as added and amended by Statutes 2014, chapter 797, impose a reimbursable state-mandated program on K-12 school districts and county offices of education for the following activities, beginning January 1, 2015:

1. Provide annually, within the first six weeks of each school year, and within the first six weeks of employment for school personnel hired during the course of the school year, training in the detection of child abuse and neglect, the proper action that school personnel should take in suspected cases of child abuse and neglect, and information that failure to report is a misdemeanor punishable by up to six months in jail and/or up to a fine of one thousand dollars to the following persons:
 - a) Certificated and classified employees of the school district who are mandated reporters identified in the Penal Code, *except* those working for a school district police or security department; and
 - b) Those persons who are mandated reporters identified in the Penal Code who are working on a school district’s behalf to carry out the school district’s core mandatory function to educate students.

The training may be provided by either using the online training module developed by CDSS or an alternative training program that complies with the test claim statute. The costs to develop child abuse and neglect training are *not* mandated by the state. (Ed. Code § 44691(b)(1), (c); Penal Code § 11165.7(d).)

2. Develop a process for all persons required to receive training 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 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. (Ed. Code § 44691(b)(2).)
3. If the online training provided by CDSS is not used, report to the CDE the training being used in its place. (Ed. Code § 44691(c).)

All other provisions in Education Code section 44691 and Penal Code 11167.5, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.

⁶³ Exhibit A, Test Claim, page 14.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

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

On September 24, I served the:

Draft Proposed Decision, Schedule for Comments, and Notice of Hearing

Training for School Employee Mandated Reporters, 14-TC-02

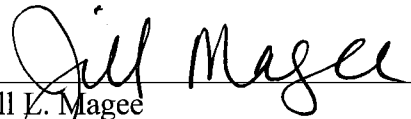
Education Code Section 44690 and 44691; Penal Code Section 11165.7

As Added or Amended by: Statutes 2014, Chapter 797 (AB 1432)

Lake Elsinore Unified School District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 24, 2015 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/10/15

Claim Number: 14-TC-02

Matter: Training for School Employee Mandated Reporters

Claimant: Lake Elsinore Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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BILL ANALYSIS

Exhibit E

Senate Appropriations Committee Fiscal Summary
Senator Kevin de León, Chair

AB 1432 (Gatto) - School Employees: Training on Child Abuse Reporting

Amended: August 4, 2014 Policy Vote: Education 7-0; Pub Safety 5-2
Urgency: No Mandate: Yes
Hearing Date: August 4, 2014
Consultant: Jacqueline Wong-Hernandez

This bill meets the criteria for referral to the Suspense File.

Bill Summary: AB 1432 requires local education agencies (LEAs) to annually train employees on their duties regarding the mandated reporting of child abuse and neglect, as specified.

Fiscal Impact:

California Department of Education (CDE): Potentially significant one-time costs, likely in the tens of thousands of dollars, to coordinate with the Department of Social Services (DSS) to update the DSS training module, disseminate information to schools, and provide guidance on the new requirements. Minor ongoing workload to provide annual guidance.

DSS: Minor and absorbable workload to coordinate with the CDE to update the online training module.

Mandate: Substantial reimbursable mandate for all schools to annually train employees on their duties as mandated reporters.

Background: Under the existing Child Abuse and Neglect Reporting Act (CANRA), all school district teachers and employees are considered to be "mandated reporters," including instructional aides, teacher assistants, classified employees, and employees of a school district police or security department. Mandated reporters are required to report to any law enforcement department knowledge or observations they may have of a child they know or reasonably suspect to have been the subject of child abuse or neglect. The individual report must be made by telephone immediately or as soon as practicable with a written or electronic follow up within 36 hours.

CANRA also specifies that employers are strongly encouraged to

AB 1432 (Gatto)

Page 1

provide their employees who are mandated reporters with training in the duties imposed, including training in child abuse and neglect identification and training in child abuse and neglect reporting. School districts that do not train their employees in the duties of mandated reporters are required to report to the CDE the reasons why this training is not provided.

Additionally, current law requires any mandated reporter, with the exception of child visitation monitors, prior to commencing his or her employment, to sign a statement affirming that he or she has knowledge of the mandated reporting procedures and will comply with those provisions. Further, current law provides that the statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations and confidentiality rights. (Penal Code § 11164 et seq.)

Existing law also requires the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel regarding the detection of child abuse. The information may be disseminated by the use of literature, as deemed suitable by the CDE. 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, shall be developed by the CDE. (Education Code § 44691)

Existing law also requires the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel regarding the detection of child abuse. The information may be disseminated by the use of literature, as deemed suitable by the CDE. 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, shall be developed by the CDE. (Education Code § 44691)

Proposed Law: This bill requires LEAs to annually train employees on their duties regarding the mandated reporting of child abuse and neglect. This bill requires the CDE, in consultation with the Office of Child Abuse Prevention to do all of the following:

AB 1432 (Gatto)
Page 2

- 1) Develop and disseminate information to all school districts, county offices of education (COEs), state special schools and diagnostic centers, and charter schools, regarding the detection and reporting of child abuse.
- 2) Provide statewide guidance on the responsibilities of mandated reporters in accordance with the CANRA, as specified.
- 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 DSS.

This bill requires all school districts, COEs, state special schools and diagnostic centers, and charter schools to do the following:

- 1) Provide annual training, as specified, to their employees and persons working on their behalf who are mandated reporters, as defined.
- 2) Develop a process for all persons required to receive training 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.
- 3) Requires a school district, COE, state special school and diagnostic center, and charter school that does not use the online training module provided by DSS to report the training being used in its place to the CDE.

Staff Comments: In order to implement this bill, the DSS will need to (in consultation with the CDE) update its online training module to align with educator needs, to provide it to schools. The DSS has a contract with the Chadwick Center for Children and Families at Rady Children's Hospital, to house and operate the online mandated reporter training module, and

AB 1432 (Gatto)
Page 3

indicates that the Chadwick Center would absorb the workload to do the update. The CDE will then develop statewide guidance on implementation, as well as information about detecting and reporting child abuse and neglect, and disseminate the information. These activities will take significant CDE staff time. Ongoing workload to provide updates to statewide guidance, training module, and information on child abuse and neglect would likely be minor.

The most significant costs of this bill will be its requirements on LEAs to annually train their employees through the DSS-provided training module or other local training option. The annual training requirement will likely be deemed by the Commission on State Mandates to be reimbursable, and that would apply to all LEAs, even if they already provide annual mandated reporter training. There are more than 300,000 certificated school employees, and more than 500,000 classified employees. If each one completed a 30-minute training on mandate reporting, annual reimbursable costs for staff time would likely exceed \$50

million (General Fund). LEAs would also incur reimbursable costs to develop and implement a process for providing proof of completion.

BILL ANALYSIS

AB 1432
Page 1

Date of Hearing: April 29, 2014
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Tom Ammiano, Chair

AB 1432 (Gatto) - As Amended: February 11, 2014
As Proposed to be Amended in Committee

SUMMARY : Requires annual training in the identification of, and reporting of, known or suspected child abuse and neglect by all school district, county office of education (COE), state special schools, and diagnostic centers operated by the California Department of Education (CDE), and charter school personnel within the first six weeks of each school year, or within six weeks of employment. Specifically, this bill :

- 1)Deletes the requirement for the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel in California regarding the detection of child abuse; deletes the authorization for the information to be disseminated by the use of literature, as deemed suitable by CDE, and deletes the requirement for the CDE 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, and deletes the definition of "school personnel".
- 2)Requires CDE, in consultation with the Office of Child Abuse Prevention in the Department of Social Services, to do all of the following:
 - a) Develop and disseminate information to all school districts, COEs, state special schools and diagnostic centers operated by CDE, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse;
 - b) Provide statewide guidelines on the identification and reporting requirements for child abuse and neglect, and the responsibilities of mandated reporters in accordance with

AB 1432
Page 2

the Child Abuse and Neglect Reporting Act (CANRA); and,

- c) 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.
- 3)Requires school districts, COEs, state special schools and diagnostic centers operated by CDE, and charter schools to annually provide training, as appropriate, to their employees and persons working on their behalf, who are mandated reporters, on the mandated reporting requirements; requires mandated reporter training to be provided to school personnel hired during the course of the school year; and, requires the training to include information on child abuse and neglect identification and child abuse and neglect reporting and that failure to report an incident of known or reasonably suspected child abuse or neglect, is guilty of 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.
- 4)States that all persons required to receive training, as specified, shall submit proof of completing the mandated reporter training required to the applicable governing board or body of the school district, COE, state special school and diagnostic center, or charter school within the first six weeks of each school year or within six weeks of employment.
- 5)Requires school districts, COEs, state special schools, and diagnostic centers operated by the CDE, and charter schools to annually train their employees and persons working on their

behalf in the duties of mandated reporters under the CANRA. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

EXISTING LAW :

- 1) Defines "mandated reporter" under CANRA as any of the following: a teacher; an instructional aide; a teacher's aide or teacher's assistant employed by any public or private school; a classified employee of any public school; an

AB 1432
Page 3

administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; any 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; a licensee, an administrator, or an employee of a licensed community care or child day care facility; a Head Start program teacher; a licensing worker or licensing evaluator employed by a licensing agency as defined; a public assistance worker; an employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; a social worker, probation officer, or parole officer; an employee of a school district police or security department; any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed to represent a minor; a peace officer, as defined, who is not otherwise described in this section; a firefighter, except for volunteer firefighters; 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 as a health care professional as specified; any emergency medical technician I or II, paramedic, or other person certified to provide emergency medical services; a registered psychological assistant; a marriage and family therapist trainee, as defined; a registered unlicensed marriage and family therapist intern; a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a medical examiner, or any other person who performs autopsies; a commercial film and photographic print processor, as defined; a child visitation monitor, as defined; an animal control officer or humane society officer, as defined; a clergy member, as defined; any custodian of records of a clergy member, as specified; any employee of any police

AB 1432
Page 4

department, county sheriff's department, county probation department, or county welfare department; an employee or volunteer of a Court Appointed Special Advocate program, as defined; any custodial officer, as defined; any person providing services to a minor child, as specified; an alcohol and drug counselor, as defined; a clinical counselor trainee, as defined; and a registered clinical counselor intern. (Pen. Code, § 11165.7 subd. (a).)

- 2) Provides that when two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Pen. Code, § 11166, subd. (h).)

- 3)Provides that volunteers of public or private organizations, except a volunteer of a Court Appointed Special Advocate program, 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 a specified agency. (Pen. Code, § 11165.7, subd. (b).)
- 4)Strongly encourages employers to provide their employees who are mandated reporters with training in the duties imposed by CANRA. 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 a statement that informs the employee that he or she is a mandated reporter and informs the employee of his or her reporting obligations and of his or her confidentiality rights. (Pen. Code, § 11165.7, subd. (c).)
- 5)Encourages public and private organizations to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification

AB 1432
Page 5

and reporting of child abuse and neglect. (Pen. Code, § 11165.7, subd. (f).)

- 6)Requires a mandated reporter to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident. (Pen. Code, § 11166, subd. (a).)
- 7)Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of 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. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a specified agency discovers the offense. (Pen. Code, § 11166, subd. (c).)
- 8)Defines "child" under CANRA to mean person under the age of 18 years. (Pen. Code, § 11165.)
- 9)Defines "child abuse or neglect" under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury as defined. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Pen. Code, §

AB 1432
Page 6

11165.6.)

- 10)Requires any person who reasonably believes that he or she has observed the commission of any of the following offenses

where the victim is a child under the age of 14 years shall notify a peace officer:

- a) Murder;
- b) Rape; and,
- c) Any lewd or lascivious act upon or with the body, or any part or member thereof, of a child with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person. (Pen. Code, § 152.3, subd. (a).)

11) States that the failure to notify as required pursuant to the provisions above is a misdemeanor and is punishable by a fine of not more than \$1,500, by imprisonment in a county jail for not more than six months, or by both that fine and imprisonment. (Pen. Code, § 152.3, subd. (c).)

12) Excludes from the reporting requirements above the following:

- a) A person who is related to either the victim or the offender, including a husband, wife, parent, child, brother, sister, grandparent, grandchild, or other person related by consanguinity or affinity;
- b) A person who fails to report based on a reasonable mistake of fact; and,
- c) A person who fails to report based on a reasonable fear for his or her own safety or for the safety of his or her family. (Pen. Code, § 152.3, subd. (e).)

FISCAL EFFECT : Unknown

COMMENTS :

AB 1432

Page 7

1) Author's Statement : According to the author, "In recent years, there has been an alarming increase in incidents of unreported child abuse where one or more additional school employees were aware of the incident- illustrating gaping holes in these mandated reporters' knowledge of CANRA's. In the Redwood City School District, a teacher was arrested in the abuse of two five-year-old special needs students. In the wake of this horrible incident, five staff members were fired for failing to report the abuse despite their knowledge of it.

"In the Brentwood Union School District, eleven employees knew but failed to tell authorities about an incident in which a special education teacher, who had already been convicted of child abuse, kicked an autistic student. The incident resulted in a \$950,000 settlement to the student's family. Although district documents in the Brentwood case illustrate that school officials conducted an internal investigation into the incident, parents ultimately reported the incident to police.

"Despite CANRA's clear reporting requirements, school districts are merely 'encouraged' rather than required to provide employees who qualify as mandated reporters with training on either abuse identification or abuse reporting. The absence of training is a failure of our system that leaves millions of students at risk every single day."

2) Prior Legislation:

- a) AB 1435 (Dickinson, Chapter 520, Statutes of 2012, added athletic coaches, athletic administrators, and athletic directors employed by any public or private school that provides any combination of instruction for Kindergarten, or Grades 1 to 12, inclusive, to the list of individuals who are mandated reporters under CANRA.
- b) AB 1713 (Campos), Chapter 517, Statutes of 2012, made "image processors" mandated reporters under CANRA and expanded the list of media subject to CANRA provisions.
- c) AB 1817 (Atkins), Chapter 521, Statutes of 2012, made "commercial computer technicians" mandated reporters of suspected child abuse and neglect for the purpose CANRA.

AB 1432
Page 8

- d) SB 1264 (Vargas), Chapter 518, Statutes of 2012, added any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions, to the list of individuals who are mandated reporters under CANRA.
- e) AB 2380 (Lowenthal), Chapter 123, Statutes of 2010, clarified that a "reasonable suspicion" that a child has been a victim of child abuse or neglect does not require certainty that a child has been abused, and may be based on credible information from other individuals.
- f) AB 673 (Hayashi), Chapter 393, Statutes of 2007, added death by other than accidental means to the definition of "child abuse and neglect," and clarified that a mandated reporter not acting in his or her private capacity or in the course and scope of his or her employment may report instances of known or suspected child abuse.
- g) AB 525 (Chu), Chapter 701, Statutes of 2006, expanded the definition of "child abuse and neglect" to include instances in which a child suffers or is at substantial risk of suffering serious emotional damage.
- h) AB 1241 (Rod Pacheco), Chapter 916, Statutes of 2000, expanded the list of mandated reporters and training requirements under CANRA, and required that specified additional information be included in a report of suspected abuse or neglect.
- i) SB 646 (Watson), Chapter 1444, Statutes of 1987, established CANRA, which requires specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, whom the person knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency, as defined.

REGISTERED SUPPORT / OPPOSITION :

Support

California State PTA
California State Superintendent of Public Instruction

AB 1432
Page 9

California Teachers Association
Child Abuse Prevention Center
Keenan and Associates
Los Angeles Unified School District
CALICO
California School Employees Association, AFL-CIO
California Federation of Teachers
California Police Chiefs Association
Schools Association for Excess Risk JPA
Statewide Association of Community Colleges
Regional Liability Excess Fund
California Catholic Conference of Bishops
EdVoice
CSAC Excess Insurance Authority
National Association of Social Workers
United Teachers Los Angeles

Opposition

None

Analysis Prepared by : Gregory Pagan / PUB. S. / (916)
319-3744

BILL ANALYSIS

AB 1432
Page 1

Date of Hearing: March 26, 2014

ASSEMBLY COMMITTEE ON EDUCATION
Joan Buchanan, Chair
AB 1432 (Gatto) - As Amended: February 11, 2014

[Note: This bill is double referred to the Public Safety Committee and will be heard by that committee as it relates to issues under its jurisdiction.]

SUBJECT : Mandated child abuse reporting: school employees: training.

SUMMARY : Requires annual mandated reporter training of all school district, county office of education (COE) and charter school personnel within the first six weeks of each school year or within six weeks of employment; and, requires the California Department of Education (CDE) in consultation with the Department of Social Services (DSS) to develop and disseminate information to all school districts, COEs and charter schools on child abuse; develop guidelines on mandated reporter responsibilities and reporting requirements; and, develop a means of instructing school personnel. Specifically, this bill :

- 1)Deletes the requirement for the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel in California regarding the detection of child abuse; deletes the authorization for the information to be disseminated by the use of literature, as deemed suitable by the CDE; and, deletes the requirement for the CDE 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.
- 2)Requires the CDE, in consultation with the Office of Child Abuse Prevention in the DSS, to do all of the following:
 - a) Develop and disseminate information to all school districts, COEs, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.
 - b) Provide statewide guidelines on the reporting requirements for child abuse and the responsibilities of

AB 1432
Page 2

mandated reporters in accordance with the Child Abuse and Neglect Reporting Act.

- c) 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.
- 3)Requires all school personnel of school districts, COEs, and charter schools to annually receive training on the mandated reporting requirements; requires mandated reporter training to be provided to school personnel hired during the course of the school year; and, requires the training to include information on child abuse and neglect identification and child abuse and neglect reporting and that failure to report an incident of known or reasonably suspected child abuse or neglect, is guilty of 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.
- 4)Requires all school personnel of school districts, COEs, and charter schools to submit proof of completing the mandated reporter training required to the applicable governing board or body of the school district, COE, or charter school within the first six weeks of each school year or within six weeks of employment.
- 5)Requires school districts, COEs, and charter schools that do not train their employees in the duties of mandated reporters under the child abuse reporting laws to report to the CDE the reasons why this training is not provided.

EXISTING LAW :

- 1) Establishes Child Abuse and Neglect Reporting Act (CANRA) which specifies the following types of people are mandated reporters, among others:
- a) A teacher.
 - b) An instructional aide.
 - c) A teacher's aide or teacher's assistant employed by a public or private school.

AB 1432
Page 3

- d) A classified employee of a public school.
 - e) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
 - f) An employee of a county office of education or the CDE whose duties bring the employee into contact with children on a regular basis.
 - g) An employee of a school district police or security department.
 - h) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school. (Penal Code 11164, et seq.)
- 2) Requires the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel in California regarding the detection of child abuse. The information may be disseminated by the use of literature, as deemed suitable by the CDE. 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, shall be developed by the CDE. (Education Code 44691)
- 3) Requires school districts and COEs to create comprehensive school safety plans for their schools; and, requires the school safety plan to include child abuse reporting procedures consistent with Article 2.5 of Chapter 2 of Title 1 of Part 4 of the Penal Code. (Education Code 32282)
- 4) Requires an employer having 50 or more employees to provide at least two hours of classroom or other effective interactive training regarding sexual harassment to all supervisory employees in California, and to all new supervisory employees within six months of their assumption of a supervisory position; and, specifies each employer shall provide sexual harassment training and education to each supervisory employee in California once every two years. (Government Code 12950.1)
- 5) Specifies that employers are strongly encouraged to provide their employees who are mandated reporters with training in

AB 1432
Page 4

the duties imposed. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting; and, specifies that school districts that do not train their employees in the duties of mandated reporters under the child abuse reporting laws shall report to the CDE the reasons why this training is not provided. (Penal Code 11165.7)

- 6) Requires any mandated reporter, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the mandated reporting procedures and will comply with those provisions; and, specifies the statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations and of his or her confidentiality rights. The employer shall provide a copy of Sections 11165.7, 11166, and 11167 to the employee. (Penal

Code 11166.5)

7) Requires that when a person is issued a state license or certificate to engage in a profession or occupation that is a mandated reporter, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in #6 above to the person at the same time as it transmits the document indicating licensure or certification to the person; specifies the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine; and, specifies as an alternative, a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986. (Penal Code 11166.5)

FISCAL EFFECT : Unknown

COMMENTS : This bill requires annual mandated reporter training of all school district, COE and charter school personnel within the first six weeks of each school year or within six weeks of employment; and, requires employers that do not provide this training to report to the CDE the reasons why it was not provided. Requires CDE and DSS to develop and disseminate

AB 1432
Page 5

information to all school districts, COEs and charter schools on child abuse; develop guidelines on mandated reporter responsibilities and reporting requirements; and, develop a means of instructing school personnel. The author may wish to consider clarifying whether the "means of instructing school personnel" that CDE is developing, is a model instructional plan that districts can choose to use or whether it is required that districts use this training model.

According to the author, "In recent years, there has been an alarming increase in incidents of unreported child abuse where one or more additional school employees were aware of the incident- illustrating gaping holes in these mandated reporters' knowledge of CANRA. In the Redwood City School District, a teacher was arrested in the abuse of two five-year-old special needs students. In the wake of this horrible incident, five staff members were fired for failing to report the abuse despite their knowledge of it."

Further the author states, "Despite the Child Abuse and Neglect Reporting Act's clear reporting requirements, school districts are merely "encouraged" rather than required to provide employees who qualify as mandated reporters with training on either abuse identification or abuse reporting. The absence of training is a failure of our system that leaves millions of students at risk every single day."

According to Child Abuse Mandated Reporter Training Project (CAMRTP) in California, it is estimated that four children die each day in this country as a result of child abuse and neglect. The Federal Child abuse Reporting act was passed in 1974 to address this issue. Over the years, numerous amendments have expanded the definition of child abuse and the list of persons who are required to report suspected child abuse. The CAMRTP is funded by the DSS, Office of Child abuse Prevention (OCAP) and the goal of this project is to have free training available for mandated child abuse reporters so they may carry out their responsibilities properly. Currently the CAMRTP provides free online training modules that are specifically tailored for educators.

Reports to CDE : While districts are required to report to CDE if they are not providing training to employees regarding their duties as mandated reporters, CDE has never to date received a report from a school district regarding why they do not provide

AB 1432
Page 6

training for mandated reporters.

Related Legislation : AB 135 (Buchanan), which is pending in the Senate, requires school districts, COEs and charter schools to

adopt a policy on child abuse reporting and mandated reporter responsibilities. Requires those entities to, at a minimum, review the policy with all school personnel within in the first six weeks of each school year, as part of a regularly scheduled staff meeting.

AB 2016 (Campos) which is pending in the Assembly Education Committee, requires credential holders to complete a mandated reporter training program every two years and submit verification to the CTC during credential renewal.

AB 2560 (Bonilla), which is pending in the Assembly Education Committee, requires, upon credential renewal, an applicant to read and sign a statement that they understand their duties as a mandated reporter.

AB 1338 (Buchanan), from 2013, which was held in the Assembly Appropriations Committee, would have required the governing board of a school district and county office of education (COE) and the governing body of a charter school, to adopt a policy on the reporting of child abuse and the responsibilities of mandated reporters in accordance with the Child Abuse and Neglect and Reporting Act (CANRA).

REGISTERED SUPPORT / OPPOSITION :

Support

California Police Chiefs Association
 California School Employees Association
 California Teachers Association
 Child Abuse Listening, Interviewing and Coordination Center
 EdVoice
 Keenan & Associates
 National Association of Social Workers
 Regional Liability Excess Fund
 Schools Association for Excess Risk JPA
 Statewide Association of Community Colleges
 StudentsFirst
 Superintendent of Public Instruction Tom Torlakson

AB 1432

Page 7

Opposition

None on file.

-

Analysis Prepared by : Chelsea Kelley / ED. / (916) 319-2087



Mandated Reporter Training

Educators Training Module

[Home](#)
[Introduction](#)
[Lesson 1](#)
[Lesson 2](#)
[Lesson 3](#)
[Lesson 4](#)
[Lesson 5](#)
[Contact/FAQ](#)

Welcome to the Educators Training Module

Welcome to the Child Abuse Mandated Reporter Training - California. This program is self-paced and will provide an overview of the significant definitions, requirements and protections of the California Child Abuse & Neglect Reporting Act (CANRA). You will learn:

- What the law requires of you as a mandated reporter
- How to spot indicators of possible child abuse or neglect
- How to talk to children about suspected abuse
- How to make a report
- What happens after a report is filed
- Special issues related to child abuse reporting in the school environment

At the conclusion of the training you will take a final exam which will test the information that you have learned during the training. **NOTE: If you are taking this training as part of a large group, each individual must take and pass the final test separately.** Upon scoring an 80% or higher you will be able to print your certificate and will be emailed a proof of your completion of this training. This is a stand alone training that does not require the General Training to be taken first.

Training Instructions - There are many interactive pieces to this website, anytime you see an item Underlined and hyperlinked you can hover over it or click on it to interact with it.

Make sure your Pop-up blocker is disabled as well for the training website.

[Begin Training](#)

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**REPORTING ON ALTERNATIVE TRAINING PROVIDED
FOR MANDATORY REPORTERS**

California requires that school employees receive annual training on the identification and reporting of child abuse and neglect. The California Department of Education (CDE), in conjunction with the California Department of Social Services (CDSS), provides an online training module for this purpose. California *Education Code* Section 44691(c) requires that "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."

For the convenience of school districts, the CDE has prepared this form for districts that are required to report the alternative training methods used.

School district notification to the CDE may be submitted by e-mail, mail, or fax to:

Stephanie Papas
School Health Education Consultant
California Department of Education
1430 N Street, Suite 6408
Sacramento, CA 95814-5901
E-mail: spapas@cde.ca.gov
Fax: 916-319-0218

School District: _____

Superintendent Signature

Date

Contact information for person submitting this form:

Name: _____

Phone/E-mail: _____

Name/Title of alternate training: _____

Contact information for training provider: _____

Provide a description of the training, including topics covered; you may also attach an outline from the training used.

Optional: The CDE is interested in learning why alternate training was used. In the space below, please explain the reasons why the district did not use the training in the duties of mandated reporters created by the CDSS.



Mandated Reporter Training

Educators Training Module

Home
Introduction
Lesson 1
Lesson 2
Lesson 3
Lesson 4
Lesson 5
Contact/FAQ

Lesson 2 - Failure to Report

A person who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine (P.C. 11166[c]). He or she may also be subject to a civil lawsuit, especially if the child-victim or another child is further victimized because of the failure to report (Landeros vs. Flood [1976] 17C.3d 399).

Educators who fail to report may risk loss of their license or credential (E.C. 44421).



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AMENDED IN ASSEMBLY MAY 7, 2014
AMENDED IN ASSEMBLY FEBRUARY 11, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1432

**Introduced by Assembly Member Gatto
(Principal coauthor: Assembly Member Bonilla)
(Coauthors: Assembly Members Dababneh and Dickinson)**

January 6, 2014

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.*

LEGISLATIVE COUNSEL'S DIGEST

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

The Child Abuse and Neglect Reporting Act requires a mandated reporter, which includes teachers and other 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 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 guidelines on the ~~reporting requirements for child abuse and 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.

The bill would ~~further~~ require school districts, county offices of education, *state special schools and diagnostic centers operated by the State Department of Education*, and charter schools to annually train ~~school personnel, as appropriate, employees and persons working on their behalf who are mandated reporters on the mandated reporting of child abuse and neglect~~, requirements, as specified, and would require these employees to submit proof of completing this training to the applicable governing board or body of the school district, county office of education, *state special school and diagnostic center*, or charter school within the first 6 weeks of each school year *or within 6 weeks of 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

1 44690. “School personnel” means all persons who work directly
2 and on a regular basis with pupils, including teachers,
3 administrators, pupil service employees defined in subdivision (e)
4 of Section 33150, paraprofessionals and volunteers.

5 SECTION 1.

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

7 ~~SEC. 2.~~

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

9 44691. (a) The department, in consultation with the Office of
10 Child Abuse Prevention in the State Department of Social Services,
11 shall do all of the following:

12 (1) Develop and disseminate information to all school districts,
13 county offices of education, *state special schools and diagnostic*
14 *centers operated by the department*, and charter schools, and their
15 school personnel in California, regarding the detection and
16 reporting of child abuse.

17 (2) Provide statewide guidelines on the ~~reporting requirements~~
18 ~~for child abuse and the~~ responsibilities of mandated reporters in
19 accordance with the Child Abuse and Neglect Reporting Act
20 (Article 2.5 (commencing with Section 11164) of Chapter 2 of
21 Title 1 of Part 4 of the Penal Code). *These guidelines shall include,*
22 *but not necessarily be limited to, both of the following:*

23 (A) *Identification of child abuse and neglect.*

24 (B) *Reporting requirements for child abuse and neglect.*

25 (3) Develop appropriate means of instructing school personnel
26 in the detection of child abuse and neglect and the proper action
27 that school personnel should take in suspected cases of child abuse
28 and neglect, including, but not limited to, an online training
29 module.

30 (b) ~~All school personnel of school~~ School districts, county
31 offices of education, *state special schools and diagnostic centers*
32 *operated by the department*, and charter schools shall annually
33 ~~receive provide~~ training, *as appropriate, to their employees and*
34 *persons working on their behalf who are mandated reporters as*
35 *defined in Section 11165.7 of the Penal Code*, pursuant to this
36 section and subdivision (d) of Section 11165.7 of the Penal Code
37 on the mandated reporting requirements. Mandated reporter training
38 shall be provided to school personnel hired during the course of
39 the school year. This training shall include information that failure
40 to report an incident of known or reasonably suspected child abuse

1 or neglect, as required by Section 11166 of the Penal Code, is
2 guilty of a misdemeanor punishable by up to six months
3 confinement in a county jail, or by a fine of one thousand dollars
4 (\$1,000), or by both that imprisonment and fine.

5 ~~(c) All school personnel of school districts, county offices of~~
6 ~~education, and charter schools~~ *persons required to receive training*
7 *pursuant to subdivision (b)* shall submit proof of completing the
8 mandated reporter training required pursuant to subdivision (b) to
9 the applicable governing board or body of the school district,
10 county office of education, *state special school and diagnostic*
11 *center*, or charter school within the first six weeks of each school
12 year or within six weeks of employment.

13 ~~SEC. 3.~~

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

15 11165.7. (a) As used in this article, “mandated reporter” is
16 defined as any of the following:

- 17 (1) A teacher.
- 18 (2) An instructional aide.
- 19 (3) A teacher’s aide or teacher’s assistant employed by a public
20 or private school.
- 21 (4) A classified employee of a public school.
- 22 (5) An administrative officer or supervisor of child welfare and
23 attendance, or a certificated pupil personnel employee of a public
24 or private school.
- 25 (6) An administrator of a public or private day camp.
- 26 (7) An administrator or employee of a public or private youth
27 center, youth recreation program, or youth organization.
- 28 (8) An administrator or employee of a public or private
29 organization whose duties require direct contact and supervision
30 of children.
- 31 (9) An employee of a county office of education or the State
32 Department of Education whose duties bring the employee into
33 contact with children on a regular basis.
- 34 (10) A licensee, an administrator, or an employee of a licensed
35 community care or child day care facility.
- 36 (11) A Head Start program teacher.
- 37 (12) A licensing worker or licensing evaluator employed by a
38 licensing agency, as defined in Section 11165.11.
- 39 (13) A public assistance worker.

- 1 (14) An employee of a child care institution, including, but not
2 limited to, foster parents, group home personnel, and personnel of
3 residential care facilities.
- 4 (15) A social worker, probation officer, or parole officer.
- 5 (16) An employee of a school district police or security
6 department.
- 7 (17) A person who is an administrator or presenter of, or a
8 counselor in, a child abuse prevention program in a public or
9 private school.
- 10 (18) A district attorney investigator, inspector, or local child
11 support agency caseworker, unless the investigator, inspector, or
12 caseworker is working with an attorney appointed pursuant to
13 Section 317 of the Welfare and Institutions Code to represent a
14 minor.
- 15 (19) A peace officer, as defined in Chapter 4.5 (commencing
16 with Section 830) of Title 3 of Part 2, who is not otherwise
17 described in this section.
- 18 (20) A firefighter, except for volunteer firefighters.
- 19 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
20 resident, intern, podiatrist, chiropractor, licensed nurse, dental
21 hygienist, optometrist, marriage and family therapist, clinical social
22 worker, professional clinical counselor, or any other person who
23 is currently licensed under Division 2 (commencing with Section
24 500) of the Business and Professions Code.
- 25 (22) An emergency medical technician I or II, paramedic, or
26 other person certified pursuant to Division 2.5 (commencing with
27 Section 1797) of the Health and Safety Code.
- 28 (23) A psychological assistant registered pursuant to Section
29 2913 of the Business and Professions Code.
- 30 (24) A marriage and family therapist trainee, as defined in
31 subdivision (c) of Section 4980.03 of the Business and Professions
32 Code.
- 33 (25) An unlicensed marriage and family therapist intern
34 registered under Section 4980.44 of the Business and Professions
35 Code.
- 36 (26) A state or county public health employee who treats a minor
37 for venereal disease or any other condition.
- 38 (27) A coroner.
- 39 (28) A medical examiner or other person who performs
40 autopsies.

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

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

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

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

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

30 (32) A clergy member, as specified in subdivision (d) of Section
 31 11166. As used in this article, “clergy member” means a priest,
 32 minister, rabbi, religious practitioner, or similar functionary of a
 33 church, temple, or recognized denomination or organization.

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

36 (34) An employee of any police department, county sheriff’s
 37 department, county probation department, or county welfare
 38 department.

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

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

5 (37) A person providing services to a minor child under Section
6 12300 or 12300.1 of the Welfare and Institutions Code.

7 (38) An alcohol and drug counselor. As used in this article, an
8 “alcohol and drug counselor” is a person providing counseling,
9 therapy, or other clinical services for a state licensed or certified
10 drug, alcohol, or drug and alcohol treatment program. However,
11 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
12 and of itself, a sufficient basis for reporting child abuse or neglect.

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

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

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

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

31 (43) (A) A commercial computer technician as specified in
32 subdivision (e) of Section 11166. As used in this article,
33 “commercial computer technician” means a person who works for
34 a company that is in the business of repairing, installing, or
35 otherwise servicing a computer or computer component, including,
36 but not limited to, a computer part, device, memory storage or
37 recording mechanism, auxiliary storage recording or memory
38 capacity, or any other material relating to the operation and
39 maintenance of a computer or computer network system, for a fee.
40 An employer who provides an electronic communications service

1 or a remote computing service to the public shall be deemed to
2 comply with this article if that employer complies with Section
3 2258A of Title 18 of the United States Code.

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

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

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

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

37 (d) ~~School~~ *Pursuant to Section 44691 of the Education Code,*
38 *school districts, county offices of education, state special schools*
39 *and diagnostic centers operated by the State Department of*
40 *Education, and charter schools shall annually train their employees*

1 *and persons working on their behalf* specified in subdivision (a)
2 in the duties of mandated reporters under the child abuse reporting
3 laws. The training shall include, but not necessarily be limited to,
4 training in child abuse and neglect identification and child abuse
5 and neglect reporting pursuant to Section 44691 of the Education
6 Code. *reporting.*

7 ~~(e) School districts, county offices of education, and charter~~
8 ~~schools that do not train their employees specified in subdivision~~
9 ~~(a) in the duties of mandated reporters under the child abuse~~
10 ~~reporting laws shall report to the State Department of Education~~
11 ~~the reasons why this training is not provided.~~

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

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

21 ~~SEC. 4.~~
22 SEC. 5. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

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BILL ANALYSIS

AB 1432

Page 1

Date of Hearing: May 14, 2014

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mike Gatto, Chair

AB 1432 (Gatto) - As Amended: May 7, 2014

Policy Committee: EducationVote:5-0
Public Safety 5-0Urgency: No State Mandated Local Program:
Yes Reimbursable: YesSUMMARY

This bill requires annual training in the identification of, and reporting of, known or suspected child abuse and neglect by all school district, county office of education (COE), state special schools, and diagnostic centers operated by the California Department of Education (CDE), and charter school personnel within the first six weeks of each school year, or within six weeks of employment. Specifically, this bill:

- 1)Deletes the requirement for the State Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel in California regarding the detection of child abuse, deletes the authorization for the information to be disseminated by the use of literature, as deemed suitable by CDE, and deletes the requirement for the CDE 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, and deletes the definition of "school personnel."
- 2)Requires CDE, in consultation with the Office of Child Abuse Prevention in the Department of Social Services, to do all of the following:
 - a) Develop and disseminate information to all school districts, COEs, state special schools and diagnostic centers operated by CDE, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse.

AB 1432

Page 2

- b) Provide statewide guidelines on the identification and reporting requirements for child abuse and neglect, and the responsibilities of mandated reporters in accordance with the Child Abuse and Neglect Reporting Act (CANRA).
 - c) Develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action school personnel should take in suspected cases of child abuse and neglect, including, but not limited to, an online training module.
- 3)Requires school districts, COEs, state special schools and diagnostic centers operated by CDE, and charter schools to annually provide training, as appropriate, to their employees and persons working on their behalf, who are mandated reporters, on mandated reporting requirements. Requires mandated reporter training to be provided to school personnel hired during the course of the school year, and requires the training to include information on child abuse and neglect identification and reporting, emphasizing that failure to report an incident of known or reasonably suspected child abuse or neglect, is a misdemeanor, punishable by up to six months in county jail, and/or a fine of up to one thousand dollars (\$1,000).
- 4)States that all persons required to receive training, as specified, shall submit proof of completing the mandated reporter training required to the applicable governing board or body of the school district, COE, state special school and diagnostic center, or charter school within the first six weeks of each school year or within six weeks of employment.
- 5)Requires school districts, COEs, state special schools, and

diagnostic centers operated by the CDE, and charter schools to annually train their employees and persons working on their behalf in the duties of mandated reporters under the CANRA. _

FISCAL EFFECT

- 1) One-time General Fund administrative costs to CDE of approximately \$60,000 to establish statewide guidelines and information about detecting and reporting child abuse. CDE would work in consultation with DSS to develop an online training module. Ongoing costs of approximately \$20,000 to

AB 1432

Page 3

update statewide guidelines, training module, and information on child abuse and neglect.

- 2) Unknown General Fund/Proposition 98 mandated costs potentially in the millions, depending on how a district chooses to comply with the training requirements of the bill. There are 1,016 school districts and COEs and 1,018 charter schools. To the extent LEAs choose to utilize the CDE online training module, costs should be minimal. Costs could be substantial if LEAs choose to develop their own training module. For example, the Los Angeles Unified School District has developed a child abuse awareness training video and an annual online assessment. LAUSD indicates one-time costs of \$85,000 to produce the video and assessment.

Costs could also be incurred to compensate staff for training time. There are 283,836 teachers as of 2011-12. To the extent LEAs successfully file mandate claims for staff training time, costs could be in the low millions of dollars.

The 2012-13 Budget Act created the K-12 Mandate Block Grant that allows a school district, charter school, or COE to choose to receive a per-pupil allocation to conduct existing K-12 mandated activities, including those related to the CANRA mandate. If the district, charter school, or COE chooses to receive this allocation it forfeits its ability to claim mandate reimbursement via the existing state process. If the requirements of this measure are determined to be a state mandated program, its requirements and associated costs could be added to the block grant.

COMMENTS

1) Purpose. In recent years, incidents of unreported child abuse have highlighted the fact that school personnel are not always aware of their duty to report incidents of child abuse and neglect. For example, in the Redwood City School District, a teacher was arrested in the abuse of two five-year-old special needs students. In the wake of this incident, five staff members were fired for failing to report the abuse despite their knowledge of it.

Current law encourages employers (including school districts, and COEs) to provide their mandated reporter employees with training in the duties required under the Child Abuse and

AB 1432

Page 4

Neglect Reporting Mandate (CANRA) but does not mandate training. According to the author, the absence of training is a failure of our system that leaves millions of students at risk every single day.

2) Related legislation

- a) AB 135 (Buchanan), pending in the Senate, requires school districts, COEs and charter schools to adopt a policy on child abuse reporting and mandated reporter responsibilities. Requires those entities to, at a minimum, review the policy with all school personnel within the first six weeks of each school year, as part of a regularly scheduled staff meeting.
- b) AB 2560 (Bonilla), pending in the Senate, requires, upon credential renewal, an applicant to read and sign a statement that they understand their duties as a mandated reporter.

1)Prior legislation.

- a) AB 1338 (Buchanan), 2013, held on Suspense in this committee, would have required the governing board of a school district and county office of education (COE) and the governing body of a charter school, to adopt a policy on the reporting of child abuse and the responsibilities of mandated reporters in accordance with the Child Abuse and Neglect and Reporting Act (CANRA).
- b) AB 1435 (Dickenson), 2012, required training for school-employed mandated reporters. This requirement was deleted from the bill in this committee.

Analysis Prepared by : Misty Feusahrens / APPR. / (916)
319-2081

AMENDED IN ASSEMBLY MAY 23, 2014
AMENDED IN ASSEMBLY MAY 7, 2014
AMENDED IN ASSEMBLY FEBRUARY 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1432

Introduced by Assembly Member Gatto
(Principal coauthor: Assembly Member Bonilla)
(Coauthors: Assembly Members *Campos*, *Dababneh*, and *Dickinson*)
(Coauthor: Senator Cannella)

January 6, 2014

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.

LEGISLATIVE COUNSEL'S DIGEST

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

The Child Abuse and Neglect Reporting Act requires a mandated reporter, which includes teachers and other 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 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

96

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 guidelines 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.*

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 ~~annually train, as appropriate,~~ *do both of the following: (1) annually train, using the online training module provided by the department, or providing different training, as specified, employees and persons working on their behalf who are mandated reporters on the mandated reporting requirements, as specified, and would require these employees to submit specified; and (2) develop a process for all persons required to receive training under the bill to provide proof of completing this training to the applicable governing board or body of the school district, county office of education, state special school and diagnostic center, or charter school 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

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

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

4 44691. (a) The department, in consultation with the Office of
5 Child Abuse Prevention in the State Department of Social Services,
6 shall do all of the following:

7 (1) Develop and disseminate information to all school districts,
8 county offices of education, state special schools and diagnostic
9 centers operated by the department, and charter schools, and their
10 school personnel in California, regarding the detection and
11 reporting of child abuse.

12 (2) Provide statewide guidelines on the responsibilities of
13 mandated reporters in accordance with the Child Abuse and Neglect
14 Reporting Act (Article 2.5 (commencing with Section 11164) of
15 Chapter 2 of Title 1 of Part 4 of the Penal Code). These guidelines
16 shall include, but not necessarily be limited to, both of the
17 following:

18 (A) Identification of child abuse and neglect.

19 (B) Reporting requirements for child abuse and neglect.

20 (3) Develop appropriate means of instructing school personnel
21 in the detection of child abuse and neglect and the proper action
22 that school personnel should take in suspected cases of child abuse
23 and neglect, including, but not limited to, an online training
24 module.

25 (b) School districts, county offices of education, state special
26 schools and diagnostic centers operated by the department, and
27 charter schools shall ~~annually provide training, as appropriate, do~~
28 *both of the following:*

29 *(1) Except as provided in subdivision (c), provide annual*
30 *training, using the online training module provided by the*
31 *department, to their employees and persons working on their behalf*
32 *who are mandated reporters, as defined in Section 11165.7 of the*
33 *Penal Code, pursuant to this section and subdivision (d) of Section*
34 *11165.7 of the Penal Code on the mandated reporting requirements.*
35 *Mandated reporter training shall be provided to school personnel*
36 *hired during the course of the school year. This training shall*
37 *include information that failure to report an incident of known or*
38 *reasonably suspected child abuse or neglect, as required by Section*

1 11166 of the Penal Code, is guilty of a misdemeanor punishable
2 by up to six months confinement in a county jail, or by a fine of
3 one thousand dollars (\$1,000), or by both that imprisonment and
4 fine.

5 ~~(e) All persons required to receive training pursuant to~~
6 ~~subdivision (b) shall submit proof of completing the mandated~~
7 ~~reporter training required pursuant to subdivision (b) to the~~
8 ~~applicable governing board or body of the school district, county~~
9 ~~office of education, state special school and diagnostic center, or~~
10 ~~charter school within the first six weeks of each school year or~~
11 ~~within six weeks of employment.~~

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

21 *(c) School districts, county offices of education, state special*
22 *schools and diagnostic centers operated by the department, and*
23 *charter schools that do not use the online training module provided*
24 *by the department shall report to the department the training being*
25 *used in its place.*

26 SEC. 4. Section 11165.7 of the Penal Code is amended to read:
27 11165.7. (a) As used in this article, “mandated reporter” is
28 defined as any of the following:

- 29 (1) A teacher.
- 30 (2) An instructional aide.
- 31 (3) A teacher’s aide or teacher’s assistant employed by a public
32 or private school.
- 33 (4) A classified employee of a public school.
- 34 (5) An administrative officer or supervisor of child welfare and
35 attendance, or a certificated pupil personnel employee of a public
36 or private school.
- 37 (6) An administrator of a public or private day camp.
- 38 (7) An administrator or employee of a public or private youth
39 center, youth recreation program, or youth organization.

- 1 (8) An administrator or employee of a public or private
2 organization whose duties require direct contact and supervision
3 of children.
- 4 (9) An employee of a county office of education or the State
5 Department of Education whose duties bring the employee into
6 contact with children on a regular basis.
- 7 (10) A licensee, an administrator, or an employee of a licensed
8 community care or child day care facility.
- 9 (11) A Head Start program teacher.
- 10 (12) A licensing worker or licensing evaluator employed by a
11 licensing agency, as defined in Section 11165.11.
- 12 (13) A public assistance worker.
- 13 (14) An employee of a child care institution, including, but not
14 limited to, foster parents, group home personnel, and personnel of
15 residential care facilities.
- 16 (15) A social worker, probation officer, or parole officer.
- 17 (16) An employee of a school district police or security
18 department.
- 19 (17) A person who is an administrator or presenter of, or a
20 counselor in, a child abuse prevention program in a public or
21 private school.
- 22 (18) A district attorney investigator, inspector, or local child
23 support agency caseworker, unless the investigator, inspector, or
24 caseworker is working with an attorney appointed pursuant to
25 Section 317 of the Welfare and Institutions Code to represent a
26 minor.
- 27 (19) A peace officer, as defined in Chapter 4.5 (commencing
28 with Section 830) of Title 3 of Part 2, who is not otherwise
29 described in this section.
- 30 (20) A firefighter, except for volunteer firefighters.
- 31 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
32 resident, intern, podiatrist, chiropractor, licensed nurse, dental
33 hygienist, optometrist, marriage and family therapist, clinical social
34 worker, professional clinical counselor, or any other person who
35 is currently licensed under Division 2 (commencing with Section
36 500) of the Business and Professions Code.
- 37 (22) An emergency medical technician I or II, paramedic, or
38 other person certified pursuant to Division 2.5 (commencing with
39 Section 1797) of the Health and Safety Code.

1 (23) A psychological assistant registered pursuant to Section
2 2913 of the Business and Professions Code.

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

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

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

11 (27) A coroner.

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

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

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

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

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

39 (B) “Humane society officer” means a person appointed or
40 employed by a public or private entity as a humane officer who is

1 qualified pursuant to Section 14502 or 14503 of the Corporations
2 Code.

3 (32) A clergy member, as specified in subdivision (d) of Section
4 11166. As used in this article, “clergy member” means a priest,
5 minister, rabbi, religious practitioner, or similar functionary of a
6 church, temple, or recognized denomination or organization.

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

9 (34) An employee of any police department, county sheriff’s
10 department, county probation department, or county welfare
11 department.

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

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

16 (37) A person providing services to a minor child under Section
17 12300 or 12300.1 of the Welfare and Institutions Code.

18 (38) An alcohol and drug counselor. As used in this article, an
19 “alcohol and drug counselor” is a person providing counseling,
20 therapy, or other clinical services for a state licensed or certified
21 drug, alcohol, or drug and alcohol treatment program. However,
22 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
23 and of itself, a sufficient basis for reporting child abuse or neglect.

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

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

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

38 (42) An athletic coach, athletic administrator, or athletic director
39 employed by any public or private school that provides any

1 combination of instruction for kindergarten, or grades 1 to 12,
2 inclusive.

3 (43) (A) A commercial computer technician as specified in
4 subdivision (e) of Section 11166. As used in this article,
5 “commercial computer technician” means a person who works for
6 a company that is in the business of repairing, installing, or
7 otherwise servicing a computer or computer component, including,
8 but not limited to, a computer part, device, memory storage or
9 recording mechanism, auxiliary storage recording or memory
10 capacity, or any other material relating to the operation and
11 maintenance of a computer or computer network system, for a fee.
12 An employer who provides an electronic communications service
13 or a remote computing service to the public shall be deemed to
14 comply with this article if that employer complies with Section
15 2258A of Title 18 of the United States Code.

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

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

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

39 (c) Except as provided in subdivision (d), employers are strongly
40 encouraged to provide their employees who are mandated reporters

1 with training in the duties imposed by this article. This training
2 shall include training in child abuse and neglect identification and
3 training in child abuse and neglect reporting. Whether or not
4 employers provide their employees with training in child abuse
5 and neglect identification and reporting, the employers shall
6 provide their employees who are mandated reporters with the
7 statement required pursuant to subdivision (a) of Section 11166.5.

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

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

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

24 SEC. 5. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.

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BILL ANALYSIS

AB 1432

Page 1

CONCURRENCE IN SENATE AMENDMENTS

AB 1432 (Gatto)
As Amended August 4, 2014
Majority vote

-

ASSEMBLY: 66-5	(May 28, 2014)	SENATE: 31-3	(August 20,
			2014)

Original Committee Reference: ED.

SUMMARY : Requires annual mandated reporter training of all school district, county office of education (COE), charter school, state special school and diagnostic center personnel within the first six weeks of each school year or within six weeks of employment; and, requires the California Department of Education (CDE) in consultation with the Department of Social Services (DSS) to develop and disseminate information on child abuse; develop guidance on mandated reporter responsibilities and reporting requirements; and, develop a means of instructing school personnel.

The Senate amendments specify that the State Department of Social Services shall 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.

FISCAL EFFECT : According to the Senate Appropriations Committee, California Department of Education (CDE): Potentially significant one-time costs, likely in the tens of thousands of dollars, to coordinate with the Department of Social Services (DSS) to update the DSS training module, disseminate information to schools, and provide guidance on the new requirements. Minor ongoing workload to provide annual guidance. DSS: Minor and absorbable workload to coordinate with the CDE to update the online training module. Mandate: Substantial reimbursable mandate for all schools to annually train employees on their duties as mandated reporters.

COMMENTS : This bill requires annual mandated reporter training of all school district, COE, charter school, state special school and diagnostic center personnel within the first six

AB 1432

Page 2

weeks of each school year or within six weeks of employment. Requires CDE and DSS to develop and disseminate information to all school districts, COEs and charter schools on child abuse; develop guidance on mandated reporter responsibilities and reporting requirements; and, develop a means of instructing school personnel.

According to the author, "In recent years, there has been an alarming increase in incidents of unreported child abuse where one or more additional school employees were aware of the incident - illustrating gaping holes in these mandated reporters' knowledge of CANRA [California Child Abuse Neglect Reporting Act]. In the Redwood City School District, a teacher was arrested in the abuse of two five-year-old special needs students. In the wake of this horrible incident, five staff members were fired for failing to report the abuse despite their knowledge of it."

Further the author states, "Despite the Child Abuse and Neglect Reporting Act's clear reporting requirements, school districts are merely 'encouraged' rather than required to provide employees who qualify as mandated reporters with training on either abuse identification or abuse reporting. The absence of training is a failure of our system that leaves millions of students at risk every single day."

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