

ITEM 7

**FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE
\$11,189,686**

***CONSOLIDATED SUSPENSIONS, EXPULSIONS, and EXPULSION
APPEALS***

Formerly known as

PUPIL EXPULSIONS II (96-358-03, 03A, 98-TC-22, 01-TC-18)

PUPIL SUSPENSIONS II (98-TC-23)

EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;

Statutes 1996, Chapters 915, 937, and 1052; Statutes 1997, Chapter 637;

Statutes 1998, Chapter 489; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;

Statutes 2001, Chapter 116

By San Juan Unified School District, Kern County Superintendent of Schools, Claimants

Beginning Fiscal Year 2012-2013 Consolidated with

PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)

Education Code Section 48911, Subdivisions (b) and (e)

Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;

Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)

Education Code Sections 48915, Subdivisions (a) and (b),

48915.1, 48915.2, 48916, and 48918

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes

1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622; Statutes 1987,

Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152; Statutes 1993, Chapters

1255, 1256, and 1257; Statutes 1994, Chapter 146

PUPIL EXPULSION APPEALS (CSM-4463)

Education Code Sections 48919, 48921, 48924

Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;

Statutes 1983, Chapter 498

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim statutes of the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs require school districts to perform various activities related to

suspending and expelling pupils from school who have committed specified offenses. The Commission on State Mandates (Commission) found that the costs incurred to perform new activities mandated by the test claim statutes (enacted from 1995 to 2002), or triggered by new offenses added by the test claim statutes, constitute a reimbursable state-mandated program beginning in fiscal year 1995-1996.

The suspension and expulsion procedures and post-expulsion requirements enacted by the Legislature between 1975 and 1994 were originally found to impose reimbursable state-mandated costs for possession of a firearm in decisions on the following test claims: *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463).

The *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* test claims were consolidated for hearing. The Commission found that the test claim statutes impose a partially reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

On October 27, 2011, the Commission adopted six sets of parameters and guidelines which include activities that correspond to the statutes with operative dates between 1995 and 2002.¹ Each set covers one or more fiscal years, and was intended to make reimbursement claims easier for school districts to submit and for the State Controller's Office to evaluate and pay. The sixth, and last, set of parameters and guidelines consolidates the Commission's decision in *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* with *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* (CSM-4456, 4455, 4463) beginning in fiscal year 2012-2013.²

Eligible claimants were required to file initial reimbursement claims for fiscal years 1995-1996 through 2010-2011 with the State Controller's Office (SCO) by October 17, 2012. Claims for fiscal year 2011-2012 must be filed by February 15, 2013. Claims filed more than one year after the applicable deadline will not be accepted.

Eligible Claimants, Period of Reimbursement, and Reimbursable Activities

Any "school district", as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. This includes county offices of education. Charter schools are not eligible claimants.

¹ Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

² Exhibit A.

The six sets of parameters and guidelines for *Pupil Suspensions II*, *Pupil Expulsions II*, and *Educational Services Plan for Expelled Pupils* are summarized in the table below:

<u>Parameters and Guidelines</u>	<u>Period of Reimbursement</u>	<u>Statutes Approved</u>
Set 1	July 1, 1995 - June 30, 1996	§ 48915, as amended by Statutes 1995, chapter 972, and activities triggered by the new offenses added to section 48915.
Set 2	July 1, 1996 - June 30, 1997	§§ 48915.2, 48916, 48916.1, 48918, 48918.5, 48926, as amended by Statutes 1995, chapter 874, Statutes 1996, chapters 915, 937, 1052.
Set 3	July 1, 1997 – June 30, 1999	§§ 48900.8, 48918, as amended by Statutes 1997, chapter 637, Statutes 1998, chapter 498.
Set 4	July 1, 1999 – June 30, 2001	§§ 48918, 48923, as amended by Statutes 1999, chapter 332, Statutes 2000, chapter 147.
Set 5	July 1, 2001 – June 30, 2012	§ 48915, Statutes 2001, chapter 116.
Set 6	Beginning July 1, 2012	All statutes, consolidated with <i>Pupil Suspension from School</i> , <i>Pupil Expulsion from School</i> , and <i>Pupil Expulsion Appeals</i> (CSM-4456, 4455, 4463).

The Commission approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1996:

- a. For the principal or superintendent to immediately suspend, pursuant to section 48911,³ and recommend expulsion, and for the governing board to order expulsion for:
 1. A pupil who brandishes a knife at another person (§ 48915 (c)(2), Stats. 1995 ch. 972);
 2. A pupil who sells or furnishes a firearm unless the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal (§ 48915 (c)(1) and (d), Stats. 1995, ch. 972);
 3. A pupil’s first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915 (c)(3), Stats. 1995 ch. 972).

³ All statutory references are to the Education Code unless otherwise indicated.

For the principal or superintendent to immediately suspend, pursuant to section 48911, and for the governing board to order expulsion, for a pupil who sells a controlled substance, as defined (§ 48915 (c)(3), Stats. 1995 ch. 972).

- b. For the school to perform the following suspension procedures⁴ for the offenses listed in (a) and (b) above:
 1. Precede the suspension with an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Inform the pupil of the reason for the disciplinary action and the evidence against him or her and give the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911 (b).)
 2. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever the pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. (§ 48911 (d).)
 3. A school employee shall report the suspension of the pupil including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911 (e).)
- c. For the principal or superintendent of schools to recommend expelling a pupil for possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915 (a)(3), Stats. 1995, ch. 972). The section 48918 expulsion hearing procedures are part of this activity.
- d. For the governing board to refer a pupil expelled for any of the most serious offenses (in § 48915 (c)) to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the time of suspension (§ 48915 (d), Stats. 1995, ch. 972).

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning July 1, 1996:

- a. For the superintendent of schools (or designee) to provide notice to a pupil expelled for any of the most serious offenses (in § 48915 (c)), of the education alternative placement to the pupil's parent or guardian at the time of the expulsion order. (§ 48918 (j), Stats. 1995, ch. 974.)
- b. For the governing board to amend its expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918. This is a one-time activity. (§ 48918 (i), Stats. 1995, ch. 974, §§ 7.5 & 10.)

⁴ These offenses also trigger the expulsion procedures identified in the *Pupil Expulsions from School* (CSM-4455) test claim.

- c. If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974.)
- d. Ensure that an educational program is provided to the pupil expelled for any of the most serious offenses in subdivision (c) of section 48915. The program must conform to the specifications in section 48916.1. (§ 48916.1, Stats. 1995, ch. 974.)
- e. Recommend a rehabilitation plan to a pupil at the time of the expulsion order (§ 48916 (b), Stats. 1995, ch. 974) when a pupil is expelled for any of the most serious offenses listed in subdivision (c) of section 48915.
- f. For the one-time activity of adopting rules and regulations to establish the process for the required review of all expelled pupils for readmission. (§ 48916 (c), Stats. 1995, ch. 974.)
- g. Perform the following activities when the governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses (in § 48915 (c)). (§ 48916, Stats. 1995, ch. 974.):
 - 1. Review the pupil for readmission. (§ 48916 (a).)
 - 2. Order the expelled pupil's readmission or make a finding to deny readmission if "the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district." (§ 48916 (c).)
 - 3. If readmission is denied, for the governing board to make the determination to either continue the placement of the expelled pupil in the alternative education program, or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916 (d).)
 - 4. If readmission is denied, the governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the education program for the expelled pupil. (§ 48916 (e).)
- h. Before allowing the expelled pupil to enroll in a school district that did not expel the pupil, for the receiving district's governing board to determine, pursuant to a hearing under Section 48918, whether an individual expelled from another school district for the offenses listed below poses a danger to either the pupils or employees of the school district. (§ 48915.2 (b), Stats. 1995, ch. 974.) This activity is only reimbursable for determinations of applicants who have been expelled by a district that has not entered into a voluntary interdistrict transfer agreement with the receiving district:
 - 1. Unlawful possession of any controlled substance [as specified] ... including the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (§ 48915 (a)(3).)
 - 2. Possessing, selling, or otherwise furnishing a firearm ... [without permission as specified]. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. (§ 48915 (c)(1).)
 - 3. Brandishing a knife at another person. (§ 48915 (c)(2).)

4. Committing or attempting to commit a sexual assault, as defined, or committing a sexual battery, as defined. (§ 48900 (n) & 48915 (c)(4) & (d), Stats. 1996, chs. 915 and 1052, operative Jan. 1, 1997.)

From July 1, 1996 until September 25, 1996, for school districts to maintain outcome data, as specified, for pupils expelled for the most serious offenses in subdivision (c) of section 48915. (§ 48916.1, Stats. 1995, ch. 974.)

Beginning September 26, 1996, for the school district to maintain data on the following and report it to the California Department of Education (CDE) for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) Whether the expulsion order was suspended; (2) The type of referral made after the expulsion; and (3) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

Beginning September 26, 1996 until January 7, 2002, for school districts to maintain data on the following and report it to CDE for pupils expelled for the most serious offenses in section 48915, subdivision (c): (1) The number of pupils recommended for expulsion; (2) The grounds for each recommended expulsion; (3) Whether the pupil was subsequently expelled; (4) Whether the expulsion order was suspended; (5) The type of referral made after the expulsion; and (6) The disposition of the pupil after the end of the period of expulsion. (§ 48916.1 (e), Stats. 1996, ch. 937.)

The Commission also approved the consolidated test claim for the following reimbursable activities, beginning January 1, 1997:

- a. Amend the school district's rules and regulations, as specified, to include procedures that apply when there is a recommendation to expel a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918 (b) & 48918.5, Stats. 1996, ch. 915, one-time costs.)
- b. For the principal or superintendent to suspend, pursuant to section 48911, and recommend expulsion, and for the governing board to order expulsion for pupils who commit or attempt to commit a sexual assault or sexual battery as defined. (§ 48915 (c)(4), Stats. 1996, ch. 1052.) The section 48911 suspension procedures and section 48918 expulsion hearing procedures are part of this activity.
- c. For the principal or superintendent to recommend expelling a pupil for assault or battery on any school employee. (§ 48915 (a)(5), Stats. 1996, chs. 915 & 1052.) The expulsion hearing procedures in section 48918 are part of this activity.
- d. For school districts to follow specified procedures when a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n). (§ 48918 and 48918.5, Stats. 1996, ch. 915.)

Beginning January 1, 1998, for school districts to identify by offense, in all appropriate official records of a pupil, each suspension of that pupil for any of the most serious mandatory offenses in section 48915, subdivision (c). (§ 48900.8, Stats. 1997, ch. 637.)

Beginning January 1, 1999, for the school district to amend its expulsion rules and regulations as follows:

If compliance by the governing board with the time requirements for the conduct of an expulsion hearing under subdivision (a) of section 48918 is impracticable due to a

summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48915, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held no later than 20 calendar days prior to the first day of school for the school year. (§ 48918 (a), Stats. 1998, ch. 489.)

Beginning January 1, 2000:

For school districts to perform the following one-time activities: (1) updating the school district rules and regulations on notification to the pupil regarding the opportunity to be represented by legal counsel or a nonattorney adviser, and (2) revising the pupil notification to include the right to be represented by legal counsel or a nonattorney advisor. (§ 48918 (b)(5), Stats. 1999, ch. 332). These activities are reimbursable when the pupil commits any of the offenses specified in subdivisions (a) or (c) of section 48915.

Beginning January 1, 2001:

For a county board of education to remand an expulsion matter to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subdivision (b), Stats. 2000, ch. 147.) This activity is reimbursable for an expulsion for any reason.

For a school district, when adopting the required findings on remand from the county board of education, to: (1) take final action on the expulsion in a public session (not hold another hearing) and; (2) provide notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion (§ 48918 (j)); and (3) maintain a record of each expulsion and the cause therefor. (§ 48918 (k)). (§ 48923 (b), Stats. 2000, ch. 147.) This activity is only reimbursable when the district governing board orders the pupil expelled for any of the most serious mandatory expulsion offenses. (listed in § 48915 (c).)

Beginning January 1, 2002:

- For a principal or superintendent to immediately suspend, pursuant to section 48911, a pupil who possesses an explosive at school or at a school activity off school grounds. (§ 48915 (c) & (d), Stats. 2001, ch. 116.) The section 48911 suspension procedures are part of this activity.

The parameters and guidelines include the reasonable reimbursement methodology (RRM) adopted by the Commission in the *Pupil Suspensions, Pupil Expulsions, and Pupil Expulsion Appeals* parameters and guidelines (CSM-4456, 4455, 4463) for the reimbursement of the direct and indirect expulsion hearing costs incurred by a school district.

Uniform Cost Allowances and Formula for Reimbursable Activities

The RRM consists of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D.3 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) Hearing Preparation	\$115.72
IV.D.3 (b). Hearing	\$144.58
IV.D.3 (c) Written Expulsion Recommendation to the Governing Board	\$171.00
IV.D.3 (d) Hearing Record	\$1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator. The State Controller's Office will provide the correct uniform cost allowance for each fiscal year with each year's claiming instructions.

2. Formula

Reimbursement of Activities IV.D.3 (a) – (d) is determined by multiplying the uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing.

Eligible claimants may additionally claim and be reimbursed for increased costs of performing the reimbursable activities approved in the parameters and guidelines, which are not included in the RRM. These activities are described more fully in the parameters and guidelines.⁵

Statewide Cost Estimate

Staff reviewed the claims data for the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs submitted by 305 school districts and compiled by the SCO. The actual claims data showed that 1541 claims were filed for 16 fiscal years (1995-1996 through 2010-2011) for a total of \$11,189,686.⁶ Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

⁵ Parameters and Guidelines on the Commission's website at <http://www.csm.ca.gov>.

⁶ Claims data reported as of November 1, 2012.

Assumptions

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are 1047 K-12 school districts in California. Of those, 305 school districts filed initial reimbursement claims for this program for fiscal years 1995-1996 through 2010-2011. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims filed on the initial claiming period of July 1, 1995 through June 30, 2011 may be filed until October 17, 2013. Late claims for fiscal year 2011-2012 may be filed until February 15, 2014.

- *The number of reimbursement claims filed will vary from year to year.*

This program is based on activities involving pupil expulsions and suspensions, rehabilitations, readmissions, and expulsion appeals, as well as county office of education plans for educational services to expelled pupils for various offenses and related activities. Therefore, the total number of reimbursement claims filed with the SCO will increase or decrease based on the actual number and type of offense for pupil expulsions and suspensions filed in each school district in a particular year.

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

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.

- *There may be several reasons that non-claiming school districts did not file for reimbursement, including but not limited to:*
 - Districts could not reach the \$1,000 threshold for filing reimbursement claims.
 - Districts did not have supporting documentation to file a reimbursement claim.

Methodology

Fiscal Years 1995-1996 through 2010-2011

The statewide cost estimate for fiscal years 1995-1996 through 2010-2011 was developed by totaling the 1541 actual reimbursement claims filed with the SCO for these years.

The statewide cost estimate includes 16 fiscal years for a total of \$11,189,686. However, in fiscal year 2002-2003, additional reimbursable activities were added pursuant to Education Code section 48915, Statutes 2001, chapter 116. Therefore, the average annual costs could be viewed more accurately divided into two parts. The first seven fiscal years, 1995-1996 through 2001-2002, average to \$360,895 in annual statewide costs. The next nine fiscal years, 2002-2003 through 2010-2011, average to \$962,602 in annual statewide costs. Over the most recent three fiscal years for which there is claiming data, statewide costs appear to have stabilized to an average of \$1,249,825 per year.

Following is the total cost per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1995-1996	34	\$244,211
1996-1997	40	\$348,296
1997-1998	42	\$356,772
1998-1999	44	\$384,776
1999-2000	45	\$394,091
2000-2001	41	\$357,331
2001-2002	47	\$440,790
2002-2003	137	\$704,822
2003-2004	136	\$848,075
2004-2005	122	\$723,489
2005-2006	118	\$757,982
2006-2007	124	\$866,916
2007-2008	129	\$1,012,660
2008-2009	156	\$1,241,790
2009-2010	155	\$1,257,846
2010-2011	171	\$1,249,839
TOTAL	1541	\$11,189,686

Beginning July 1, 2012, the *Pupil Expulsions II*, *Pupil Suspensions II*, and *Educational Services Plan for Expelled Pupils* programs are consolidated with the pre-existing *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs. Historical claiming data for the pre-existing mandate for the *Pupil Suspensions from School*, *Pupil Expulsion from School*, and *Pupil Expulsion Appeals* programs indicates that the average annual claim submitted to the SCO beginning with fiscal year 1993-1994 through 2010-2011 is approximately \$4.2 million.⁷ Therefore, future reimbursement claims beginning fiscal year 2012-2013 and forward for the pre-existing program combined with the averaged \$1.2 million from the newly approved and consolidated program would likely be \$5.4 million per year.

Draft Staff Analysis and Proposed Statewide Cost Estimate

On December 17, 2012, Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment.⁸ On December 27, 2012, the claimant notified the Commission that they have no comments on the draft staff analysis. No other comments were received.

⁷ This figure is based on the averaged claims for fiscal years 1993-1994 through 2010-2011 in the *State Mandated Program Cost Report of Audit Findings for April 1, 2011 through March 31, 2012 for program 176, Pupil Suspensions, Expulsion, and Expulsion Appeals* found on the SCO's website at <http://sco.ca.gov/Files-ARD-Local/LocRep/budgetactitem0804yr2012.pdf>.

⁸ Exhibit B.

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$11,189,686** for costs incurred in complying with the *Expulsions II, Pupil Suspensions II, and Educational Services Plan for Expelled Pupils* program.