



November 26, 2019

Ms. Amber Alexander
Department of Finance
915 L Street, 7th Floor
Sacramento, CA 95814

Ms. Natalie Sidarous
Local Government Programs and
Services Division
State Controller's Office
3301 C Street, Suite 740
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Decision and Amendment to Parameters and Guidelines

Academic Performance Index, 01-TC-22 (18-MR-01)
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by
Statutes 2013, Chapter 47 (AB 97)
Department of Finance, Requester

Dear Ms. Alexander and Ms. Sidarous:

On November 22, 2019 the Commission on State Mandates adopted the Decision and Amendment to Parameters and Guidelines on the above-captioned matter.

Please keep Decision and Amendment to Parameters and Guidelines together as one document, as it together constitutes the entire decision of the Commission and the "Decision" portion informs the interpretation of the "Amendment to Parameters and Guidelines." It is hoped that by providing the entire Decision and Amendment to Parameters and Guidelines with the claiming instructions that claimants will be better equipped to correctly claim reimbursement, resulting in fewer reductions upon audit and fewer incorrect reduction claims.

Sincerely,

Heather Halsey
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Section 52056(c)

Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1) and Statutes 2000,
Chapter 695 (SB 1552)

As Modified by: Statutes 2013, Chapter 47
(AB 97)

Filed on March 8, 2019

By the Department of Finance, Requester

Case No.: 01-TC-22 (18-MR-01)

Academic Performance Index

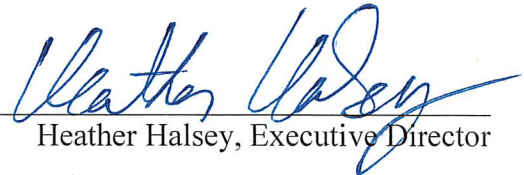
DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.

(Adopted November 22, 2019)

(Served November 26, 2019)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Amendment to Parameters and Guidelines on November 22, 2019.


Heather Halsey, Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Section 52056(c)
Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1) and Statutes 2000,
Chapter 695 (SB 1552)
As Modified by: Statutes 2013, Chapter 47
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Filed on March 8, 2019
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Case No.: 01-TC-22 (18-MR-01)
Academic Performance Index
DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500, ET SEQ.; CALIFORNIA CODE
OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5,
ARTICLE 7.
(Adopted November 22, 2019)
(Served November 26, 2019)

DECISION

The Commission on State Mandates (Commission) heard and decided this Decision and Amendment to Parameters and Guidelines during a regularly scheduled hearing on November 22, 2019. Daniel Hanower appeared on behalf the Department of Finance (Finance).

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 section 17500 et seq., title 2, California Code of Regulations 1190.1 et seq., and related case law.

The Commission adopted the Proposed Decision and Amendment to Parameters and Guidelines by a vote of 7-0, as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jaqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

I. Summary of the Mandate

This Proposed Decision and Amendment to Parameters and Guidelines is consistent with the Commission’s new Test Claim Decision, adopted November 22, 2019, finding that the state’s liability pursuant to article XIII B, section 6 of the California Constitution and Government Code

Section 17514 for the *Academic Performance Index*, 01-TC-22 program was modified based upon a subsequent change in law.¹ Specifically, Statutes 2013, chapter 47, effective July 1, 2013, expressly repealed the Education Code section 52056(c), the test claim statute that imposed the mandate.

Therefore, the following activities do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and are no longer eligible for reimbursement, pursuant to Government Code section 17570(f), beginning July 1, 2017:

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State’s website and preparing a staff report, including a PowerPoint presentation, for the governing board’s discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)²

II. Procedural History

On September 27, 2019, the Commission adopted the first hearing Decision³ on this Mandate Redetermination, finding that an adequate showing that the state’s liability for this program may be modified based on a subsequent change in law had been made, and directed staff to proceed to the second hearing. On September 27, 2019, Commission staff issued the Draft Proposed Decision for the second hearing and the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.⁴ On October 18, 2019, the Controller filed comments on the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines, recommending no changes.⁵ On November 22, 2019, the Commission adopted the Proposed Decision for the second hearing as its new Test Claim Decision.

III. Discussion

The Proposed Decision and Amendment to Parameters and Guidelines ends reimbursement beginning July 1, 2017, for all reimbursable activities approved for the *Academic Performance Index*, 01-TC-22 program.

¹ Pursuant to Government Code section 17570(i), “[i]f the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Government Code Sections 17557, 17557.1, and 17557.2.”

² Exhibit B, Draft Proposed Decision, Second Hearing.

³ Exhibit A, Decision, First Hearing.

⁴ Exhibit B, Draft Proposed Decision, Second Hearing; Exhibit C, Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.

⁵ Exhibit D, Controller’s Comments on the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.

The Commission further finds the Proposed Decision and Amendment to Parameters and Guidelines is supported by the findings adopted by the Commission in its new Test Claim Decision for the *Academic Performance Index*, 01-TC-22 program on November 22, 2019.

IV. Conclusion

Based on the foregoing, the Commission hereby adopts this Proposed Decision and Amendment to Parameters and Guidelines.

Amended: 11/22/19

Adopted: 5/27/10

AMENDMENT TO PARAMETERS AND GUIDELINES

Education Code Section 52056(c)
Statutes 1999, 1st Extraordinary Session, Chapter 3
Statutes 2000, Chapter 695

Academic Performance Index

01-TC-22

As Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Reimbursement for this Program Ends July 1, 2017

I. SUMMARY OF THE MANDATE

Education Code section 52056, subdivision (c), as added and amended by the test claim statutes requires a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and Superintendent of Public Instruction (SPI) school rankings.

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision 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. The Commission approved this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP) pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

Statutes 2013, chapter 47, section 102 (AB 97) repealed Article 4 of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, commencing with section 52056, which includes section 52056(c) that imposed the mandate.

On March 8, 2019, the Department of Finance (Finance) filed the Request for Redetermination of the *Academic Performance Index*, 01-TC-22 Test Claim. On November 22, 2019, the Commission approved Finance's request and adopted a New Test Claim Decision, finding that Statutes 2013, chapter 47, constitutes a subsequent change in law that eliminates the state's liability for reimbursement for this program, beginning July 1, 2017.

II. ELIGIBLE CLAIMANTS

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. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17570(f) provides that "[a] request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year." The Request for Mandate Redetermination was filed on March 8, 2019, establishing a loss of reimbursement beginning July 1, 2017.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c) between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities.

Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activity is reimbursable:

- For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central

governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter⁶ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and

⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Decisions on the Test Claim, Mandate Redetermination, Parameters and Guidelines and Amendments thereto are legally binding on all parties and provides the legal and factual basis for these parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

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 November 26, 2019, I served the:

- **Decision and Amendment to Parameters and Guidelines adopted November 22, 2019**
- **Decision, Second Hearing adopted November 22, 2019**

Second Hearing: New Test Claim Decision

Academic Performance Index (01-TC-22), 18-MR-01

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

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 November 26, 2019 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 18-MR-01

Matter: Academic Performance Index (01-TC-22)

Requester: Department of Finance

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.)

Edmundo Aguilar, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguiar@cde.ca.gov

Amber Alexander, *Department of Finance*

Requester Representative/Requester Contact

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

Michael Ambrose, Associate General Counsel, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3266

mambrose@csba.org

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, Fiscal Analyst, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,

Sacramento, CA 95816

Phone: (916) 324-7876

lbaysinger@sco.ca.gov

Mike Brown, *School Innovations & Advocacy*
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

Allan Burdick,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

Evelyn Calderon-Yee, Bureau Chief, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

Gwendolyn Carlos, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

David Cichella, *California School Management Group*
3130-C Inland Empire Blvd., Ontario, CA 91764
Phone: (209) 834-0556
dcichella@csmincentral.com

Andra Donovan, *San Diego Unified School District*
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103
Phone: (619) 725-5630
adonovan@sandi.net

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Heather Halsey, Executive Director, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Michael Johnston, *Clovis Unified School District*
1450 Herndon Ave, Clovis, CA 93611-0599
Phone: (559) 327-9000
michaeljohnston@clovisusd.k12.ca.us

Doug Kimberly, *Superintendent, Lake Elsinore Unified School District*
545 Chaney Street, Lake Elsinore, CA 92530
Phone: (951) 253-7000
Doug.Kimberly@leusd.k12.ca.us

Jennifer Kuhn, *Deputy, Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8332
Jennifer.kuhn@lao.ca.gov

Lisa Kurokawa, *Bureau Chief for Audits, State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

Jill Magee, *Program Analyst, Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Kathryn Meola, *General Counsel, California School Boards Association*
3251 Beacon Blvd., West Sacramento, CA 95691
Phone: (916) 669-3273
kmeola@csba.org

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Meredith Miller, *Director of SB90 Services, MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Lourdes Morales, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

Debra Morton, Manager, Local Reimbursements Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,
Sacramento, CA 95816
Phone: (916) 324-0256
DMorton@sco.ca.gov

Michelle Nguyen, *Department of Finance*
Education Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Michelle.Nguyen@dof.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kpbsixten@aol.com

Ned Resnikoff, Fiscal & Policy Analyst, K-12, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95816
Phone: (916) 319-8332
Ned.Resnikoff@lao.ca.gov

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

Sandra Reynolds, President, *Reynolds Consulting Group, Inc.*
P.O. Box 891359, Temecula, CA 92589-1359
Phone: (888) 202-9442
reginc19@gmail.com

Camille Shelton, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

Steve Shields, *Shields Consulting Group, Inc.*
1536 36th Street, Sacramento, CA 95816

Phone: (916) 454-7310
steve@shieldscg.com

Natalie Sidarous, Chief, *State Controller's Office*

Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717
NSidarous@sco.ca.gov

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Kent Stephens, Chief Financial Officer, *San Juan Unified School District*

Business Services, 3738 Walnut Avenue, Carmichael, CA 95609

Phone: (916) 971-7238
kent.stephens@sanjuan.edu

Joe Stephenshaw, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*

Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814

Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Jolene Tollenaar, *MGT of America*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913
jolenetollenaar@gmail.com

Brian Uhler, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

Michelle Valdivia, *Department of Finance*

Education Systems Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328
Michelle.valdivia@dof.ca.gov

Marichi Valle, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126

Phone: (408) 535-6141
mvalle@sjusd.org

Elena Wilson, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: 916-323-3562
elena.wilson@csm.ca.gov