

Edmund G. Brown Jr.  
GOVERNOR



# STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

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## REPORT TO THE LEGISLATURE: APPROVED MANDATE CLAIMS

July 1, 2016 – December 31, 2016

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Director of the Department of  
Finance

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Vice Chairperson  
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## **I. INTRODUCTION**

### **Commission on State Mandates**

#### Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement article XIII B, section 6, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.<sup>1</sup> The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.<sup>2</sup>

#### Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvended to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate for the mandated program (Gov. Code, § 17553).

#### Alternative Processes

Government Code section 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvended for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been fully utilized.

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<sup>1</sup> Statutes 1984, chapter 1459, Government Code section 17500, et seq.

<sup>2</sup> Government Code section 17551.

## **Report to the Legislature**

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.<sup>3</sup> In 2010, SB 894 (Stats. 2010, ch. 699) was enacted to require the Commission to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the completion of the above-named caseload.

This report fulfills these requirements.

## **Legislative Analyst**

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

## **The Legislature**

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.<sup>4</sup>

The Legislature may amend, modify, or supplement the parameters and guidelines, reasonable reimbursement methodologies, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, reasonable reimbursement methodologies, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.<sup>5</sup>

## **Mandate Funding Provisions**

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.<sup>6</sup> Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred

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<sup>3</sup> Government Code section 17600.

<sup>4</sup> Government Code section 17612(a).

<sup>5</sup> Government Code section 17612(b).

<sup>6</sup> Government Code section 17612(c).

prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.<sup>7</sup>

If the amount the Legislature appropriates is insufficient to pay all of the reimbursement claims filed and approved for reimbursement, the Controller will prorate the claims.<sup>8</sup> If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

**II. NEW MANDATES**

The following table shows the Statewide Cost Estimates that were adopted during the period of July 1, 2016 through December 31, 2016.

**Statewide Cost Estimates (SCE) Adopted  
During the Period of July 1, 2016 through December 31, 2016**

<i>Adoption Date, Claim Name and Number, and Initial Claiming Period</i>			<i>Estimated Costs for Initial Claiming Period</i>			<i>Estimated Future Annual Costs</i>
Date	Test Claim Name and Number	Initial Claiming Period	Education (K-14)	Local Agency	Totals	Annual
7/22/16	<i>Immunization Records - Pertussis, 11-TC-02 (14-PGA-01)</i>	7/1/14-6/30/15	\$2,642,074		\$2,642,074	\$2,687,550
10/28/16	<i>Training for School Employee Mandated Reporters, 14-TC-02</i>	1/1/15 – 6/30/15	\$21,750,000		\$21,750,000	\$43,500,000
<b>TOTAL</b>			<b>\$24,392,074</b>		<b>24,392,074</b>	<b>\$46,187,550</b>

**III. PENDING PARAMETERS AND GUIDELINES, AMENDMENTS, AND STATEWIDE COST ESTIMATE CASELOAD**

Following are tables showing parameters and guidelines, parameters and guidelines which include proposed reasonable reimbursement RRM, requests to amend parameters and guidelines, requests to amend parameters and guidelines which include proposed RRM, and statewide cost estimates that are pending Commission determination. A request to include an

<sup>7</sup> Government Code section 17561.5(a).

<sup>8</sup> Government Code section 17567.

RRM in parameters and guidelines or amendments thereto is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above under “Alternative Processes.” These requests are often disputed by one or more of the parties and interested parties.

**A. Pending Parameters and Guidelines**

	<b>Program</b>	<b>Status</b>
1.	<i>Discharge of Stormwater Runoff</i> , 07-TC-09*	Inactive pending court action.

\* Local agency programs

† School district or community college district programs

**B. Pending Parameters and Guidelines with Proposed RRMs**

	<b>Program</b>	<b>Status</b>
	None	

\* Local agency programs

† School district or community college district programs

**C. Pending Requests to Amend Parameters and Guidelines**

	<b>Program</b>	<b>Status</b>
1.	<i>Graduation Requirements</i> , 11-PGA-03 (CSM-4435)†	Inactive pending court action.

\* Local agency programs

† School district or community college district programs

**D. Pending Requests to Amend Parameters and Guidelines with Proposed RRMs**

	<b>Program</b>	<b>Status</b>
	None	

\* Local agency programs

† School district or community college district programs

**E. Pending Statewide Cost Estimates**

	<b>Program</b>	<b>Status</b>
1.	<i>Immunization Records – Mumps, Rubella, and Hepatitis B</i> , 98-TC-05 (14-MR-04)	Set for hearing January 27, 2017
2.	<i>California Assessment of Student Performance and Progress (CAASPP)</i> , 14-TC-01 and 14-TC-04	Set for hearing January 27, 2017
3.	<i>Municipal Storm Water and Urban Runoff Discharges</i> , 03-TC-04, 03-TC-19, 03-TC-20, and 03-TC-21*	Inactive pending court action.

\* Local agency programs

† School district or community college district programs

**IV. PENDING JOINT REASONABLE REIMBURSEMENT  
METHODOLOGIES AND LEGISLATIVELY-  
DETERMINED MANDATES**

**A. Pending Joint Reasonable Reimbursement Methodologies**

Following is a table showing programs where Department of Finance and test claimants are negotiating RRM's.

	<b>Program</b>	<b>Date of Notice by Local Agencies or Department of Finance</b>	<b>Status</b>
	None		

**B. Pending Joint Legislatively-Determined Mandates**

Following is a table showing programs for which Department of Finance and local agencies are negotiating legislatively-determined mandates (LDM's) they may jointly propose to the Legislature for adoption.

	<b>Program</b>	<b>Date of Notice</b>	<b>Status</b>
	None		

**C. Delays in the Process**

Government Code section 17600 requires the Commission to report any delays in the process for joint RRM's or LDM's being developed by Department of Finance and local entities and for RRM's proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM's, LDM's or RRM's proposed by any party. Therefore, there are no delays in these processes.

With regard to RRM's included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, since the 2011-12 fiscal year, the Commission has adopted a total of six proposed RRM's in parameters and guidelines, or amendments thereto, and has denied five proposals based on a lack of evidence in the record, that the proposed formula or unit cost reasonably represents the costs mandated by the state for all eligible claimants in the state. There are currently no pending parameters and guidelines or amendments thereto containing RRM's.

There are currently 15 test claims pending, 14 of which were recently removed from inactive status as a result of the California Supreme Court Decision in *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749. These test claims are currently tentatively scheduled for hearing between January 2017 and September 2018, though they will likely take longer due to their complexity (legal and factual issues and unusually large number of parties/co-claimants) and size (records exceeding 10,000 pages). Therefore, the test claim caseload is once again backlogged.

Additionally, the Commission has heard and decided all pending parameters and guidelines and amendments thereto, except for those being stayed pending court action.

Commission staff also expects to complete the incorrect reduction claim backlog by the end of the 2018 calendar year.

Because test claim decisions, initial parameters and guidelines and statewide cost estimates have a statutory deadline of 12-18 months for completion, they will generally be heard prior to other matters, including RRM's in parameters and guidelines amendments. Thus, in order to promptly

hear and decide parameters and guidelines amendment proposals that contain RRMs, it is necessary that the Commission operate without a backlog of test claims, initial parameters and guidelines and statewide cost estimates. However, it is unlikely that many parameters and guidelines amendment proposals containing RRMs will be filed due to the new requirement to use claims data that has been audited by the State Controller for such proposals and there are no such proposals currently pending.

At present, there is a backlog of test claims, but no backlog of initial parameters and guidelines, statewide cost estimates, or amendments to parameters and guidelines.



## V. ADOPTED STATEWIDE COST ESTIMATES

*Immunization Records - Pertussis*, 11-TC-02 (14-PGA-01)

Adopted: July 22, 2016

### STATEWIDE COST ESTIMATE

**\$2,642,074 for 2014-2015**

**(\$2,687,550 Approximate Cost for 2015-2016)**

Health and Safety Code Section 120335(d)

Statutes 2010, Chapter 434 (AB 354)

*Immunization Records – Pertussis*

11-TC-02 (14-PGA-01)

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### STAFF ANALYSIS

#### Background and Summary of the Mandate

The *Immunization Records – Pertussis* program prohibits schools from admitting or advancing pupils into the 7th through 12th grade levels during the 2011-2012 fiscal year and, beginning in the fiscal year 2012-2013, pupils entering or advancing to the 7th grade level, unless the pupil is fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age, or has documented a permanent medical exemption or personal belief exemption to immunization against pertussis.

On July 26, 2013, the Commission on State Mandates (Commission) adopted the Test Claim Statement of Decision, 11-TC-02, finding that the Health and Safety Code section 120335(d), as added and replaced by the test claim statute, imposes a partially reimbursable state-mandated program upon school districts; and on December 6, 2013, adopted the Parameters and Guidelines, requiring school districts to submit reimbursement claims based on actual costs incurred, and retain all documents used to support the approved reimbursable activities during the period subject to audit.

On September 25, 2015, the Commission adopted an Amendment to Parameters and Guidelines, 14-PGA-01, hereinafter referred to as the “amended Parameters and Guidelines,” to add a unit cost reasonable reimbursement methodology (RRM) of \$9.17 per eligible 7th grade entrant based on 2012-2013 data, adjusted in subsequent years by the Implicit Price Deflator<sup>9</sup> (IPD) for the period of reimbursement beginning July 1, 2014.<sup>10</sup> Specifically, Section V. has been amended to include the following language which replaced the former language requiring reimbursement based on a showing of actual costs incurred:

In lieu of filing detailed documentation of actual costs, the Commission hereby adopts a reasonable reimbursement methodology (RRM), as authorized by Government Code sections 17557(b) and 17518.5, to reimburse claimants for all

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<sup>9</sup> Pursuant to Government Code section 17523, the Implicit Price Deflator references the “costs of goods and services to governmental agencies, as determined by the Department of Finance.”

<sup>10</sup> Exhibit A, Decision and Amendment to Parameters and Guidelines, 14-PGA-01(11-TC-02), page 25.

direct and indirect costs of the reimbursable activities identified in Section IV. Reimbursable Activities of this document.

The RRM for the mandated activities shall be calculated by multiplying the total number of pupils entering the 7th grade by the uniform cost allowance, adjusted each year by the Implicit Price Deflator. The base uniform cost allowance is \$9.17, based on fiscal year 2012-2013 data. The base uniform cost allowance, when adjusted for inflation by the Implicit Price Deflator for the period of reimbursement beginning July 1, 2014, is \$9.47.<sup>11</sup>

Further, the amended Parameters and Guidelines deleted the activities required during fiscal year 2011-2012 only for pupils entering grades 7 through 12. Those activities have already been performed and claimed and are no longer required based on the plain language of the test claim statute. Hence, when adjusted for inflation by the IPD, the base unit cost reimbursement rate increases to \$9.47 per 7th grade entrant, beginning fiscal year 2014-2015, for reimbursement of all direct and indirect costs of the ongoing reimbursable activities, as described below under the Reimbursable Activities section.<sup>12</sup>

Eligible claimants were required to file reimbursement claims for costs incurred in fiscal year 2014-2015 with the State Controller's Office (Controller) by April 27, 2016, for the approved reimbursable activities based on the amended Parameters and Guidelines. Claims filed more than one year after the filing date will not be accepted.<sup>13</sup>

#### Eligible Claimants and Period of Reimbursement

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.

Government Code section 17557(d)(1) states that "... A parameters and guidelines amendment submitted within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to section 17561, and on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year."

The requester filed the Request to Amend the Parameters and Guidelines on April 15, 2015, and before the claiming deadline of February 15, 2016, following fiscal year 2014-2015, thus, establishing the reimbursement period beginning July 1, 2014, based on the filing date of the request.

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<sup>11</sup> Exhibit A, Decision and Amendment to Parameters and Guidelines, 14-PGA-01(11-TC-02), page 25.

<sup>12</sup> Exhibit A, Decision and Amendment to Parameters and Guidelines, 14-PGA-01(11-TC-02), page 25.

<sup>13</sup> Office of the State Controller, State Mandated Costs Claiming Instructions No. 2015-10, Immunization Records – Pertussis (Rev. Dec. 29, 2015).

## Reimbursable Activities

The amended Parameters and Guidelines authorize the RRM for reimbursement of all direct and indirect costs for the following activities of each eligible claimant:

A. For students entering the 7th grade:

- (1) Receive and review the following documents for all pupils entering the 7th grade to determine whether to unconditionally admit or conditionally admit the pupil:
  - a) A written record of the pertussis vaccination (Tdap booster) that contains the name of the pupil, birth date of the pupil, the date of the pertussis vaccination, and the name of the physician or agency administering the vaccine; *or*
  - b) Documentation showing a pupil's permanent medical exemption or personal beliefs exemption to immunization. A permanent medical exemption shall be granted upon the filing of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical circumstances relating to the pupil are such that immunization is permanently not indicated. A personal beliefs exemption for the pertussis booster shall be granted upon the filing of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of minor, or the person seeking admission if an emancipated minor, that such pertussis booster immunization is contrary to his or her beliefs.
  - c) Documentation showing a pupil is temporarily exempted from immunization for medical reasons.

Pupils who are fully immunized against pertussis based on records provided by the student's physician or agency performing the immunization, or who have documented a permanent medical exemption or a personal belief exemption to immunization against pertussis shall be unconditionally admitted to grade 7. Pupils who have a temporary medical exemption shall be admitted to grade 7 on condition that the required immunization is obtained at the termination of the exemption.

*Reimbursement is not required to perform activities generally required to admit students since those activities are not new. Reimbursement is limited to receiving and reviewing the above documents.*

- (2) If it is determined that a pupil seeking admission lacks documentation that he or she has been fully immunized against pertussis, and does not have a permanent medical exemption or a personal belief exemption to the pertussis immunization, advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.
- (3) For any already admitted pupil who is later found not to have complied with requirements for conditional admission, notify that pupil's parents or guardians of the requirement to exclude the pupil from school if written evidence of the required immunization for pertussis, or lawful exemption therefrom, is not obtained within 10 school days.
- (4) Report to the attendance supervisor or building administrator any pupil excluded from further attendance who fails to obtain the required immunizations within 10 school days following notice, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received the pertussis immunization required.

In addition, the following activities are specifically excluded from reimbursement: (1) reporting the immunization status of students to county health departments or the state; (2) recording and maintaining student immunization records; and (3) periodically reviewing student immunization records to ensure compliance with the test claim statute. These activities are not required to implement the test claim statute and are instead addressed by the Department of Public Health (“DPH”) regulations that were not properly pled and therefore beyond the Commission’s jurisdiction.<sup>14</sup>

### **Offsetting Revenues and Reimbursements**

The amended Parameters and Guidelines provide:

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.<sup>15</sup>

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

### **Statewide Cost Estimate**

#### Assumptions

Staff reviewed the reimbursement claims data report compiled by the Controller on approximately 292 school districts.<sup>16</sup> The unaudited reimbursement claims totaled \$2,642,074 for fiscal year 2014-2015. Based on the claiming data, staff made the following assumptions and used the following methodology to develop this Statewide Cost Estimate pursuant to the amended Parameters and Guidelines.

- *The annual amount claimed for reimbursement may increase and exceed this Statewide Cost Estimate.*

There are currently 1050 school districts in California. Of those, only 292 school districts filed reimbursement claims, totaling \$2,642,074 for fiscal year 2014-2015. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the Statewide Cost Estimate. Claims filed more than one year after April 27, 2016, will not be accepted. There also may be several reasons that non-claiming school districts do not file reimbursement claims, including but not limited to: (1) they do not incur more than \$1,000 in increased costs for this program; or (2) they participated in the Mandate Block Grant program prior to the program’s removal date, effective January 1, 2016.<sup>17</sup>

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<sup>14</sup> See “Reimbursable Activities” of Parameters and Guidelines, 11-TC-02 (14-PGA-01), pages 3-4.

<sup>15</sup> Exhibit A, Decision and Amendment to Parameters and Guidelines, 14-PGA-01(11-TC-02), page 5.

<sup>16</sup> Claims data reported as of June 15, 2016 for 2014-2015.

<sup>17</sup> Statutes 2015, chapter 35 (AB 731) deletes *Immunization Records - Pertussis* from the Mandate Block Grant as of January 1, 2016.

- *The future annual costs for this program may be higher or lower than the Statewide Cost Estimate if school districts' enrollment for pupils entering the 7th grade increases or decreases.*

The future annual costs of the program have a direct correlation to the number of pupils enrolling into the 7th grade. For example, in 2014-2015 there were 464,286 pupils entering the 7th grade according to the California Department of Education (CDE).<sup>18</sup> However, only 278,994<sup>19</sup> pupils out of a total of 464,286 pupils entering 7th grade were included in reimbursement claims. If more districts file reimbursement claims for costs for their pupils entering the 7th grade or if the number of pupils entering the 7th grade in those districts submitting reimbursement claims increases, the future annual costs will be higher than this Statewide Cost Estimate. Furthermore, CDE reported a total of 470,753 pupils entering the 7th grade in 2015-2016.<sup>20</sup> That is an increase of 6,467 pupils or just under 1.4 percent statewide from the enrollment data reported by CDE for 2014-2015. Thus, assuming an even distribution of the percentage increase in entering 7th graders, and that the same districts continue to submit reimbursement claims, the number of pupils claimed for 2015-2016 may increase to 282,900 (278,994 plus 1.4 percent), increasing this Statewide Cost Estimate.

- *The future annual costs for this program may be higher or lower than this Statewide Cost Estimate depending on the IPD.*

The RRM is based on inflation and can go up or down if the IPD increases or decreases, and this has a direct impact on the reimbursable costs of the program. The Department of Finance projects the IPD to increase by 0.3 percent in 2015-2016.<sup>21</sup> If the IPD increases in subsequent years and the number of pupils entering the 7th grade remains constant or increases, then the future annual costs for the program would be higher than the Statewide Cost Estimate. Furthermore, it is assumed that the RRM will increase to \$9.50 (\$9.47 plus 0.3 percent) in 2015-2016, thus increasing the Statewide Cost Estimate.

- *The total amount of reimbursement for this program may be lower than the Statewide Cost Estimate based on the Controller's audit findings.*

The Controller may conduct audits to verify the application of the RRM and reduce any reimbursement claim for this program based on its audit findings. To the extent that a claimant has applied the RRM inconsistently with the amended Parameters and Guidelines, the Controller may reduce the amount claimed.

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<sup>18</sup> Exhibit D, California Department of Education, Statewide Enrollment by Grade-Enrollment by Grade for 2014-2015.

<sup>19</sup> Based on the claims data report as of June 15, 2016, the total cost of the program in 2014-2015 is \$2,642,074. If those costs are divided by the RRM of \$9.47, then the estimated number of pupils claimed is 278,994.

<sup>20</sup> Exhibit D, California Department of Education, Statewide Enrollment by Grade-Enrollment by Grade for 2015-2016.

<sup>21</sup> Exhibit D, National Deflators (2009=100), May Revision Forecast, April 2016, updated May 13, 2016, [http://dof.ca.gov/HTML/FS\\_DATA/LatestEconData/FS\\_Price.htm](http://dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Price.htm). (Accessed June 10, 2016.)

## Methodology

The Statewide Cost Estimate for fiscal year 2014-2015 was developed by totaling the costs of the reimbursement claims submitted by the 292 school districts which equals \$2,642,074 for 278,994 pupils (\$2,642,074 divided by \$9.47 RRM).

The Statewide Cost Estimate for fiscal year 2015-2016 was developed by assuming that only the same 292 school districts file reimbursement claims, with a projected 1.4 percent increase in 7th grade pupil enrollment (resulting in 282,900 pupils) and a 0.3 percent increase in IPD (resulting in a \$9.50 RRM), and is \$2,687,550.

Following is a breakdown of estimated total costs for the 2014-2015 and 2015-2016 fiscal years:

<b>Fiscal Year</b>	<b>Number of Claims Filed</b>	<b>Total Cost</b>
2014 – 2015	292 (278,994 pupils)	\$2,642,074
2015 – 2016 (estimated)	292 (282,900 pupils)	\$2,687,550

## **Draft Proposed Statewide Cost Estimate**

On June 14, 2016, Commission staff issued the Draft Proposed Statewide Cost Estimate.<sup>22</sup> On June 23, 2016, the Controller filed comments reporting an increase in the total claims filed to 292 and total cost of claims to \$2,642,074 for fiscal year 2014-2015 due to late and amended claims.<sup>23</sup> In accordance, the Statewide Cost Estimate has been updated to reflect those increases and their related assumptions.

## **Conclusion**

On July 22, 2016, the Commission adopted this Statewide Cost Estimate of \$2,642,074 for fiscal year 2014-2015 and \$2,687,550 for fiscal year 2015-2016 on consent, with all members present voting to adopt the Consent Calendar.

<b>Member</b>	<b>Vote</b>
Ken Alex, Director of the Office of Planning and Research	Yes
Richard Chivaro, Representative of the State Controller	Absent
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	Yes
Sarah Olsen, Public Member	Yes
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	Yes
Carmen Ramirez, City Council Member	Yes
Don Saylor, County Supervisor	Absent

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<sup>22</sup> Exhibit B, Draft Proposed Statewide Cost Estimate.

<sup>23</sup> Exhibit C, State Controller's Comments.

Adopted: October 28, 2016

**STATEWIDE COST ESTIMATE**

**\$82,927**

**(Estimated Cost for Fiscal Year 2015-2016 is \$21.75 Million)**

Education Code Section 44691(b) and (c); and Penal Code Section 11165.7(d)

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

*Training for School Employee Mandated Reporters*

14-TC-02

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The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent during a regularly scheduled hearing on October 28, 2016, with two members absent.

<b>Member</b>	<b>Vote</b>
Ken Alex, Director of the Office of Planning and Research	Yes
Richard Chivaro, Representative of the State Controller	Absent
Mark Hariri, Representative of the State Treasurer, Vice Chairperson	Yes
Sarah Olsen, Public Member	Yes
Eraina Ortega, Representative of the Director of the Department of Finance, Chairperson	Yes
Carmen Ramirez, City Council Member	Yes
Don Saylor, County Supervisor	Absent

**STAFF ANALYSIS**

**Background and Summary of the Mandate**

This mandated program imposes new child abuse and neglect training requirements on school districts (K-12 school districts and county offices of education) for employees and persons working on their behalf who are identified as mandated reporters.

On December 3, 2015, the Commission adopted the Test Claim Decision<sup>24</sup> finding that Education Code section 44691(b) and (c), and Penal Code section 11165.7(d), as added and amended by Statutes 2014, chapter 797, impose a reimbursable state-mandated program upon school districts (K-12 school districts and county offices of education), within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Parameters and Guidelines were adopted on January 22, 2016.<sup>25</sup>

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<sup>24</sup> Exhibit A, Test Claim Decision.

<sup>25</sup> Exhibit B, Decision and Parameters and Guidelines.

Eligible claimants were required to file initial reimbursement claims for costs incurred for January 1, 2015 through June 30, 2015 with the State Controller's Office (Controller) by August 24, 2016. Late initial reimbursement claims may be filed until August 24, 2017. Claims for fiscal year 2015-2016 must be filed with the Controller by February 15, 2017. Claims filed more than one year after the filing deadline will not be accepted.

### Eligible Claimants and Period of Reimbursement

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.

Government Code section 17557(e) states that "... A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." The claimant filed the test claim on June 1, 2015, following fiscal year 2013-2014 to establish the reimbursement period beginning July 1, 2013. However, the operative date of the test claim statute was January 1, 2015, thus, establishing the reimbursement period beginning January 1, 2015.

### **Reimbursable Activities**

The Parameters and Guidelines authorize reimbursement of each eligible claimant 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:
  - d) 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
  - e) 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) and (c); Pen. 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 11165.7, as added or amended by the 2014 test claim statute, do not impose a reimbursable state-mandated program.



## Offsetting Revenues and Reimbursements

The Parameters and Guidelines provide the following:

Any offsetting revenue 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.

To the extent that the claimant has used fees or any funds provided by the state or federal government, as opposed to proceeds of local taxes, to pay for the cost of the program, those costs are not reimbursable.

## Statewide Cost Estimate

### Assumptions

Staff reviewed the reimbursement claims submitted by 19 school districts and data compiled by the Controller.<sup>26</sup> The unaudited reimbursement claims total \$82,927 for January 1, 2015 through June 30, 2015. Based on the claims data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The annual amount claimed for reimbursement may increase and exceed this Statewide Cost Estimate.*

There are currently 1050 school districts in California. Of those, only 19 school districts filed reimbursement claims, totaling \$82,927 for the initial reimbursement period of January 1, 2015 through June 30, 2015. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the Statewide Cost Estimate. Late initial claims for January 1, 2015 through June 30, 2015 may be filed until August 24, 2017.

There also may be several reasons that non-claiming districts did not file reimbursement claims, including but not limited to: they did not incur costs of more than \$1,000 within the six-month reimbursement period of January 1, 2015 through June 30, 2015.

- *The future annual costs for this program will depend on the time an employee takes to complete the required training.*

The future annual costs of this program have a direct correlation with the time to complete the required training. This assumption is based on the actual claims, which calculate training costs by multiplying the employee's salary by the time to complete the training. The average training time claimed for fiscal year 2014-2015 is 60 minutes. However, the self-paced *Child Abuse Mandated Reporter Training*, School Personnel Training module, offered online by the California Department of Social Services (CDSS)<sup>27</sup> could take 90-180 minutes.<sup>28</sup> If a school district provides an alternative training program that complies with the test claim statute and requires more time to complete,

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<sup>26</sup> Claims data reported as of August 31, 2016.

<sup>27</sup> The test claim statute authorizes school districts to use the CDSS's online training module. See Parameters and Guidelines, page 3.

<sup>28</sup> Exhibit D, See Website on Child Abuse Mandated Reporter Training California provided by CDSS: <http://mandatedreporterca.com/training/training.htm>, as accessed on October 4, 2016.

then the future annual costs of the program would be higher. If the district's training program takes less time, future annual costs per employee, would be lower.

- *The future annual costs will increase or decrease proportionately with the growth or reduction in the number of personnel, employed with or working on behalf of a school district, who are identified as mandated reporters.*

The growth or reduction in the number of school district personnel will increase or decrease the future annual costs of the program based on the requirement for school districts to provide annual training to all personnel, employed with or working on behalf of a school district, who are identified as mandated reporters.

- *The total amount of reimbursement for this program may be lower than the Statewide Cost Estimate based on the Controller's audit findings.*

The Controller may conduct audits and reduce any claim it deems to be excessive or unreasonable. Therefore, costs may be lower than the Statewide Cost Estimate based on the Controller's audit findings.

- *The future annual costs of this program may vary depending on whether this program is added to the K-12 Mandate Block Grant program, and the level of school district participation in the K-12 Mandate Block Grant program.*

If this mandated program is added to the K-12 Mandate Block Grant **and** a school district voluntarily participates in the block grant program, then costs cannot be claimed through the state's reimbursement process. A school district or county office of education that receives block grant funding is not eligible to submit claims to the Controller for reimbursement pursuant to Government Code section 17560 for any costs of any state mandates included in the statutes and executive orders identified in Government Code section 17581.6(e).<sup>29</sup> The block grant allows school districts to receive a per pupil allocation to carry out reimbursable mandated activities. In 2013-2014, 84 percent of school districts and 79 percent of county offices of education participated in the block grant.<sup>30</sup> As a result, the future annual costs of this program may be lower than the Statewide Cost Estimate.

- *At maximum, this mandated program is estimated to cost between \$21.75 million and \$99 million.*

According to the reimbursement claims filed for 2014-2015, the training hours constituted 60 percent of the total program cost, the cost of developing a process to record proof of completing training constituted 25 percent of total costs, the cost of reporting alternative training to CDE was 10 percent of costs claimed, and indirect costs represented 5 percent of costs claimed. Assuming for fiscal year 2015-2016 that every school district in the state trained every one of its employees and submitted a timely reimbursement claim of up to three<sup>31</sup> training hours per employee, the *maximum* annual

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<sup>29</sup> 17581.6(c)(3).

<sup>30</sup> Exhibit D, Legislative Analyst's Office *Analysis of Education Mandates*, February 26, 2014, pages 9-10.

<sup>31</sup> Exhibit D, CDSS' Online Training Instructions estimate between 90-180 minutes for School Personnel Training. See website on Child Abuse Mandated Reporter Training California

cost estimate for fiscal year 2015-2016 could range from \$59 million and \$265 million<sup>32</sup>. However, while such high costs are possible, they are not probable because historically, less than half of eligible school districts have participated in the mandate reimbursement process by submitting reimbursement claims to the Controller.<sup>33</sup> Additionally, it is highly unlikely that school districts will claim as 25 percent of their ongoing costs, the cost of developing a process to record proof of completing training once a process has been established by the district (though this is not limited as a one-time cost). Therefore, the future *maximum* cost of this program is more likely to range between \$21.75 million and \$99 million.

Methodology

The Statewide Cost Estimate for the period of January 1, 2015 through June 30, 2015 is based on the unaudited, reimbursement claims submitted by 19 school districts totaling \$82,927.

<b>Reimbursement Period</b>	<b>Number of Claims Filed</b>	<b>Total Cost</b>
January 1, 2015 through June 30, 2015	19	\$82,927

The Statewide Cost Estimate for fiscal year 2015-2016 was developed by multiplying the total number of school certified and classified employees in California - 589,320 (346,167 certified plus 243,153 classified) as reported by CDE<sup>34</sup> by the average hourly salary of school employees - \$55<sup>35</sup>, which is then multiplied by the average one training hour for the CDSS online School Personnel module<sup>36</sup> to equal \$32.4 million in training costs. From the actual claiming data, employee training constitutes 60 percent of the total program cost; developing a process to record proof of completing training is 25 percent; reporting alternative training to CDE is 10 percent; and indirect costs are five percent. Therefore, the total is \$54 million. However, assuming the historical trend that less than half of districts will file reimbursement claims and that it is unlikely that districts will continue to claim as 25 percent of their on-going costs the cost of developing a process to record proof of completing training once a process has been established by the district, the Statewide Cost Estimate for fiscal year 2015-2016 is \$21.75 million.

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provided by CDSS: <http://mandatedreporter.ca.com/training/training.htm>, as accessed on October 4, 2016.

<sup>32</sup> This estimate uses the average school employee salary rate assumed from the claiming data that ranges from \$20-\$90 per hour.

<sup>33</sup> Exhibit D, Legislative Analyst’s Office, *Governor’s K-12 Mandates Proposal*, February 16, 2012, page 1.

<sup>34</sup> Exhibit D, California Department of Education’s staffing reports: *Full-Time Equivalent (FTE) of Classified Staff 2015-16, State of California with County Information*, and *Certified Staff by Ethnicity for 2014-15; State of California, All Certified Staff California*. The 2015-2016 certified staffing data was not available prior to issuing this Statewide Cost Estimate.

<sup>35</sup> The average salary rate is assumed from the claiming data that ranges from \$20-\$90.

<sup>36</sup> The average time to complete training is assumed from the claiming data.

<b>Fiscal Year 2015-2016</b>	<b>Cost of Employee Training</b>	<b>Cost of Reporting to CDE</b>	<b>Indirect Costs</b>	<b>Annual Total Cost</b>	<b>Historical Trend Total Cost</b>
\$ in millions	\$32.4	\$5.4	\$2.7	\$43.5	<b>\$21.75</b>

### **Draft Proposed Statewide Cost Estimate**

On October 4, 2016, Commission staff issued the Draft Proposed Statewide Cost Estimate.<sup>37</sup> No comments were filed on the Draft Proposed Statewide Cost Estimate

### **Conclusion**

On October 28, 2016, the Commission adopted this Statewide Cost Estimate of \$82,927 for the period January 1, 2015 through June 30, 2105 and the estimated cost for fiscal year 2015-2016 of \$21.75 million.

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<sup>37</sup> Exhibit C, Draft Proposed Statewide Cost Estimate.