

TITLE 2. ADMINISTRATION
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 2.5. COMMISSION ON STATE MANDATES

NOTICE OF PROPOSED RULEMAKING

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or their authorized representative no later than 15 days before the close of the written comment period, by January 15, 2024, the Commission will conduct a public hearing on this proposed action on March 22, 2024, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The comment period closes on **January 29, 2024**. The Commission will only consider written comments received at the Commission offices by that time. Commenters are strongly encouraged to submit their written comments electronically, if possible (to prevent the spread of COVID-19), via the Commission website “dropbox” at: <https://www.csm.ca.gov/dropbox.shtml>. Written comments may also be submitted to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Phone: (916) 323-3562

AUTHORITY AND REFERENCE

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. Reference citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is a seven-member quasi-judicial body created by the Legislature to resolve disputes regarding the existence of state-mandated local programs (Government Code section 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to: (1) add new formatting requirements for accessibility of new filings and written materials filed with the Commission; (2) clarify that firms or organizations may be a party’s designated representative; (3) clarify the Commission’s regulation on holding teleconferenced meetings; (4) delegate authority to the executive director to deem incomplete requests to review claiming instructions and

notices of intent to join a consolidated incorrect reduction claim, withdrawn; (5) fix incorrect citations, and add or remove authority and reference citations; and (6) make minor, non-substantive edits and corrections.

Therefore, the Commission proposes revised language and citations in Articles 1, 3, 4, 5, and 7 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5, Sections 1181.2, 1181.3, 1181.13, 1183.1, 1183.5, 1183.6, 1184.1, 1185.4, 1185.6, 1187.5, 1187.7, and 1187.8 with a proposed effective date of July 1, 2024, if no public hearing is requested, or October 1, 2024, if a public hearing is requested.

Anticipated Benefits of the Proposed Regulations

The proposed regulations will result in documents filed with the Commission that are more accessible for people with disabilities; make it easier on parties to work with firms or organizations to represent them in a matter without needing to file a change in representation each time a different member of a designated firm or organization appears on their behalf; clarify the circumstances when the Commission may hold teleconferenced meetings and what statutes authorize them to do so; make the process for dismissing incomplete requests to review claiming instructions or notices of intent to join a consolidated incorrect reduction claim after the party fails to submit a corrected filing consistent with other regulations; correct erroneous citations so the regulations refer to the relevant and current regulations and statutes; and make various minor non-substantive edits for clarity.

Consistency and Compatibility with Existing State Regulations

After conducting a review of existing regulations, the Commission has concluded that California Code of Regulations, title 2, sections 1181.1 et seq., are the only regulations concerning the Commission's process. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

DESCRIPTION OF PROPOSED REGULATIONS

I. Add New Formatting Requirements for New Filings and Written Materials Filed with the Commission.

Section 1181.3 Certification, Filing, and Service of Written Materials and New Filings.

The proposed amendments amend section 1181.3 to add a new subdivision (c)(1) that imposes formatting requirements for new filings and written materials filed with the Commission for purposes of accessibility; rename section 1181.3 to reflect the additional formatting regulations; reorder and amend the existing subdivisions (c)(1), (c)(2) and (c)(3) to reflect the addition of the new language in subdivision (c)(1); and add Government Code section 7405, which requires state entities to comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973 and part 1194 of Title 36 of the Federal Code of Regulations, as a reference to the proposed regulations.

II. Allow Firms or Organizations to Be a Party's Representative.

Section 1181.2 Definitions; and 1187.8 Representation at Hearings.

The proposed amendments add language to sections 1181.2(l) and 1187.8(a) and (b), clarifying that a party's designated representative can be a firm or organization, rather than just a single individual, and that when a firm or organization is the designated representative, any member of the firm or organization may act as the party's representative without requiring the party file a new authorization. This will help to streamline the process for the claimants.

III. Clarification of Teleconferencing Regulation

Section 1181.13 Commission Meeting by Teleconference.

The proposed amendment adds language to section 1181.13 clarifying that besides holding teleconferences when the Commission is unable to have a quorum meet in person, the Commission may also hold teleconferences where a quorum meets in person at the same publicly accessible teleconference location but additional members participate remotely from remote locations not accessible to the public, as is authorized by Government Code section 11123.2. The amendment also adds Government Code section 11123.2 to the references cited for this regulation. This clarifies the circumstances in which the Commission may hold a teleconferenced meeting and what statutes allow it to do so.

IV. Delegate Authority to Deem Incomplete Filings Have Been Withdrawn to the Executive Director.

Section 1184.1 Review of Office of State Controller Claiming Instructions; and Section 1185.4 Joining a Consolidated Incorrect Reductions Claim.

The proposed amendments amend sections 1184.1(d) and 1185.4(c) to delegate to the executive director the authority to deem an incomplete request to review claiming instructions or notice of intent to join a consolidated incorrect reduction claim withdrawn after the claimant fails to provide a corrected request or notice within 30 days of Commission staff notifying the claimant its request or notice did not provide all required information and is considered incomplete, instead of bringing the matter to the Commission to withdraw the claim or request. The proposed regulations make the process consistent with other regulations delegating the authority to the executive director to dismiss test claims and deem incorrect reductions claims withdrawn under the same circumstances.

V. Fix Incorrect Citations and Add or Remove Authority and Reference Citations.

Section 1183.1 Test Claim Filing; Section 1183.5 Executive Director's Authority to Consolidate or Sever Test Claims; Section 1183.6 Review of Completed Test Claim and Preparation of Proposed Decision; Section 1187.5 Evidence Submitted to the Commission; Section 1187.7 Witnesses and Subpoenas; and Section 1187.8 Representation at Hearing.

The proposed amendments fix two erroneous references to repealed Government Code sections in section 1183.1's references note that were intended to be references to Education Code sections with the same numbering; amend sections 1183.5 and 1183.6 to correct two references to mailing lists as described in these regulations that cite to the wrong regulation section; amend section 1187.7(d) to update a citation to the Public

Records Act, which has been recently renumbered by the Legislature and is no longer found in the referenced section; and amend the authorities and references cited for sections 1187.5 and 1187.8 to remove repealed Government Code sections and sections that were incorrectly cited as authorities, and to add Government Code sections that give the Commission authority to establish procedures for hearing a specific type of matter or that are implemented, interpreted, or made more specific by these regulations.

VI. Amend Regulations to Make Minor, Non-Substantive Changes.

Section 1183.1 Test Claim Filing and Section 1185.6 Executive Director’s Authority to Consolidate or Severe Incorrect Reduction Claims.

The proposed amendments make minor non-substantive amendments to improve readability to sections 1183.1 and 1185.6.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED UPON TO DEVELOP REGULATIONS

In developing the proposed changes, the Commission relied on the following documents:

1. Web Content Accessibility Guidelines (WCAG) 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20/> (accessed June 27, 2023).
2. PDF Techniques for WCAG 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20-TECHS/pdf> (accessed July 5, 2023).
3. What Are Accessible Fonts?, Cam Weller, <https://www.accessibility.com/blog/what-are-accessible-fonts> November 2, 2021 (accessed July 5, 2023).

The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school district:	None
Cost or savings to any state agency:	None
Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:	None
Other non-discretionary cost or savings imposed on local agencies:	None
Cost or savings in federal funding to the state:	None
Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:	None
Significant effect on housing costs:	None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of the Economic Impact Analysis/Assessment

The Commission concludes that the proposal will: (1) not create or eliminate jobs within California; (2) not create new businesses or eliminate existing businesses within California; and (3) not affect the expansion of businesses currently doing business within California.

Small Business Determination

Because the Commission has no jurisdiction over small businesses and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Telephone: (916) 323-3562
(jill.magee@csm.ca.gov)

The backup contact person for these inquiries is:

Cristina Bardasu, Assistant Executive Director
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Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information on which the rulemaking is based to Ms. Jill Magee (see contact

information above) or download it from the Commission's website at <https://www.csm.ca.gov/rulemaking.shtml>.

**AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS,
AND FULL TEXT OF DOCUMENTS RELIED UPON**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the full text of the documents relied upon, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Jill Magee (see contact information above). All persons on the Commission's interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission's website and providing notice of how to locate it.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT AND
DOCUMENTS RELIED UPON**

After considering all timely and relevant comments received and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) and any documents relied upon available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations or documents relied upon to the attention of Ms. Jill Magee (see contact information above). The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons and any Documents Relied Upon may be obtained by contacting Ms. Jill Magee at the address, phone number, or email address listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the Full Text of Documents Relied Upon and the text of the regulations in underline and strikeout can be accessed through the Commission's website at <https://www.csm.ca.gov/rulemaking.shtml>.