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Amended: 8/1/08
Amended: 5/27/10

AMENDMENT TO PARAMETERS AND GUIDELINES

Education Code Section 49079

Statutes 1989, Chapter 1306

Statutes 1993, Chapter 1257

Notification to Teachers:

Pupils Subject to Suspension or Expulsion

05-PGA-57 (CSM-4452)

FOR COSTS INCURRED THROUGH JUNE 30, 2008

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement

I. SUMMARY OF THE SOURCE OF THE MANDATE

Chapter 1306, Statutes of 1989, added Education Code section 49079 to require school districts to report to each teacher the names of every student who has caused, or who has attempted to cause, serious bodily injury or injury to another person. The notification was to be based upon any written records the district maintained or received from a law enforcement agency. No district would be liable for failure to comply as long as a good faith effort was made to notify the teacher. Notifications were to commence in the 1990-91 school year utilizing data from the previous year, with a progression to three prior-years of data to be reported by fiscal year 1992-93.

Chapter 1257, Statutes of 1993, amended Education Code section 49079 to specify for the first time the particular pupil behavior that warrants a teacher notification by including the specific reference to Education Code section 48900. The Section was also amended to immunize school personnel from civil or criminal liability unless the information they provide to the teacher was knowingly false.

II. COMMISSION ON STATE MANDATES' DECISION

The Commission on State Mandates, in the Statement of Decision adopted at the January 19, 1995 hearing found that Education Code section 49079 as added by Chapter 1306, Statutes of 1989 and amended by Chapter 1257, Statutes of 1993 imposes a new program of higher level of service within the meaning of Section 6, Article XIII B of the California Constitution, for school districts and county offices of education.

The Commission determined that the following provisions of Education Code section 49079 established costs mandated by the state pursuant to Government Code section 17514, by requiring school districts to:

- (1) From records maintained in the ordinary course of business or received from law enforcement agencies, identify pupils who have, during the previous three years, engaged in, or are reasonably suspected to have engaged in, any of the acts described in any of the subdivisions of Education Code section 48900, except subdivision (h).

- (2) Provide this information to teachers on a routine and timely basis.
- (3) Maintain the information regarding the identified pupils for a period of three years, and adopt a cost effective method to assemble, maintain and disseminate the information to teachers.

III. 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.

IV. PERIOD OF REIMBURSEMENT

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement and is for costs incurred through June 30, 2008. Costs incurred on or after July 1, 2008, shall be filed on the consolidated parameters and guidelines for *Notification to Teachers: Pupils Subject to Suspension or Expulsion* (CSM 4452) and *Pupil Discipline Records and Notification to Teachers: Pupils Subject to Suspension or Expulsion* (00-TC-10/00-TC-11).

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on February 18, 1994, therefore all mandated costs incurred on or after July 1, 1993, for implementation of Education Code Section 49079 are reimbursable.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Section 17561 (d) (3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days from the date on which the State Controller's Office issues claiming instructions on funded mandates contained in the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

V. REIMBURSABLE COSTS

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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." 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.

A. Scope of the Mandate

School districts and county offices of education shall be reimbursed for the costs incurred to: identify pupils, from records maintained in the ordinary course of business or received from law enforcement agencies who have, during the previous three years engaged in, or are reasonably suspected to have engaged in, any of the acts described in any of the subdivision of Education Code section 48900, except subdivision (h); and provide this information to teachers on a routine and timely basis.

B. Reimbursable Activities

For each eligible school district or county office of education, the direct and indirect costs of labor, supplies and services incurred for the following mandate components are reimbursable:

1. Identify Pupils

For identifying pupils, from records received from law enforcement agencies or otherwise maintained in the ordinary course of business, who have during the previous three years engaged in or are reasonably suspected to have engaged in any of the acts described in any of the subdivisions, except (h), of section 48900.

2. Information Maintenance

For maintaining the information regarding the identified pupils for a period of three years, and a one-time cost for adopting a cost effective method of assembling, maintaining and disseminating the information to teachers.

3. Notifying Teachers

For notifying teachers on a regular and timely basis of the pupils whose behavior makes them subject to suspension and expulsion and such notification shall be made in a manner designed to maintain confidentiality of this information.

VI. CLAIM PREPARATION

Each claim for a reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under the mandates.

A. Reporting by Components

Claimed costs must be allocated according to the three components of reimbursable activity described in Section V. B.

B. Supporting Documentation

Claimed costs should be supported by the following information.

1. Employee Salaries and Benefits

Identify the employees(s) and their job classification, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Materials and Supplies

Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials which have been consumed or expended specifically for the purpose of this mandate.

3. Contracted Services

Give the name(s) of the contractors(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities. Show the inclusive dates when services were performed and itemize all costs for those services.

4. Allowable Overhead Cost

- a. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
- b. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

C. Cost Accounting

The State Controller is directed to include in its claiming instructions each year the requirement that claimants report to the State Controller the following statistics for the purpose of establishing a database for potential future reimbursement based on prospective rates:

- a. The average number of pupils for which this information is being maintained (i.e., number of pupils identified) for each year.
- b. The average daily attendance for the district for each year.
- c. The number times each year the notification is routinely made to teachers (e.g., quarterly, each semester, or annually).

VII. 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 chapter¹ 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

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., service fees collected, federal funds, other state funds etc., shall be identified and deducted from this claim. While not specifically researched, the Commission has not identified any specific offsetting savings from state or federal sources applicable to this mandate.

IX. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.