

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Education Code Sections 39831.3, 38048, and 39831.5 [renumbered as 380481 and Vehicle Code Section 22112, as amended by Statutes 1994, Chapter 831, Statutes 1996; Chapter 277, and Statutes 1997, Chapter 739

School Bus Safety II Parameters and Guidelines Adopted and Consolidated with School Bus Safety I Parameters and Guidelines on November 30, 1999;

No. CSM 97-TC-22

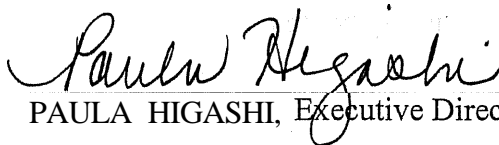
School Bus Safety II

ADOPTION OF AMENDED PARAMETERS AND GUIDELINES PURSUANT TO ORDER TO SET ASIDE STATEMENT OF DECISION ADOPTED ON JULY 29, 1999, AND VACATE APPLICABLE PARAMETERS AND GUIDELINES AND STATEWIDE COST ESTIMATE FOR SCHOOL BUS SAFETY II PROGRAM

(Adopted on March 25, 2004)

AMENDED PARAMETERS AND GUIDELINES

On March 25, 2004, pursuant to a December 22, 2003 court-ordered Peremptory Writ of Mandamus commanding the Commission on State Mandates to vacate the parameters and guidelines for the School Bus *Safety II* program, the Commission vacated the parameters and guidelines for this program, leaving intact the attached parameters and guidelines for the *School Bus Safety I* program.


PAULA HIGASHI, Executive Director

3-30-04
Date

Parameters and Guidelines Amendment¹

Education Code Section 3983 1.5
Vehicle Code Section 22112, Subdivision (c), Subpart 3
[Renumbered as Subdivision (d), Subpart 3]
Statutes 1992, Chapter 624

School Bus Safety I

I. SUMMARY OF THE MANDATE

Statutes 1992, chapter 624 added Education Code section 3983 1.5, which required school districts to give emergency procedure and safety instruction to all pupils who are transported by school bus on school activity trips. Statutes 1992, chapter 624 also required school districts to document certain information each time that the safety instruction is given and to retain the documentation for a specified period of time, and required school bus drivers to use an approved hand-held “STOP” sign when escorting pupils across a highway or private road upon which the school bus is stopped, at a location where traffic is not controlled by a traffic officer or official traffic control signal.

At its hearing of February 24, 1994, the Commission on State Mandates (Commission) found that Education Code section 3983 1.5 and Vehicle Code section 22112, subdivision (c), subpart (3), imposed a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.

II. ELIGIBLE CLAIMANTS

Any “school district,” as defined in Government Code section 175 19, except for community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, prior to its amendment by Statutes 1998, chapter 68 1 (effective September 22, 1998) stated that a test claim must be submitted on or before December 3 1 following a given fiscal year to establish eligibility for that fiscal year.

Statutes 1992, chapter 624 became effective September 14, 1992. San Jose Unified School District filed the test claim on Statutes 1992, chapter 624 on August 20, 1993. Therefore, costs incurred on or after September 14, 1992, for compliance with Statutes 1992, chapter 624, are reimbursable.

¹ The amendment vacates the parameters and guidelines for the *School Bus Safety II* program, leaving the parameters and guidelines for the *School Bus Safety I* program intact, pursuant to a December 22, 2003 court order.

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 Government Code section 1756 1, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of issuance of the claiming instructions by the State Controller.

For initial claims and annual claims filed on or after September 30, 2002, if the total costs for a given fiscal year do not exceed \$1000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

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 20 15.5. 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 activities are reimbursable:

A. Instruction Prior to School Activity Trips (Ed. Code, § 3983 1.5, subd. (a))²

Giving safety instruction, including, but not limited to, location of emergency exits, location and use of emergency equipment, and responsibilities of passengers seated next to an emergency exit, to all pupils at the elementary and secondary level riding a school bus or school pupil activity bus on any school activity trip.

B. Record Keeping and Retention (Ed. Code, § 3983 1.5, subd (b))³

Documenting the following information each time the safety information is given and maintaining the information for one year from the date of instruction:

1. Name of school district, county office of education,
2. Name and location of school.

² As added by Statutes 1992, chapter 624.

³ As added by Statutes 1992, chapter 624.

3. Date of instruction.
4. Names of supervising adults.
5. Number of pupils participating.
6. Grade levels of pupils.
7. Subjects covered in instruction,
8. Amount of time taken for instruction.
9. Bus driver's name.
10. Bus number.
11. Additional remarks.

C. Hand-held Stop Signs (Veh. Code, § 22112, sub. (c)(3)⁴

1. Stop Signs

Reasonable costs for the purchase or manufacture of the hand-held "STOP" signs required to comply with Vehicle Code section 22112, subdivision (c), subpart (3). The cost for replacement/refinishing of worn out signs due to normal wear and tear is reimbursable. The cost of a manufactured/refinished hand held sign shall not exceed the cost for which a sign can be purchased.

2. Number of Stop Signs

The number of claimable hand held signs shall equal the lesser of the number of school busses or school bus routes, plus an additional five percent (but not less than one additional sign) to provide spare signs for use in the event a sign is lost, stolen, or otherwise unusable or unavailable; providing, however, that the number of claimable hand held signs shall not exceed the number of operable school busses during the fiscal year, plus the additional five percent (but not less than one additional sign).

3. Stop Sign Storage

Reasonable costs of labor and associated costs for materials and supplies needed to provide legally necessary storage for the hand-held "STOP" signs on school busses when the signs are not in use.

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.

⁴ As amended by Statutes 1992, chapter 624; now renumbered subdivision (d)(3).

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.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A. 1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost

of consultants who conduct the training according to the rules of cost element A.3,
Contracted Services.

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 1755 8 .5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter* 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. 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings 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, services 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 statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

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

Pursuant to Government Code section 1756 1, 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 1757 1. If the Commission determines that the claiming instructions do not conform to the parameters and 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 (a), and California Code of Regulations, title 2, section 1183.2.

x. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statement of decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the statement of decision, is on file with the Commission.