

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE AMENDMENT TO PARAMETERS
AND GUIDELINES ON:

Education Code Sections 48209.1, 48209.7,
48209.9, 48209.10, 48209.13, and 48209.14;

Statutes 1993, Chapter 160; Statutes 1994,
Chapter 1262;

Filed on February 5, 2003;

By the State Controller's Office, Requestor.

No. 02-PGA-05

*School District of Choice: Transfers and
Appeals*

ADOPTION OF AMENDMENT TO
PARAMETERS AND GUIDELINES
PURSUANT TO GOVERNMENT CODE
SECTION 17557 AND TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
SECTIONS 1183.2 AND 1185.3.

(Adopted on May 27, 2004)

AMENDED PARAMETERS AND GUIDELINES

The attached Parameters and Guidelines Amendment of the Commission on State Mandates is hereby adopted in the above-entitled matter.

PAULA HIGASHI, Executive Director

Date

PARAMETERS AND GUIDELINES AMENDMENT

Education Code Sections 48209.1, 48209.7, 48209.9,
48209.10, 48209.13, and 48209.14

Statutes 1993, Chapter 160
Statutes 1994, Chapter 1262

School District of Choice: Transfers and Appeals (02-PGA-05)

State Controller's Office, Requestor

I. SUMMARY OF THE MANDATE

The Commission on State Mandates (Commission) adopted its Statement of Decision for the *School District of Choice* program on April 28, 1995, finding that Education Code sections 48209.1, 48209.7, 48209.10, 48209.13, and 48209.14, as added by Statutes 1993, chapter 160 impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. On May 6, 1996, the Commission adopted its Statement of Decision for the *Choice Transfer Appeals* program, finding that that Education Code section 48209.9, subdivision (d), as added by Statutes 1994, chapter 1262 impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, for school districts of residence to implement pupil transfers to school districts of choice.

The original parameters and guidelines for the *School District of Choice* program was adopted on August 24, 1995. It was subsequently amended on July 25, 1996, to include the activities mandated by the *Choice Transfer Appeals* program. The Commission determined that the following provisions established costs mandated by the state pursuant to Government Code section 17514, by requiring school districts of residence to:

- 1) Pursuant to section 48209.1, subdivision (b), make a determination of whether the transfer to the school district of choice will negatively impact the district's applicable court-ordered desegregation plan.¹
- 2) Pursuant to section 48209.9, subdivision (d), participate in and respond to a county board of education's appeal process, resulting only from a denied transfer based on the negative impact upon that district's court-ordered desegregation plan.
- 3) Pursuant to section 48209.10, subdivision (a) provide to the district of choice information regarding the transferring pupil's completed coursework, attendance, and other academic progress; and pursuant to subdivision (b), implement the return of a pupil whose transfer to a choice district has been revoked upon recommendation for expulsion by the choice district by accepting back from the school district of choice any completed coursework, attendance and other academic progress of the pupil.

¹ "Section" refers to the Education Code unless otherwise indicated.

- 4) Pursuant to section 48209.14, collect data of all requests to transfer to a school district of choice including the number of transfers granted, denied or withdrawn. In the case of denied requests, the records shall indicate the reasons for the denials. Also, the records shall disclose the number of pupils transferred out of these districts. The information maintained shall be reported to the district governing board and Superintendent of Public Instruction. Adopt cost effective methods of assembling and maintaining the information described in section 48209.14.

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

- 5) Pursuant to section 48209.13, make information specifically related to alternative pupil attendance choices available to any interested person upon request. This limited mandated activity would not apply to such requests already provided for elsewhere in the law.

The Commission determined that the following established costs mandated by the state pursuant to Government Code section 17514, by requiring all county boards of education to:

- 6) Pursuant to section 48209.9, subdivision (d), establish an appropriate, non-complex process to hear and decide appeals filed by the parent or guardian of any pupil who has been denied a choice transfer by a district of residence pursuant to section 48209.1 or 48209.7.
- 7) Pursuant to section 48209.9, subdivision (d), respond to an appeal filed by the parent or guardian of any pupil who has been denied a choice transfer by a district of residence pursuant to section 48209.1 or 48209.7.

II. ELIGIBLE CLAIMANTS

Any "school district," as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

At the time the subject test claims were filed, Government Code section 17557 stated 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 *School District of Choice* was submitted on February 17, 1994, but the operative date of Statutes 1993, chapter 160 is January 1, 1994. Therefore, all mandated costs incurred on or after January 1, 1994, for compliance with Education Code sections 48209.1, 48209.7, 48209.10, 48209.13, and 48209.14, as added by Statutes 1993, chapter 160 are eligible for reimbursement.

The test claim for *Choice Transfer Appeals* was submitted on April 3, 1995. The operative date of Statutes 1994, chapter 1262 is September 30, 1994. Therefore, all mandated costs incurred for the denied choice transfer appeal process on or after September 30, 1994, for compliance with Education Code section 48209.9, subdivision (d), as added by Statutes 1994, chapter 1262 are eligible for reimbursement.

Statutes 2002, chapter 1032 (Assembly Bill 3005), an urgency statute signed by the Governor on September 28, 2002, amended Education Code sections 48209.1, 48209.9, 48209.10, 48209.13, and 48209.14, making any activities pursuant to these sections discretionary. Therefore, reimbursement of costs incurred for compliance with the *School District of Choice: Transfers and Appeals* program ends on September 27, 2002.

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 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

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

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

For each eligible claimant, the following activities are reimbursable:

1) Information Requests

For all school districts to respond to telephone and written inquiries for information regarding alternative pupil attendance choices for its schools, programs, policies and procedures. These costs shall be offset to the extent that fees may be charged pursuant to the California Public Records Act (Government Code section 6250 et seq.).

2) Implementing Pupil Transfers

For school districts of residence to provide the district of choice information regarding the transferring pupil's completed coursework, attendance and other academic progress and to otherwise implement the transfer out of pupils, as well as the return transfer of a pupil whose choice transfer has been revoked by the district of choice as the result of a recommendation for expulsion.

3) Data Collection and Reporting

For school districts of residence to collect data on the number of transfers granted, denied, or withdrawn and annually report these statistics to the district governing board and Superintendent of Public Instruction.

4) Court-ordered Desegregation Plans

For school districts of residence with court-ordered desegregation plans to make a determination of whether the transfer to the school district of choice will negatively impact the plan; and to participate in and respond to a county board of education's appeal process, resulting only from a denied transfer based on the negative impact upon that district's court-ordered desegregation plan.

5) County Office Appeals

All county boards of education shall be reimbursed for the costs incurred to establish an appropriate, non-complex process to hear and decide appeals filed by the parent or guardian of any pupil who has been denied a choice transfer by a district of residence pursuant to section 48209.1 or 48209.7 and to respond to an appeal filed by the parent or guardian of any pupil who has been denied a choice transfer by a district of residence pursuant to section 48209.1 or 48209.7.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

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

B. Indirect Cost Rates

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

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

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

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

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² 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 received 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.

The Commission has determined that some of the reimbursable costs for the mandated activity found in section 48209.14, to make information specifically related to alternative pupil attendance choices available to any interested person upon request, would be offset or reduced by the amount of fees that may be charged by school districts as authorized under the California Public Records Act (Government Code section 6250 et seq.).

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.

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

IX. REMEDIES BEFORE THE COMMISSION

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

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

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.