

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 47605, Subdivision (b), and former Subdivisions ('j)(1), (j)(2), and (j)(3); Education Code Section 47607, Subdivisions (a) and (b); Statutes 1992, Chapter 78 1;

Filed on December 1, 1993;

By San Diego Unified School District;

and

Education Code Sections 47602, 47604, 47605, 47605.5, 47607, 47613 (formerly 47613.7), 47613.5, and 47614; Statutes 1998, Chapters 34 and 673; California Code of Regulations, Title 5, Sections 1541 O-1 5428; California Department of Education Memorandum dated April 28, 1999;

Filed on June 29, 1999;

By Los Angeles County Office of Education and San Diego Unified School District, Claimants.

No. CSM 4437

Charter Schools

and

No. 99-TC-03

Charter Schools II

ADOPTION OF PARAMETERS AND GUIDELINES PURSUANT TO GOVERNMENT CODE SECTION 17557 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1183.12

(Adopted on December 2, 2003)

CONSOLIDATED PARAMETERS AND GUIDELINES

On December 2, 2003, the Commission on State Mandates adopted the attached Consolidated Parameters and Guidelines.



PAULA HIGASHI, Executive Director

12-04-03
Date

CONSOLIDATION OF PARAMETERS AND GUIDELINES

Education Code Section 47605, Subdivision (b), and
former Subdivisions (j)(1), (j)(2), and (j)(3)
Education Code Section 47607, Subdivisions (a) and (b)

Statutes 1992, Chapter 78 1

Charter Schools (CSM 4437)

and

Education Code Sections 47605, Subdivisions (j)(1) and (k)(3),
47605.5, 47607, and 47614

Statutes 1998, Chapters 34 and 673

Charter Schools II (99-TC-03)

I. SUMMARY OF THE MANDATE

Charter Schools

On July 2 1, 1994, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 78 1, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters, which constitute a new program or higher level of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 175 14. Specifically, the Commission approved the *Charter Schools* test claim for the increased costs of performing the following activities:

School Districts

- ⌘ Respond to requests from the public for information on the charter school program. (Ed. Code, § 47605.)
- ⌘ Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Ed. Code, § 47605, subd. (b).)
- ⌘ Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Ed. Code, § 47605, subd. (b).)
- ⌘ Provide persons to take part in a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subd. (j).)¹

¹ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (‘j)(1), as amended by Statutes 1998, chapter 673.

- Respond to any request of the review panel selected and convened by the county superintendent of schools pursuant to an appeal of any petition denied by the school district. (Former Ed. Code, § 47605, subd. (j).)²
- ⌘ Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- ⌘ Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

County Boards of Education

- ⌘ Select and convene a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subds. (j)(1) and (j)(2).)³
- ⌘ Hear a petition following a denial on reconsideration by the governing board of a school district. (Former Ed. Code, § 47605, subd. (j)(3).)⁴
- ⌘ Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Former Ed. Code, § 47605, subd. (j)(3).)⁵
- ⌘ Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Former Ed. Code, § 47605, subd. (j)(3).)⁶
- ⌘ Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

The Commission determined that the following provisions of Education Code sections 47605 and 47607 did not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 175 14, for school districts and county boards of education to:

- ⌘ Plan and prepare procedures for implementation of the Charter Schools Act of 1992.

² Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (‘j)(1), as amended by Statutes 1998, chapter 673.

³ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

⁴ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

⁵ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (‘j)(1), as amended by Statutes 1998, chapter 673.

⁶ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

- ⌘ Disseminate information regarding charter schools to staff, students, parents, and the community.

Charter Schools II

On November 21, 2002, the Commission adopted its Statement of Decision finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614 require new activities, as specified below, which constitute new programs or higher levels of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 175 14:

School Districts

- ⌘ Review charter school petitions for renewal, when submitted directly to the governing board of the school district that initially denied the charter, prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)
- ⌘ Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)
- ⌘ Permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes, provided the charter school shall be responsible for reasonable maintenance of those facilities. (Reimbursement for this activity is limited to administrative expenses resulting directly from the requirement to permit charter schools to utilize unused district facilities. Rental value of the facility is specifically excluded as a reimbursable expense.) (Ed. Code, § 476 14.)

County Offices of Education

- ⌘ Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b), when the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)
- ⌘ Review charter school petitions submitted directly to the county board of education, in the same manner as set forth in Education Code section 47605, for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)
- ⌘ Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

The Commission also found that Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools Parameters and Guidelines*.

In addition, the Commission found that Education Code sections 47602, 47604, 47613, 47613.5, 47614 and California Department of Education Memorandum dated April 28, 1999, do not require any additional mandatory activities of school districts or county offices of education, and therefore, do not impose a new program or higher level of service.

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. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Although the *Charter Schools II* test claim was filed on August 24, 1999, which establishes a reimbursement period beginning July 1, 1998, the test claim legislation was not operative until January 1, 1999. Therefore, this consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.

Education Code section 47614, as added by Statutes 1998, chapter 34, was replaced by voter approval of Proposition 39, which was operative November 8, 2000. Therefore, costs incurred for compliance with Education Code section 47614 is only reimbursable for the period January 1, 1999, through November 7, 2000.

Costs for *Charter Schools* (CSM 4437) that have been claimed for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the State Controller’s claiming instructions for Program 140 may not be claimed and are not reimbursable under these parameters and guidelines.

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), all claims for reimbursement of initial years’ costs shall be submitted within 120 days of the issuance of the State Controller’s claiming instructions.

If total costs for a given year do not exceed \$1,000, 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 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:

Charter Schools'

A. School Districts

1. Responding to information requests

Provide information, upon request, to the community regarding the Charter Schools Act of 1992 and governing board's charter policy and procedures. (Ed. Code, § 47605.)⁷

2. Evaluating petitions

Review and evaluate qualified charter petitions for compliance with criteria for the granting of charters. (Ed. Code, § 47605.)⁹

3. Public hearings

Prepare for public hearings, to be done within thirty days of receiving the petition, to consider the level of community support for a charter school petition, and grant or deny the charter school petition within sixty days of receiving the petition, subject to one thirty-day continuance by agreement of the parties, pursuant to Education Code section **47605**. (Ed. Code, § 47605.)¹⁰

⁷ Effective January 1, 1999, many activities from the original *Charter Schools Parameters and Guidelines* were amended by Statutes 1998, chapters 34 and 673, and are reflected in the *Charter Schools I*. activities.)

⁸ As added by Statutes 1992, chapter 78 1.

⁹ As added by Statutes 1992, chapter 78 1.

¹⁰ As added by Statutes 1992, chapter 78 1.

B. School Districts and County Offices of Education”

1. Monitoring: Renewal, Material Revision, and Revocation of the Charter¹²
 - a. Review, analyze, and report on the charter school’s performance for purposes of charter reconsideration, renewal, revision, evaluation, or revocation by the governing body. (Ed. Code, § 47607, subs. (a) and (b).)¹³
 - b. Evaluate and decide upon material revisions, renewals, or revocations of charters. (Ed. Code, § 47607, subs. (a) and (b).)¹⁴

Charter Schools II

A. School Districts

1. Review charter school petitions for renewal that are submitted directly to the governing board of the school district that initially denied the charter? Pursuant to Education Code section 47605, subdivision (k)(3), the petition must be submitted prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)¹⁶
2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)¹⁷

B. County Offices of Education

1. Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b):
 - a. When the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)¹⁸

¹¹ See section VII. Offsetting Savings and Reimbursements.

¹² The fee authority established by Education Code section 47613 must be used by a school district or county office of education to offset any claimed reimbursement for the cost of these activities.

¹³ As added by Statutes 1992, chapter 78 1.

¹⁴ As added by Statutes 1992, chapter 78 1.

¹⁵ Each renewal is for a period of five years.

¹⁶ As amended by Statutes 1998, chapter 673.

¹⁷ As amended by Statutes 1998, chapter 34.

¹⁸ As amended by Statutes 1998, chapter 673. As amended by Statutes 1998, chapter 673. This replaces the previously approved activity in the original *Charter Schools* Parameters and Guidelines related to “Petition Appeals.” (Ed. Code, § 47605, subd. (j), as added by Stats. 1992, ch. 781; replaced by Stats. 1998, ch. 673.)

b. For charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)”

2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)²⁰

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. Direct costs that are eligible for reimbursement are:

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

¹⁹ As added by Statutes 1998, chapter 34.

²⁰ As amended by Statutes 1998, chapter 34.

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 chapter²¹ 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

²¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

Education Code section 476 13 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisory oversight under the *Charter Schools* Parameters and Guidelines. This refers to activity B. 1. under *Charter Schools* in section IV. of these parameters and guidelines.

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)(l), 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.

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.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95 8 14.

December 4, 2003, I served the:

Adopted Consolidation of Parameters and Guidelines
Charter Schools, CSM-4437; and **Charter Schools II**, 99-TC-03
San Diego Unified School District and
Los Angeles County Office of Education, Claimants
Statutes 1998, Chapter 34, et al.

by placing a true copy thereof in an envelope addressed to:

Mr. Arthur M. Palkowitz
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

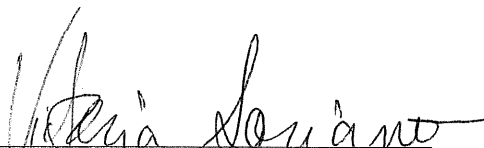
Mr. Mike Havey
State Controller's Office
Division of Accounting and Reporting
Local Reimbursement Section
3301 C Street, Suite 501
Sacramento, CA 958 16

Ms. Marlene Dunn
Los Angeles County Office of Education
9300 Imperial Highway
Downey, CA 90242-2890

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 4, 2003, at Sacramento, California.


VICTORIA SORIANO