

**COMMISSION ON STATE MANDATES**

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June 1, 2007

Mr. David E. Scribner  
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3840 Rosin Court, Suite 190  
Sacramento, CA 95834

*And Affected State Agencies and Interested Parties (see enclosed mailing list)*

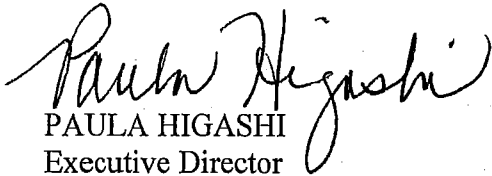
RE: **Adopted Statewide Cost Estimate**  
*High School Exit Examination, 00-TC-06*  
Education Code Sections 60850, 60851, 60853, 60855  
Statutes 1999x, Chapter 1; Statutes 1999, Chapter 135  
California Code of Regulations, Title 5, Sections 1200 – 1225  
Trinity Union High School District, Claimant

Dear Mr. Scribner:

On May 31, 2007, the Commission on State Mandates adopted the statewide cost estimate of \$37,363,071 for the above-named program. This amount will be included in our next Report to the Legislature.

Please call Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

  
PAULA HIGASHI  
Executive Director

Enclosure

MAILED: ✓  
FAXED: ✓  
DATE: 6/1/07  
INITIAL: VS  
FILE: ✓  
WORKING BINDER: \_\_\_\_\_

Adopted: May 31, 2007

## STATEWIDE COST ESTIMATE

Education Code Sections 60850, 60851, 60853, and 60855

Statutes 1999x, Chapter 1

Statutes 1999, Chapter 135

California Code of Regulations, Title 5, Sections 1200-1225  
(regulations effective July 20, 2001 [Register 01, No. 25],  
regulations effective May 1, 2003 [Register 03, No. 18])

*High School Exit Examination*

00-TC-06

Trinity Union High School District, Claimant

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### Summary of the Mandate

On March 25, 2004, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *High School Exit Examination* (HSEE) program, finding that Education Code sections 60850, 60851, 60853, and 60855 as added in 1999, along with California Code of Regulations, title 5, sections 1200-1225 that became effective in 2001 and 2003, constitute a new program or higher level of service and impose a reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- A. **Adequate notice:** Notifying parents of *transfer* students who enroll after the first semester or quarter of the regular school term that, commencing with the 2003-04 school year, and each school year thereafter, each pupil completing 12<sup>th</sup> grade will be required to successfully pass the HSEE. The notification shall include, at a minimum, the date of the HSEE, the requirements for passing the HSEE, the consequences of not passing the HSEE, and that passing the HSEE is a condition of graduation (Ed. Code, § 60850, subs. (e)(1) & (f)(1)). Reimbursement is provided for notices delivered by the student or by U.S. Mail.
- B. **Documentation of adequate notice:** Maintaining documentation that the parent or guardian of each pupil received written notification of the HSEE. (Cal. Code Regs., tit. 5, § 1208.) Documentation may include a written copy of the notice or a record of mailing the notice.
- C. **Determining English language skills:** Determining whether English-learning pupils<sup>1</sup> possess sufficient English language skills at the time of the HSEE to be assessed<sup>2</sup> with the HSEE (Cal. Code Regs., tit. 5, § 1217.)

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<sup>1</sup> As defined in Education Code section 435, subdivision (a).

<sup>2</sup> Criteria are identified in Education Code section 313.

**D. HSEE administration:** Administration of the HSEE on SPI designated dates to all pupils in grade 10 beginning in the 2001-2002 school year, and subsequent administrations for students who do not pass until each section of the HSEE has been passed, and administration of the HSEE on SPI designated dates to pupils in grade 9 only in the 2000-2001 school year who wish to take the HSEE (Ed. Code, § 60851, subd. (a).).

A teacher's time administering the HSEE during the school day is not reimbursable for any of the following activities. Administration is limited to the following activities specified in the regulations:

1. Training a test examiner either by a test site or district coordinator as provided in the test publisher's manual (Cal. Code Regs., tit. 5, §§ 1200, subd. (g) and 1210, subd. (c)(3)).
2. Allowing pupils to have additional time to complete the HSEE within the test security limits provided in section 1211, but only if additional time is not specified in the pupil's Individual Education Program (IEP) (§ 1215, subd. (a)(1)).
3. Accurately identifying eligible pupils who take the HSEE by school personnel at the test site through the use of photo-identification, positive recognition by the test examiner, or some equivalent means of identification. (Cal. Code Regs., tit. 5, § 1203.)
4. Maintaining a record of all pupils who participate in each test cycle of the HSEE, including the date each section was offered, the name and grade level of each pupil who took each section, and whether each pupil passed or did not pass the section or sections of the HSEE taken. (Cal. Code Regs., tit. 5, § 1205.)
5. Maintaining in each pupil's permanent record and entering in it prior to the subsequent test cycle the following: the date the pupil took each section of the HSEE and whether or not the pupil passed each section of the HSEE. (Cal. Code Regs., tit. 5, § 1206.)
6. Designation by the district superintendent, on or before July 1 of each year, of a district employee as the HSEE district coordinator, and notifying the publisher of the HSEE of the identity and contact information of that individual. (Cal. Code Regs., tit. 5, § 1209.)
7. For the district coordinator and superintendent, within seven days of completion of the district testing, to certify to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher. (Cal. Code Regs., tit. 5, § 1209.)
8. Designation annually by the district superintendent a HSEE test site coordinator for each test site (as defined) from among the employees of the school district who is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE. (Cal. Code Regs., tit. 5, § 1210.)
9. The HSEE district coordinator's duties listed in section 1209 and referenced below.

District Coordinator duties are: (1) responding to inquiries of the publisher, (2) determining district and school HSEE test material needs, (3) overseeing acquisition and distribution of the HSEE, (4) maintaining security over the HSEE using the procedures in section 1211, (5) overseeing administration of the HSEE in accordance with the manuals or other instructions provided by the test publisher for administering and returning the test, (6) overseeing collection and return of test material and test data to

the publisher, (7) assisting the publisher in resolving discrepancies in the test information and materials, (8) ensuring all exams and materials are received from school test sites no later than the close of the school day on the school day following administration of the HSEE, (9) ensuring all exams and materials received from school test sites have been placed in a secure district location by the end of the day following administration of those tests, (10) ensuring that all exams and materials are inventoried, packaged, and labeled in accordance with instructions from the publisher and ensuring the materials are ready for pick-up by the publisher no more than five working days following administration of either section in the district, (11) ensuring that the HSEE and test materials are retained in a secure, locked location in the unopened boxes in which they were received from the publisher from the time they are received in the district until the time of delivery to the test sites; (12) within seven days of completion of the district testing, certifying with the Superintendent to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher.

10. The HSEE test site coordinator's duties listed in section 1210 and referenced below. This individual is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE.

Test site coordinator's duties are: (1) determining site examination and test material needs; (2) arranging for test administration at the site; (3) training the test examiner(s) as provided in the test publisher's manual; (4) completing the Test Security Agreement and Test Security Affidavit prior to the receipt of test materials; (5) overseeing test security requirements, including collecting and filing all Test Security Affidavit forms from the test examiners and other site personnel involved with testing; (6) maintaining security over the examination and test data as required by section 1211; (7) overseeing the acquisition of examinations from the school district and the distribution of examinations to the test examiner(s); (8) overseeing the administration of the HSEE to eligible pupils at the test site; (9) overseeing the collection and return of all testing materials to the HSEE district coordinator no later than the close of the school day on the school day following administration of the high school exit examination; (10) assisting the HSEE district coordinator and the test publisher in the resolution of any discrepancies between the number of examinations received from the HSEE district coordinator and the number of examinations collected for return to the HSEE district coordinator; (11) overseeing the collection of all pupil data as required to comply with sections 1205, 1206 and 1207 of the title 5 regulations; (12) within three (3) working days of completion of site testing, certifying with the principal to the HSEE district coordinator that the test site has maintained the security and integrity of the examination, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner and as otherwise required by the publisher. The principal's activities may or may not be reimbursable, depending on whether the principal is acting as an HSEE district or test-site coordinator or test examiner.

11. Delivery of HSEE booklets to the school test site no more than two working days before the test is to be administered. (Cal. Code Regs., tit. 5, § 1212.) **This activity was repealed on May 19, 2004, therefore this activity is not reimbursable after May 18, 2004.**

**E. Test security/cheating:** Doing the following to maintain security:

1. For HSEE test site coordinators to ensure that strict supervision is maintained over each pupil being administered the HSEE, both while in the testing room and during any breaks (§ 1210, subd. (c)(7)(B)).
2. Limiting access to the HSEE to pupils taking it and employees responsible for its administration (§ 1211, subd. (a)).
3. Having all HSEE district and test site coordinators sign the HSEE Test Security Agreement set forth in subdivision (b) of section 1211.5 of the title 5 regulations. (Cal. Code Regs., tit. 5, § 1210, subd. (c)(5).)
4. Abiding by the Test Security Agreement by limiting access to persons in the district with a responsible, professional interest in the test's security. The Agreement also requires the coordinator to keep on file the names of persons having access to exam and test materials, and who are required to sign the HSEE Test Security Affidavit, and requires coordinators to keep the tests and test materials in a secure, locked location, limiting access to those responsible for test security, except on actual testing dates. (Cal. Code Regs., tit. 5, § 1210 (c)(5), § 1211, subd. (a), § 1211.5 (b)(4).)
5. HSEE test site coordinators deliver the exams and test materials only to those actually administering the exam on the date of testing and only on execution of the HSEE Test Security Affidavit (Cal. Code Regs., tit. 5, § 1210, subd. (c)(7)(A)).
6. For persons with access to the HSEE (including test site coordinators and test examiners) to acknowledge the limited purpose of their access to the test by signing the HSEE Test Security Affidavit set forth in subdivision (g). (Cal. Code Regs., tit. 5, § 1211.5, subd. (c).)
7. HSEE district and test site coordinators control of inventory and use of appropriate inventory control forms to monitor and track test inventory. (Cal. Code Regs., tit. 5, § 1211 subd. (b).)
8. Being responsible for the security of the test materials delivered to the district until the materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher. (Cal. Code Regs., tit. 5, § 1211, subd. (c).)
9. Providing secure transportation within the district for test materials once they have been delivered to the district. (Cal. Code Regs., tit. 5, § 1211, subd. (d).)
10. Not scoring the test for any pupil found to have cheated or assisted others in cheating, or who has compromised the security of the HSEE, and notifying each eligible pupil before administration of the HSEE of these consequences of cheating. (Cal. Code Regs., tit. 5, § 1220.)

**F. Reporting data to the SPI:** Providing HSEE data to the SPI or independent evaluators or the publisher is reimbursable. Specifically, providing the following information on each pupil tested: (1) date of birth, (2) grade level, (3) gender, (4) language fluency and home language, (5) special program participation, (6) participation in free or reduced priced meals, (7) enrolled in a school that qualifies for assistance under Title 1 of the Improving America's School Act of 1994, (8) testing accommodations, (9) handicapping condition or disability, (10) ethnicity, (11) district mobility, (12) parent education, (13) post-high school plans. (§ 1207); and reporting to the CDE the number of examinations for each test cycle within 10 working days of completion of each test cycle in the school district, and for the district superintendent to certify the accuracy of this information submitted to CDE (§ 1207).

The regulation (§1207) was amended in May 2004 and August 2005 to add the following data that must be submitted to the state (which are not reimbursable under these parameters and guidelines): (1) pupil's full name; (2) date of English proficiency reclassification; (3) if R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three (3) times since reclassification; (4) use of modifications during the exam [accommodations are reimbursed]; (5) participation in California Alternate Performance Assessment (CAPA); (6) school and district CBEDS enrollment; (7) district and county of residence for students with disabilities; (8) California School Information Services (CSIS) Student Number, once assigned.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by the claimants and compiled by the State Controller's Office (SCO). The actual claims data showed that at least 300 school districts filed 1,047 reimbursement claims between fiscal years 2000-2001 and 2005-2006, for a total of nearly \$23.7 million. The high school enrollment figures for the school districts that filed reimbursement claims represent approximately 60 percent of total statewide enrollment.<sup>3</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this proposed statewide cost estimate, it will be reported to the Legislature along with staff's assumptions and methodology.

A draft staff analysis and proposed statewide cost estimate were issued on March 23, 2007, and the Department of Finance (DOF) submitted comments on April 17, 2007. The comments are addressed below.

#### Assumptions

Staff made the following assumptions:

1. *The actual claiming data is unaudited and may be inaccurate.* The 1,047 actual claims filed by at least 300 school districts for 2000-2001 through 2005-2006 are unaudited, and therefore, may be inaccurate, based on the following findings:<sup>4</sup>

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<sup>3</sup> Based on 10<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> grade enrollment for fiscal year 2004-2005.

<sup>4</sup> Claims data reported as of February 7, 2007.

TABLE 2. SAMPLED SCHOOL DISTRICTS: CLAIMED AMOUNTS BY FISCAL YEAR

District	# of Eligible High Schools	00/01	01/02	02/03	03/04	04/05	Totals	Amt/ Test
<i>Small Districts</i>								
Woodland Joint Unified (Yolo County)	3	\$ 10,567	\$ 12,525	\$ 10,580	\$ 12,504	\$ 9,955	\$ 56,131	\$6.58
	# Tested	1,424	654	2,606	1,615	2,237	8,536	
Milpitas Unified (Santa Clara County)	3	\$ 5,402	\$ 10,746	\$ 23,942	\$ 10,501	\$ 27,078	\$ 77,669	\$10.68
	# Tested	1,328	425	2,005	1,523	1,992	7,273	
Imperial Unified (Imperial County)	2	\$ 1,321	\$ 2,390	\$ 4,132	\$ 3,956	\$ 4,184	\$ 15,983	\$8.24
	# Tested	370	173	523	393	480	1,939	
<i>Medium Districts</i>								
Grant Joint Union High (Sacramento County)	9	\$ 7,504	\$ 25,881	\$ 33,769	\$ 42,579	\$ 57,326	\$ 167,059	\$8.53
	# Tested	3,712	2,037	5,027	3,385	5,434	19,595	
Antioch Unified (Contra Costa County)	6	\$ 0	\$ 2,975	\$ 6,153	\$ 0	\$ 1,094	\$ 10,222	\$0.64
	# Tested	2,766	1,227	4,659	3,191	4,253	16,096	
Newport-Mesa Unified (Orange County)	8	\$ 0	\$ 14,717	\$ 12,263	\$ 3,288	\$ 35,379	\$ 65,647	\$4.00
	# Tested	3,076	1,155	4,589	3,356	4,250	16,426	
<i>Large Districts</i>								
Elk Grove Unified (Sacramento County)	16	\$ 13,312	\$ 24,592	\$ 79,295	\$ 81,457	\$ 107,024	\$ 305,680	\$7.86
	# Tested	6,786	2,541	10,459	7,870	11,256	38,912	
Fresno Unified (Fresno County)	20	\$ 0	\$ 10,164	\$ 0	\$ 6,203	\$ 2,864	\$ 19,231	\$0.33
	# Tested	10,166	5,321	15,405	10,345	16,752	57,989	
Los Angeles Unified (Los Angeles County)	135	\$ 6,418	\$ 798,466	\$ 1,053,244	\$ 1,206,927	\$ 1,113,287	\$ 4,178,342	\$8.64
	# Tested	91,411	47,503	131,884	84,688	128,016	483,502	
San Diego Unified (San Diego County)	38	\$ 83,062	\$ 117,653	\$ 183,122	\$ 78,013	\$ 154,647	\$ 616,497	\$6.73
	# Tested	17,027	7,618	25,676	17,266	23,952	91,539	



Because the exam is administered more than once during the school year, one claimant representative indicated that costs will vary depending on the frequency of data collection and the expertise of consultant staff in assisting claimants with their reimbursement claims.<sup>7</sup> For instance, the accuracy of cost data may be sacrificed if data is collected yearly as opposed to monthly. As shown in Table 2, Antioch Unified and Fresno Unified did not file claims for at least two of the initial years. While one may assume that the offsets exceeded the cost of the program for those fiscal years, it is probably not likely considering the number of tests administered in comparison to other fiscal years. Another likely explanation may be the lack of sufficient documentation needed to file a claim. Thus, the variation of costs for this program depends on a number of factors relating to data collection and consultant expertise rather than student or test data.

3. *The actual amount claimed will increase when late or amended claims are filed.*  
Only about 300 eligible school districts in California have filed reimbursement claims for this program. At least three of the top fifteen school districts have not filed any claims, including Sacramento City Unified, Capistrano Unified, and Riverside Unified. Thus, if reimbursement claims are filed by any of the remaining districts, the amount claimed may exceed the statewide cost estimate. For this program, late claims may be filed until November 2007 for fiscal years 2000-2001 through 2004-2005, and until January 2008 for fiscal year 2005-2006.

Moreover, staff notes that 121 more claims were filed for fiscal year 2005-2006 than 2004-2005. This spike in the number of claimants may indicate that many school districts lacked sufficient documentation to file claims for the earlier years.

4. *The SCO may reduce any reimbursement claim if it is deemed excessive or unreasonable.*  
If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

#### DOF Comments on the Draft Staff Analysis

In its comments to the draft staff analysis and proposed statewide cost estimate, DOF contended that it was not possible to accurately estimate the statewide cost of this program at this time for the following reasons:

Finance notes that Commission staff used a very small sample to determine a lack of correlation between size of the district and the amount claimed per test.... However, until claims are audited, there may not be an effective way to compare costs among districts. [¶]

Finance also notes that the offsetting reimbursements from the [State Department of Education]...is likely to increase in future years, which should decrease the cost of filed claims.

Finance further believes that claims should be reduced for the costs of testing grade 10 students. Annual testing is required once in grades 9 through 12 by the federal No Child Left Behind Act. [As a result of recent findings,] Finance believes reimbursement for the High School Exit Exam for grade 10 students is not reimbursable and should not be included in the statewide cost estimate.

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<sup>7</sup> Telephone conversation on February 15, 2007.

DOF asserts that in a revised staff analysis for the reconsideration of the *National Norm-Referenced Achievement Test* (formerly *Standardized Testing and Reporting*) program, Commission staff found that the No Child Left Behind Act (NCLB) “was a federal mandate pursuant to substantial evidence presented by the [CDE] regarding the consequences in other states for non-compliance imposed by the United States Department of Education.” Thus, DOF argues that because the federal NCLB requires annual testing once in grades 9 through 12, then the high school exit exam should not be reimbursable for 10<sup>th</sup> grade students.

Staff notes that the *National Norm-Referenced Achievement Test* reconsideration record is not relevant to the *HSEE* program, and the NCLB does not require a high school exit examination. Moreover, staff notes that the Commission’s final Statement of Decision for *HSEE* finds a reimbursable state-mandated program for the administration of the HSEE to all pupils in grade 10 beginning in the 2001-2002 school year. Therefore, the Commission does not have jurisdiction to change the final Statement of Decision, absent a court order (Gov. Code, § 17559). Staff’s assumptions address DOF’s other comments.

Staff’s assumptions address DOF’s other comments.

### Methodology

#### *Fiscal Years 2000-2001 through 2005-2006*

The proposed statewide cost estimate for fiscal years 2000-2001 through 2005-2006 is based on the 1,021 actual reimbursement claims filed by eligible claimants with the SCO for these years. Staff notes that 26 actual claims filed by charter schools for a total of \$195,509 was deducted from the total claims amount, as well as a total of \$559,513 of offsets not reported for fiscal years 2000-2001 through 2004-2005. Staff also notes that the claims are unaudited and may be inaccurate for the reasons stated in this analysis.

#### *Fiscal Years 2006-2007 and 2007-2008*

Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%), as forecast by the Department of Finance. Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2006-2007 (6.4%).

The proposed statewide cost estimate includes eight fiscal years for a total of \$37,363,071. This averages to nearly \$5 million annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

**TABLE 3. BREAKDOWN OF ESTIMATED TOTAL COSTS PER FISCAL YEAR**

<b>Fiscal Year</b>	<b># of Claims Filed w/ SCO</b>	<b>Estimated Cost</b>
2000-2001	96	\$ 784,338
2001-2002	138	2,782,182
2002-2003	147	3,816,681
2003-2004	157	4,060,414
2004-2005	181	4,720,308
2005-2006	302	6,777,256
2006-2007 (estimated)	N/A	6,987,351
2007-2008 (estimated)	N/A	7,434,541
<b>TOTAL</b>	<b>1021</b>	<b>\$37,363,071</b>

# Commission on State Mandates

Original List Date: 1/30/2001  
Last Updated: 4/26/2007  
List Print Date: 06/01/2007  
Claim Number: 00-TC-06  
Issue: High School Exit Examination

Mailing Information: Notice of Adopted SCE

## Mailing List

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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