Item __

Draft Staff Analysis
Proposed Statewide Cost Estimate

$209, 613

(Approximate Prospective Cost of $34,751 Annually)

Education Code Sections 250, 251, 262.3

Statutes 1982, Chapter 1117; Statutes 1988,
Chapter 1514; Statutes 1998, Chapter 914

California Code of Regulations, Title 5, Sections 4611, 4621, 4622, 4631, and 4632

Register 92, Number 3; Register 93, Number 51

Uniform Complaint Procedures (K-12)

03-TC-02

County of Santa Clara, Claimant

STAFF ANALYSIS

Background and Summary of the Mandate

This program address activities associated with the procedures involved for filing, investigating, and resolving the following two types of complaints arising in a school district: (1) complaints that allege violations of federal or state law governing specific educational programs; and (2) complaints that allege discrimination in violation of state and federal antidiscrimination laws. It also addresses the notice requirements regarding the prohibition against discrimination and the available civil remedies for discrimination complaints.

On September 28, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 250, 251, and 262.3, and sections 4611, 4621, 4622, 4631, and 4632 of the Title 5 regulations impose a partially 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.[1]

Parameters and Guidelines were adopted on January 25, 2013 approving the reimbursable activities described below under the *Reimbursable Activities section*.[2]

Eligible claimants were required to file initial reimbursement claims (for costs incurred between July 1, 2002, and June 30, 2012) with the State Controller's Office (SCO) by August 29, 2013. Late initial reimbursement claims may be filed until August 29, 2014. Reimbursement claims for fiscal year 2012-2013 are due by February 18, 2014.

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[1] Exhibit A.
[2] Exhibit B.

Eligible Claimants and Period of Reimbursement

Any "school district" as defined in Government Code section 17519, including county boards of education, and excluding community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on July 23, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, the costs incurred for compliance with the mandated activities are reimbursable on or after July 1, 2002.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

1. Assurance of Compliance with Antidiscrimination Laws in Excess of Federal Law, and Notices Regarding Civil Remedies (Ed. Code, §§ 250, 251, and 262.3)

    a. Provide written assurance to any state agency administering state financial assistance or student financial aid to the school district that each program or activity conducted by the school district will be in compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation.[3] (Ed. Code, § 250 (Stats. 1998, ch. 914).)

    b. Submit timely, complete, and accurate compliance reports regarding compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation to the State Department of Education as the State Department of Education may require. (Ed. Code, § 251 (Stats. 1982, ch. 1117).)

    c. Advise people who have filed a complaint with the school district pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200), which prohibits unlawful discrimination, that civil law remedies, including, but not limited to injunctions, restraining orders, or other remedies or orders, may also be available to complainants. (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

    d. Make available by publication in appropriate informational materials the information regarding the availability of civil remedies to people who have filed a complaint pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200). (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

2. Uniform Complaint Procedures

    a. Referral of Complaints to Appropriate Entities (Cal. Code Regs., Tit. 5, § 4611)

        (1) Refer discrimination issues involving title IX of the Educational Amendments of 1972 to the U.S. Office of Civil Rights (OCR) *only* if there is no state

[3] Education Code section 250 provides that a single assurance may be provided for all the programs and activities conducted by an educational institution.

discrimination law or regulation at issue.[4] (Cal. Code Regs., tit. 5, § 4611(c) (Register 92, No. 3).)

(2) Refer complaints of discrimination involving Child Nutrition Programs administered by the CDE from program participants or applicants to either the Administrator for the Food and Nutrition Service at the United States Department of Agriculture or to the United States Secretary of Agriculture. (Cal. Code Regs., tit. 5, § 4611(d) (Register 93, No. 51).)[5]

(3) Refer employment discrimination complaints to the State Department of Fair Employment and Housing (DFEH) and notify the complainant by certified mail of any DFEH transferral. (Cal. Code Regs., tit. 5, § 4611(d) (Register 92, No. 3).)

(4) Refer allegations of fraud to the responsible California Department of Education (CDE) Division Director and the CDE's Legal Office. (Cal. Code Regs., tit. 5, § 4611(e) (Register 92, No. 3).)

b. Adoption of Policies and Procedures for the Investigation of Complaints (Cal. Code Regs., Tit. 5, § 4621) (One-Time Activity)

Only school districts formed during the reimbursement period that could not have adopted policies and procedures prior to the 2002-2003 fiscal year are mandated to engage in the below activity, but *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847):[6]

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[4] The limitation's reference to "state discrimination law or regulation at issue" refers to *any* state discrimination laws or regulations.

[5] California Code of Regulations, title 5, section 4611(c) was amended in Register 93, number 51, by separating complaints of discrimination involving Title IX and complaints of discrimination involving Child Nutrition Programs. The latter complaint became the subject of subdivision (d), shifting the remaining complaint types down a subdivision. The result is in Register 93, number 51 former subdivisions (d) and (e) became (e) and (f).

[6] This activity *is not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each

(1) Adopt policies and procedures consistent with Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600) for the investigation and resolution of complaints.

The policies must ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate. In addition, the policies and procedures are to include the person(s), employee(s), or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. (Cal. Code Regs., tit. 5, §§ 4621(a) and (b) (Register 92, No. 3).)

c. Notification of Complaint Procedures, and Investigation and Disposition of Complaints (Cal. Code Regs., Tit. 5, §§ 4622 and 4631)

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[7]

(1) Annually notify in writing school district students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties, of the school district complaint procedures.

The annual notice shall include: (1) the opportunity to appeal to the CDE and the provisions of Chapter 5.1 of title 5 of California Code of Regulations (commencing with section 4600); (2) the identity of the person(s) responsible for processing complaints; and (3) notice of any civil law remedies that may be available, and of the appeal and review procedures contained in California Code

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school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

[7] These activities *are not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56000-56885 and 59000-59300.

of Regulations, title 5, sections 4650, 4652, and 4671. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)

(2) Complete the investigation of a complaint in accordance with the local procedures developed pursuant to section 4621 within 60 days from receipt of the complaint. (Cal. Code Regs., tit. 5, § 4631(a) (Register 92, No. 3).)

(3) Prepare a written Local Educational Agency Decision (Decision) and send the Decision to the complainant within 60 days from receipt of the complaint.

The Decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal the local educational agency decision to the CDE, and the procedures to be followed for initiating an appeal to the CDE. (Cal. Code Regs., tit. 5, § 4631(a) and (c) (Register 92, No. 3).)

(4) The investigation must provide an opportunity for the complainant, or the complainant's representative, or both, and school district representatives to present information relevant to the complaint. (Cal. Code Regs., tit. 5, § 4631(b) (Register 92, No. 3).)

d. Forwarding of Information to the Superintendent of Public Instruction Regarding Appealed District Decisions (Cal. Code Regs., Tit. 5, § 4632)

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[8]

(1) Forward the following to the Superintendent of Public Instruction upon notification by the Superintendent that the Decision has been appealed to the state-level by a complainant: (1) the original complaint; (2) a copy of the Local Educational Agency Decision; (3) a summary of the nature and extent of the investigation conducted by the local agency, if not covered in the Local Educational Agency Decision; (4) a report of any action taken to resolve the

[8] "Unlawful discrimination" as used in this activity is not limited and applies to complaints alleging unlawful discrimination on all grounds. This activity, however, is not reimbursable with respect to complaints regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

complaint; (5) a copy of the school district complaint procedures; and (6) such other relevant information as the Superintendent may require. (Cal. Code Regs., tit. 5, § 4632 (Register 92, No. 3).)

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 12 school districts and compiled by the SCO. The actual claims data showed that 37 initial claims were filed for fiscal years 2002-2003 through 2011-2012 for a total of $209,613. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
  - There are currently 1043 school districts in California. Of those, only 12 school districts filed initial reimbursement claims totaling $209,613 for this program for fiscal years 2002-2003 through 2011-2012. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2002-2003 through 2011-2012 may be filed until August 29, 2014.
  - Additionally, the total costs claimed in the most recent three years of the initial claiming period are trending upward. It is likely that the costs of the activities will continue to increase with the costs of living moving forward.
- *The number of reimbursement claims filed will vary from year to year.*

  This program requires school districts to follow specific procedures for filing, investigating, and resolving the following two types of complaints arising in a school district: (1) complaints that allege violations of federal or state law governing specific educational programs; and (2) complaints that allege discrimination in violation of state and federal antidiscrimination laws. Claims will be case load driven and, thus, will vary annually depending on the number of discrimination complaints filed or investigated within the school districts.
- *There is a wide variation in costs claimed for this program based on: (a) the hourly rate of the employee performing the reimbursable activities; and (b) the total number of hours worked to perform the reimbursable activities.*

  Staff reviewed the claims data and found a wide variation in costs among claimants. The program generally allows for school districts to file, investigate, and resolve specific types of discrimination complaints. The variation in costs is evident in the hourly rate of the employee performing the reimbursable activities.

  For example, for fiscal year 2002-2003[9], Etiwanda Elementary School District claimed an hourly rate that ranged from $160 to $175 for an attorney. In comparison, Grossmont Union High School District claimed an hourly rate that ranged from $133 to $159 for their attorney; and Rowland Unified claimed $52.16 an hour for their Director of Special Projects to handle their claims.

[9] Exhibit C. Actual claims filed by three districts for fiscal year 2002-2003.

The variation in costs is also evident in the total number of hours worked to perform the reimbursable activities. For example, for fiscal year 2002-2003, Etiwanda Unified School District claimed 105.9 total hours to investigate and dispose of claims. In comparison, Grossmont Union High School District claimed 9.25 total hours; and Rowland Unified claimed 34 total hours.

These factors, coupled with the variable number of complaints, are likely the reason for the wide variation in claims for costs during 2002-03 as shown below:

- Etiwanda Elementary School District - $30,991
- Grossmont Union High School District - $1,291
- Rowland Unified School District - $1,896

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

  The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. The reimbursable activities in this program are only a small part of a larger process. Claimants may file claims for activities that, while part of the larger process, are not reimbursable and those claims may therefore be reduced by the SCO. Additionally, the SCO may find the rates charged for approved activities are excessive and may reduce claims for that reason.

Methodology

Fiscal Years 2002-2003 through 2011-2012

The statewide cost estimate for fiscal years 2002-2003 through 2011-2012 was developed by totaling the 37 reimbursement claims filed with the SCO for these years, for a total of $209,613. For the reasons discussed above, staff finds that the averages for the most recent three-year period are most indicative of potential costs. For the most recent three-year period, costs averaged $34,751 annually. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2002-2003	3	$34,178
2003-2004	2	$4,508
2004-2005	1	$1,921
2005-2006	2	$4,027
2006-2007	1	$1,834
2007-2008	2	$8,596
2008-2009	5	$50,296
2009-2010	9	$46,931
2010-2011	6	$30,070
2011-2012	6	$27,252
TOTAL	**37**	**$209,613**

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **$209,613 (Approximate Prospective Cost of $34,751 Annually)** for costs incurred in complying with the *Uniform Complaint Procedures (K-12)* program.

Item __

Draft Staff Analysis

Proposed Statewide Cost Estimate

$209, 613

(Approximate Prospective Cost of $34,751 Annually)

Education Code Sections 250, 251, 262.3

Statutes 1982, Chapter 1117; Statutes 1988,
Chapter 1514; Statutes 1998, Chapter 914

California Code of Regulations, Title 5, Sections 4611, 4621, 4622, 4631, and 4632

Register 92, Number 3; Register 93, Number 51

Uniform Complain Procedures (K-12)

03-TC-02

County of Solana Beach, Claimants

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BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Education Code Sections 200, 220, 231.5, 250, 251, 253, 260, 261, 262.3, and 262.4 Government Code Sections 11135, 11136, 11137, 11138, and 11139 Statutes 1977, Chapter 972; Statutes 1982, Chapter 1117; Statutes 1988, Chapter 1514; Statutes 1990, Chapter 1372; Statutes 1992, Chapter 417; Statutes 1992, Chapter 906; Statutes 1992, Chapter 913; Statutes 1993, Chapter 1123; Statutes 1994, Chapter 146; Statutes 1998, Chapter 914; Statutes 1999, Chapter 587; Statutes 1999, Chapter 591; Statutes 2001, Chapter 708; Statutes 2002, Chapter 300; and Statutes 2002, Chapter 1102 California Code of Regulations, Title 5, Sections 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4640, 4650, 4651, 4652, 4660, 4661, 4662, 4663, 4664, 4665, and 4670 Register 92, Number 3; Register 92; Number 18; and Register 93, Number 51 Filed on July 23, 2003 by Solana Beach School District, Claimant.	Case No.: 03-TC-02 *Uniform Complaint Procedures (K-12)* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5. ARTICLE 7 *(Adopted September 28, 2012)* *(Served October 5, 2012)*

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on September 28, 2012. Art Palkowitz appeared on behalf of Solana Beach School District. Susan Geanacou appeared on behalf of the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve the test claim at the hearing by a vote of 7-0.

Summary of Findings

This test claim addresses activities associated with the procedures involved for filing, investigating, and resolving the following two types of complaints arising in a school district: (1) complaints that allege violations of federal or state law governing specific educational programs; and (2) complaints that allege discrimination in violation of state and federal antidiscrimination laws. This test claim also addresses the notice requirements regarding the prohibition against discrimination and the available civil remedies for discrimination complaints.

The Commission found that some of the notices and complaint procedures constitute federal mandates in regard to specific types of unlawful discrimination. In addition, the Commission found that some of the educational programs subject to the compliant procedures pled in the test claim are provided on a voluntary basis by school districts. As a result, the Commission concluded that the complaint procedures are not reimbursable for purposes of resolving complaints arising from these voluntary programs.

However, the Commission also found that some of the test claim statutes and regulations impose reimbursable state-mandated programs on school districts within the meaning of article XIII B, section 6 of the California Constitution, and Government Code section 17514 for the activities listed on pages 41 through 45, under section IV of the analysis titled "Conclusion."

COMMISSION FINDINGS

Chronology

07/23/2003	Claimant, Solana Beach School District, filed test claim *Uniform Complaints Procedures* (03-TC-02) with the Commission on State Mandates (Commission)[1]
09/03/2003	The Department of Education (CDE) filed request for extension of time for comments on test claim
09/08/2003	Commission staff granted the CDE's extension of time for comments to October 3, 2003
10/02/2003	The CDE filed request for extension of time for comments on test claim
10/03/2003	Commission staff granted the CDE's extension of time for comments to November 5, 2003
10/28/2003	The Department of Finance (Finance) filed request for extension of time for comments on test claim
11/05/2003	The CDE filed comments on the test claim
11/07/2003	Commission staff granted Finance's extension of time for comments to February 7, 2004
12/05/2003	Claimant filed response to the CDE comments
01/08/2007	Claimant filed supplemental information for the test claim

[1] Potential period of reimbursement begins on July 1, 2002, the start of the 2002-2003 fiscal year. See Government Code section 17557(e).

04/30/2012	Commission staff requested additional information from parties
05/08/2012	Finance requested an extension of time for the submittal of additional information
05/11/2012	Commission staff granted Finance's extension of time for submittal of additional information to June 11, 2012
05/14/2012	The CDE requested an extension of time for the submittal of additional information
05/16/2012	Commission staff granted the CDE's extension of time for submittal of additional information to June 15, 2012
06/07/2012	Claimant filed response to Commission staff's request for additional information
06/15/2012	The CDE filed response to the Commission staff's request for additional information
08/08/2012	Commission staff issued the draft staff analysis
09/12/2012	Commission staff issued the final staff analysis and proposed statement of decision
09/27/2012	Finance submitted a late filing commenting on the final staff analysis and proposed statement of decision

I. Background

This test claim addresses activities associated with the procedures involved for filing, investigating, and resolving complaints arising in a school district.[2] These procedures are used to process two types of complaints: (1) complaints that allege violations of federal or state law governing specific educational programs;[3] and (2) complaints that allege discrimination in violation of state and federal antidiscrimination laws. This test claim also addresses the notice requirements regarding the prohibition against discrimination and the available civil remedies for discrimination complaints.

Education Code section 200 et seq. and Government Code section 11135 et seq. prohibit discrimination on the basis of race, ethnic group identification, national origin, religion, disability, sex, sexual orientation, and age, in school districts and entities that receive state funding. Government Code section 11138 requires the CDE to adopt rules and regulations as are necessary to carry out the purpose and provisions of Government Code section 11135 et seq.

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[2] All references to "school districts" mean K-12 school districts and county offices of education, unless otherwise specified.

[3] The programs subject to the complaint procedures pled are: (1) Adult Basic Education (Ed. Code, §§ 8500 – 8538 and 525000 – 52616.5); (2) Consolidated Categorical Aid Programs (Ed. Code, § 64000(a)); (3) Migrant Education (Ed. Code, §§ 54440 – 54445); (4) Vocational Education (Ed. Code, §§ 52300 – 52480); (5) Child Care and Development programs (Ed. Code, §§ 8200 – 8493); (6) Child Nutrition programs (Ed. Code, §§ 49490 – 49560); and (7) Special Education programs (Ed. Code, §§ 56000 – 56885 and 59000 – 59300).

Education Code section 261 provides that the provisions Education Code section 200 et seq. are to be implemented pursuant to the regulations and procedures adopted pursuant to Government Code section 11138, which governs the filing and handling of written complaints of prohibited discrimination.

California Code of Regulations, title 5, sections 4600 et seq. comprise the regulations adopted by the CDE to carry out the purpose of Government Code section 11135 et seq., and Education Code section 200 et seq. In addition to being the complaint process for unlawful discrimination, title 5, sections 4600 et seq., also set forth the process for complaints alleging violations of the following educational programs: (1) Adult Basic Education (Ed. Code, §§ 8500 – 8538 and 525000 – 52616.5); (2) Consolidated Categorical Aid Programs (Ed. Code, § 64000(a)); (3) Migrant Education (Ed. Code, § §§ 54440 – 54445); (4) Vocational Education (Ed. Code, §§ 52300 – 52480); (5) Child Care and Development programs (Ed. Code, §§ 8200 – 8493); (6) Child Nutrition programs (Ed. Code, §§ 49490 – 49560); and (7) Special Education programs (Ed. Code, §§ 56000 – 56885 and 59000 – 59300).

The claimant alleges reimbursable costs associated with specific provisions of Education Code section 200 et seq., Government Code section 11139, and the title 5 regulations establishing the compliant process for violations of educational programs and allegations of unlawful discrimination by school districts.

II. Positions of the Parties and Interested Parties

A. Claimant's Position

The claimant contends that the test claim statutes and regulations impose reimbursable state-mandated costs reimbursable by the state for school districts and county offices of education to engage in state-mandated new programs or higher levels of service related to establishment and implementation of uniform complaint procedures. These activities include having a written policy on sexual harassment, displaying and distributing the district's policy on sexual harassment, investigating complaints alleging noncompliance with specific educational programs or alleging unlawful discrimination, providing an opportunity for complainants and district representatives to present information relevant to the complaints, writing and providing to complainants a written decision containing the findings and disposition of complaints; and appearing and defending civil actions brought by persons alleging violations of the specific educational programs or unlawful discrimination.

On December 5, 2003, in response to the CDE's comments, the claimant argues that the state has imposed requirements in excess of those imposed by federal law on school districts. As a result, the claimant argues that these requirements, which exceed of federal law, create reimbursable mandates.

The claimant did not comment on the draft staff analysis.

B. Department of Education's Position

The CDE argues that a number of the statutes and regulations pled by the claimant impose activities already required by federal law. As a result, the CDE's questions whether the alleged

activities are federally mandated, and therefore not reimbursable under article XIII B, section 6 of the California Constitution.[4]

In response to the Commission staff's request for additional information regarding the existence of a complaint process prior to the process established by the title 5 regulations claimed, the CDE argues that federal law already required or anticipated many of the requirements of the title 5 regulations. However, the CDE does not identify a pre-existing complaint process established by the CDE.

The CDE did not file comments on the draft staff analysis.

C. Department of Finance's Position

Finance filed late comments on this test claim on the eve of the hearing. Staff did not have time to address those comments in this analysis.

III. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[5] Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] …"[6]

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.[7]
2. The mandated activity either:
    a. Carries out the governmental function of providing a service to the public; or

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[4] CDE asserts that the claimant has not provided a copy of relevant portions of federal statutes that may impact the alleged mandate, and therefore, questions the completeness of the test claim filing. On August 5, 2003, Commission staff found the test claim filing to be complete, as a result, it is unnecessary to revisit this procedural issue. Instead, this analysis will focus on the substantive issue of whether or not the test claim statutes and regulations impose reimbursable state-mandated new programs or higher levels of service pursuant to article XIII B, section 6 of the California Constitution.

[5] *County of San Diego v. State of California* (1997)15 Cal.4th 68, 81.

[6] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

[7] *San Diego Unified School Dist. v. Commission on State Mandates* (*San Diego Unified School Dist*.) (2004) 33 Cal.4th 859, at p. 874.

b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.[8]

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.[9]

4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity. [10]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[11] The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.[12] In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[13]

A. Do the Test Claim Statutes and Regulations Impose a State-Mandated New Program or Higher Level of Service on School Districts within the Meaning of Article XIII B, Section 6 of the California Constitution?

The claimant has pled various code sections and regulations addressing the prohibition against unlawful discrimination, the complaint procedures used to process complaints of unlawful discrimination and complaints alleging violations of specific educational programs. In the claimant's December 5, 2003 response to the CDE comments, the claimant indicates that code sections and regulations not included in "Part III, Costs Mandated By The State" section of the test claim filing, are "not alleged to contain any new programs or higher levels of service" by the claimant.[14] The following code sections and regulations are not included in the "Part III, Costs Mandated By The State" section of the test claim: (1) Education Code sections 200, 220, 260,

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[8] *San Diego Unified School Dist., supra,* 33 Cal.4th at pgs. 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

[9] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

[10] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

[11] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

[12] *County of San Diego, supra,* 15 Cal.4th 68, 109.

[13] *County of Sonoma, supra,* 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[14] Exhibit C, comments filed by the claimants in response to comments filed by the California Department of Education, dated December 5, 2003. The claimant cites to Exhibit A, test claim filing, dated July 23, 2003, "Part III, Costs Mandated By the State," commencing at p. 39.

and 261; (2) Government Code sections 11135, 11136, 11137, and 11138; and (3) California Code of Regulations, title 5, sections 4600, 4610, 4630, 4640, 4651, and 4664. These code sections and regulations provide background information for the code sections and regulations alleged to contain new programs or higher levels of service by the claimant.[15]

The following conclusions can be drawn in regard to code sections and regulation sections not included in the "Part III, Costs Mandated By The State" section of the test claim filing based on the claimant's test claim filing and response to the CDE comments: (1) the claimant does not allege that the code sections or regulations impose reimbursable state-mandated new programs or higher levels of service; and (2) there is no evidence in the record of any costs associated with the code sections and regulations not included in the section.

Although the following code sections and regulations help to define the activities claimed for reimbursement, the Commission finds that there is no evidence in the record that these code sections and title 5 regulations impose reimbursable state-mandated new programs or higher levels of service: (1) Education Code sections 200, 220, 260, and 261; (2) Government Code sections 11135, 11136, 11137, and 11138; and (3) California Code of Regulations, title 5, sections 4600, 4610, 4630, 4640, 4651, and 4664.

The remaining test claim statutes and regulations address requirements associated with the prohibition of unlawful discrimination and the procedures to process complaints alleging violations of antidiscrimination laws, including federal laws. As a result, prior to discussing whether the test claim statutes and regulations impose state-mandated new programs or higher levels of service on school districts, the federal laws relevant to this test claim are summarized below.

(1) Federal Antidiscrimination Laws that are Relevant to the Determination of Whether the Test Claim Statutes and Regulations Impose State-Mandated Activities.

Article XIII B, section 6 of the California Constitution requires reimbursement only when the state mandates a new program or higher level of service. Reimbursement under article XIII B, section 6 is not required when costs are mandated by federal law. The court in *Hayes v. Commission on State Mandates* held that "[w]hen the federal government imposes costs on local agencies those costs are not mandated by the state and thus would not require a state subvention. Instead, such costs are exempt from local agencies' taxing and spending limitations" under article XIII B.[16]

Also, the courts have held that state rules or procedures, including those that may exceed the plain language of a federal mandate, may, under certain circumstances, be considered mandated

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[15] The Education Code and Government Code sections generally set forth legislative intent regarding the prohibition against unlawful discrimination. The California Code of Regulations sections provide the purpose and scope of the applicability of the regulations, and set forth timelines for a complainant to file a complaint and for actions taken by the Department of Education.

[16] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1593 citing *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76; see also, Government Code section 17513.

by federal law and not be eligible for reimbursement under article XIII B, section 6. The California Supreme Court in *San Diego Unified School Dist.* found that "for purposes of ruling upon a request for reimbursement, challenged state rules or procedures that are intended to implement an applicable federal law—and whose costs are, in context, de minimis—should be treated as part and parcel of the underlying federal mandate," and not be reimbursable under article XIII B, section 6.[17]

It is important to note that this test claim alleges activities associated with school districts policies on discrimination and the adoption of complaint procedures to address, among other things, unlawful discrimination in school district programs and activities. Although school districts are subject to many federal antidiscrimination laws,[18] some of these laws do not require the adoption of an internal complaint process or activities related to a district's antidiscrimination policies. As a result, the following analysis will only address federal laws that impose requirements relevant to the allegations in this test claim.[19]

The following federal laws are relevant here: (1) section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 C.F.R. § 104); (2) the Age Discrimination Act of 1975; (3) Title IX of the Education Amendments of 1972 and its implementing regulations (34 C.F.R. § 106); (4) Title II of the Americans with Disabilities Act of 1990 (ADA); and the General Education Provisions Act (GEPA) and its implementing regulations (34 C.F.R., § 76). Generally, these federal laws require local governments to provide notice to various individuals of the antidiscrimination policies and grievance procedures for bringing a complaint; to adopt and publish a grievance procedure that provides a prompt and equitable resolution of a complaint; and to provide written assurance of compliance with the antidiscrimination laws to the state agencies administering federal funding.

a. <u>Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794)</u>

In 1973, Congress enacted the Rehabilitation Act of 1973, section 504 (Section 504) (29 U.S.C. § 794) to extend the protections of the Civil Rights Act of 1964 to the disabled.[20] Section 504 prohibits discrimination on the basis of physical or mental disability with respect to "any program or activity receiving federal financial assistance." It states the following:

> No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be

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[17] *San Diego Unified School Dist. supra,* 33 Cal.4th 859, 890.

[18] For example, Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.); the Americans with Disabilities Act (42 U.S.C. § 12111 et seq.); section 504 of the Rehabilitation Act (29 U.S.C. § 794); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); and the Age Discrimination Act (42 U.S.C. § 6101).

[19] Federal antidiscrimination laws that do not require any activities alleged in this test claim will not be addressed. For example, Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), which seeks to eliminate discriminatory employment practices, does not require school districts to develop an internal grievance procedure. Instead, the Equal Employment Opportunity Commission was created as the agency with the initial enforcement responsibility of Title VII.

[20] *Lloyd v. Regional Transp. Authority* (1977) 548 F.2d 1277, 1285.

> excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity.[21]

Section 504 and its implementing regulations apply to all recipients of federal financial assistance, including school districts. The U.S. Department of Education, Office of Civil Rights, the agency responsible for enforcing Section 504 in school districts, adopted 34 Code of Federal Regulations part 104 et seq. to implement Section 504. The federal law extends to all of the operations of a school district, not just the program receiving federal financial assistance.[22]

Compliance with Section 504 and its implementing regulations is a condition on the receipt of federal financial assistance.

> In this regard, section 504 [of the Rehabilitation Act] is similar to other statutes placing conditions on the receipt of federal funding…Congress may attach reasonable conditions to federal financial assistance. The recipients of federal funding are not thereby obligated to accept the conditions, however, because they "may terminate their participation in the program and thus avoid" the conditions imposed by the statute. [Citation omitted.][23]

Thus, school districts are not legally compelled to comply with the Section 504.

The courts, however, have acknowledged that federal financial assistance to education is pervasive, such that Section 504 is applicable to virtually all public educational programs in this state and other states.[24] Additionally, courts have noted that Congress enacted Section 504 as essentially a codification of the equal protection rights of citizens with disabilities. Violations of Section 504 can result, and resulted, in the termination of federal funding to the program in which noncompliance was found.[25] Along with the termination of federal financial assistance,

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[21] Title 29 United States Code section 794(a) (Pub.L.No. 105-220 (Aug. 7, 1998)).

[22] *Consolidated Rail Corp. v. Darrone* (1984) 465 U.S. 624, finding that federal assistance did not need to have a primary purpose to promote employment in order for section 504 to apply to employment practices. *Leake v. Long Island Jewish Medical Center* (E.D.N.Y. 1988) 695 F.Supp. 1414, finding that section 504 applied to all operations of an entity receiving federal financial assistance, not just the specific program receiving assistance.

[23] *Greater Los Angeles Council on Deafness, Inc,* (9th Cir. 1987) 812 F.2d 1103, 1111, fn. 11.

[24] *Hayes, supra,* 11 Cal.App.4th 1564, 1584.

[25] Title 29 United States Code section 794a incorporates Title 42 U.S.C 2000d-1, which authorizes the termination of federal financial assistance to the program in which noncompliance is found. 34 Code of Federal Regulations part 104.61 incorporates the procedures to effect compliance found in 34 Code of Federal Regulations part 100.6-100.10, which authorize the termination of federal financial assistance for failure to comply with regulations promulgated under section 504. See, *Freeman v. Cavazos* (11th Cir. 1991) 939 F.2d 1527, 1531, in which the court found that federal funding of a school district was properly discontinued, noting that compliance with any regulation promulgated under section 504 may be obtained by the termination of or refusal to grant or to continue assistance to a recipient of federal assistance. See also, *Fells v. Brooks* (D.D.C. 1981) 522 F.Supp. 30, 34, in finding that resort to

school districts face litigation by the Attorney General for violations of Section 504 and its implementing regulations.[26] Further, litigation by an aggrieved individual is available for violations of Section 504 and possibly for violations of its implementing regulations.[27] In light of the penalties and legal consequences for failing to comply with Section 504, and the purpose of Section 504, the Commission finds that school districts are practically compelled to comply with the requirements of Section 504 and its implementing regulations.[28]

As relevant to this test claim, Section 504 and its implementing regulations require school districts to engage in the following activities:

1. Designate at least one person to coordinate efforts to comply with 34 Code of Federal Regulations part 104 (which implements section 504 of the Rehabilitation Act), if employing 15 people or more. (34 C.F.R. § 104.7(a) (May 9, 1980)).
2. Adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 Code of Federal Regulations part 104 (which implements section 504 of the Rehabilitation Act), if employing 15 people or more. (34 C.F.R. § 104.7(b) (May 9, 1980).)
3. Take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees of school district programs or activities, and unions or professional organizations holding collective bargaining or professional agreements with the school district of the identification of the employee responsible for coordinating the districts efforts to comply with 34 Code of Federal Regulations part 104, which prohibits discrimination based on disability. (34 C.F.R. § 104.8, (a) (Nov. 13, 2000).)

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administrative remedies by individual complainants is not required nor intended under section 504 and its implementing regulations, the court noted that federal assistance had been withdrawn from a school district.

[26] Title 29 United States Code section 794a, subdivision (a)(2), incorporating by reference Title 42 United States Code section 2000d et seq. and Title 42 United States Code section 2000e-5, which authorize litigation for violations of section 504 of the Rehabilitation Act.

[27] Although Title 42 United States Code section 2000e-5 authorizes litigation by aggrieved individuals for violations of section 504 of the Rehabilitation Act, district courts in the 9th Circuit have split on whether a private cause of action arises from noncompliance with the regulations implementing section 504. see *Huezo v. Los Angeles Community College Dist*. (C.D. Cal. 2008) 672 F.Supp.2d 1045, 1054, in which a 9th Circuit district court, after noting a split between federal circuits and between district courts within the 9th Circuit, found that there is no private cause of action to enforce self-evaluation regulations implementing the ADA and Section 504 of the Rehabilitation Act. Citing to the Supreme Court's decision in *Alexander v. Sandoval* (2001) 532 U.S. 275, the court found that a regulation by regulation analysis, as opposed to an analysis of the regulations as a whole, is required in order to determine if a regulation exhibits a Congressional intent to create a private right of action.

[28] *City of Sacramento v. State of California*, supra, 50 Cal.3d at p. 76, setting forth the factors to determine whether a federal mandate exists.

b. Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.)

The Age Discrimination Act of 1975 (codified at 42 U.S.C. § 6101 et seq.) and its implementing regulations (34 C.F.R. 110) prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.[29] Although the Age Discrimination Act of 1975 explicitly excludes employment discrimination from its scope,[30] as further discussed below, employment discrimination is not subject to the complaint procedures alleged in this test claim.

As a result, as relevant to this test claim, the Age Discrimination Act defines "programs or activities" in the same manner as Title IX, Title VI, and Section 504. Thus, the Age Discrimination Act extends to all of the operations of a college, not just the program receiving federal financial assistance.

As noted above, courts have acknowledged that federal financial assistance to education is pervasive.[31] Also like Section 504, Title IX, and Title VI, violations of the Age Discrimination Act can result in the termination of federal funding to the program in which noncompliance is found.[32] In addition, school districts face litigation by the Attorney General to enforce the Age Discrimination Act and its implementing regulations.[33] Thus, the Commission finds that the Age Discrimination Act constitutes a federal mandate.

As relevant to this test claim, the Age Discrimination Act and its implementing regulations require school districts to engage in the following activities:

1. Designate at least one employee to coordinate efforts to comply with and carry out the school district's responsibilities under the Age Discrimination Act (42 U.S.C. § 6101 et seq.) and its implementing regulations (34 C.F.R. § 110 et seq.), including investigation of any complaints that the school district receives alleging violations of the Act and its implementing regulations. (34 C.F.R. § 110.25(a) (Nov. 13, 2000).)
2. Notify school district beneficiaries, in a continuing manner, of information regarding the provisions of the Age Discrimination Act (42 U.S.C. § 6101 et seq.) and its implementing regulations (34 C.F.R. § 110 et seq.).

   Notice must identify the responsible employee by name or title address, and telephone number. (34 C.F.R. § 110.25(b) (Nov. 13, 2000).)
3. Adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Age Discrimination Act (42 U.S.C. § 6101 et seq.) and its implementing regulations (34 C.F.R. § 110 et seq.). (34 C.F.R. § 110.25(c) (Nov. 13, 2000).)

c. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.)

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[29] Title 42 United States Code section 6102.

[30] Title 42 United States Code section 6103, subdivision (c)(1).

[31] *Hayes, supra,* 11 Cal.App.4th 1564, 1584.

[32] Title 42 United States Code section 6104 (Pub.L.No. 96-88 (Oct. 17, 1979)) and 34 Code of Federal Regulations part 110.35 (Nov. 13, 2000).

[33] *Ibid.*

Title IX of Education Amendments of 1972 (Title IX) (codified at 20 U.S.C. § 1681 et seq.) and its implementing regulations (34 C.F.R. § 106 et seq.) prohibit discrimination on the basis of sex under any education program or activity receiving federal financial assistance.[34] Title IX applies to school districts as recipients of federal financial assistance.[35] Courts and the Office for Civil Rights (OCR) of the United States Department States Department of Education have recognized claims of sexual harassment as part of Title IX's prohibition against gender discrimination.[36] Also, the OCR interprets Title IX and its implementing regulations as prohibiting sexual harassment based on sexual orientation in certain situations. Specifically, OCR states:

> Although Title IX does not prohibit discrimination on the basis of sexual orientation, sexual harassment directed at gay or lesbian students that is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's program constitutes sexual harassment prohibited by Title IX ….[37]

Thus, the prohibition and associated requirements regarding discrimination on the basis of sex includes sexual harassment on the basis of sexual orientation in certain instances.

Like Section 504, compliance with Title IX is a condition of receipt of all federal financial assistance, and as a result, school districts are not *legally* required to comply with the provisions of Title IX. However, school districts face practical compulsion to comply with Title IX and its implementing regulations. A failure to comply with Title IX and its implementing regulations can result in the termination of federal financial assistance to the program in which

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[34] Title 20 United States Code sections 1681 and 1687; 34 Code of Federal Regulations part 106.51; *North Haven Bd. of Ed. v. Bell* (1982) 456 U.S. 512, 530-535. See also, *Sharif by Salahuddin v. New York State Educ. Dept.* (S.D.N.Y. 1989) 709 F.Supp. 345, 360 fn. 34, noting that Congress broadened the scope of title 20 United States Code section 1687 with the 1988 adoption of the Civil Rights Restoration Act, such that receipt of federal financial assistance results in institution-wide application of Title IX.

[35] *Hayes, supra,* 11 Cal.App.4th 1564, 1584, noting the pervasiveness of federal financial assistance in education.

[36] *Davis v. Monroe County Bd. of Educ., supra,* 526 U.S. at 650; *Franklin v. Gwinnet County Public Schools, supra,* 503 U.S. at 75; and Office for Civil Rights of the United States Department of Education, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, (Jan. 2001), pgs. 3-4.

[37] Office for Civil Rights of the United States Department of Education, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, *supra,* at pg. 12. See also, *Nichols v. Azteca Restaurant Enterprises, Inc.* (9th Cir. 2001) 256 F.3d 864, 874-875, in which the court overturned its finding in *DeSantis v. Pacific Telephone & Telegraph Co., Inc.* (9th Cir. 1979) 608 F.2d 327, that discrimination based on a stereotype that a man "should have a virile rather than an effeminate appearance" does not fall within Title VII's purview. See *OONA, R.-S v. McCaffrey* (9th Cir. 1998) 143 F.3d 473, 476-477, finding that Title VII standards apply to hostile environment claims under Title IX.

noncompliance is found.[38] Further, the principal objectives of Title IX are to avoid the use of federal resources to support discriminatory practices and to provide individual citizens effective protection against those discriminatory practices.[39] Thus, the Commission finds that school districts are practically compelled to comply with the requirements of Title IX (20 U.S.C. § 1681 et seq.) and its implementing regulations. As a result, the Commission finds the requirements of Title IX and its implementing regulations constitute a federal mandate (34 C.F.R. § 106 et seq.).

As relevant to this discussion, Title IX and its implementing regulations require school districts to engage in the following activities:

1. Designate at least one employee to coordinate efforts to comply with and carry out the responsibilities under 34 Code of Federal Regulations part 106, which implement Title IX, including the investigation of any complaint communicated to the school district alleging its noncompliance with part 106 or alleging any action that would be prohibited by part 106. (34 C.F.R. § 106.8(a) (May 9, 1980).)
2. Notify all students and employees of the name, office address and telephone number of the employee or employees appointed to coordinate school district efforts to comply with and carry out district responsibilities under 34 Code of Federal Regulations part 106 et seq., including any investigation of any complaint communicated to the district alleging noncompliance or any act that would be prohibited by 34 Code of Federal Regulations part 106 et seq. (34 C.F.R. § 106.8(a) (May 9, 1980).)
3. Adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action which would be prohibited by 34 Code of Federal Regulations part 106 et seq. (34 C.F.R. § 106.8(b) (May 9, 1980).)
4. Implement specific and continuing steps to notify students and parents of elementary and secondary school students, and employees that it does not discriminate on the basis of sex and that it is required by Title IX and 34 Code of Federal Regulations part 106 et seq. not to discriminate in such a manner. (34 C.F.R. § 106.9(a) (Nov. 13, 2000).)
5. Prominently include a statement of the policy prohibiting discrimination on the basis of sex, required under 34 Code of Federal Regulations part 106.9, subdivision (a), in each announcement, bulletin, catalog, application form which it makes available to any person listed in part 106.9, subdivision (a), including students and parents of elementary and secondary school students, and employees. (34 C.F.R. § 106.9(b) (Nov. 13, 2000).)

d. Title II of the Americans with Disabilities Act (42 U.S.C. § 12131-12134)

Title II of the ADA (codified at 42 U.S.C. §§ 12131-12134) and its implementing regulations (28 C.F.R. § 35 et seq.) generally prohibit the exclusion of individuals from participation in or the denial of benefits to individuals of the services, programs, or activities of a public entity due to disability, or for the entity to subject an individual to discrimination based on disability. This prohibition applies to school districts as "public entities" without regard to the receipt of any

[38] Title 20 United States Code section 1682. See *Dougherty County School System v. Bell* (5th Cir. 1982) 694 F.2d 78, 81, finding that deferring school's federal funding must be done on a program by program basis.

[39] *Id*. at p. 704.

federal funds. As a result, the plain language of Title II of the ADA imposes a federal mandate upon school districts.

As relevant to this discussion, Title II of the ADA (42 U.S.C. § 12131-12134) and its implementing regulations (28 C.F.R. § 35 et seq.) impose the following activities on school districts:

1. Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 28 Code of Federal Regulations part 35 et seq., including any investigation of any non-employment related complaint communicated to it alleging noncompliance with part 35 or alleging any actions that would be prohibited by part 35. (28 C.F.R. § 35.107(a) (July 26, 1991).)
2. Make available to all interested individuals the name, office address, and telephone number of the employee or employees responsible for the school districts efforts to comply with and carry out the responsibilities under 28 Code of Federal Regulations part 35 et seq. (28 C.F.R. § 35.107(a) (July 26, 1991).)
3. Adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 Code of Federal Regulations part 35 et seq., if employing 50 or more persons. (28 C.F.R. § 35.107, subd. (b) (July 26, 1991).)

e. General Education Provisions Act (20 U.S.C. §§ 1221-1234i)

Among other things, the General Education Provisions Act (GEPA) (20 U.S.C. §§ 1221-1234i) and its implementing regulations (34 C.F.R, § 76 et seq.) set forth general conditions which school districts must comply with to receive federal education funds under programs administered by the U.S. Department of Education.[40] Failure to comply with the GEPA conditions can trigger the U.S. Department of Education's initiation of a process which could result in the withdrawal of all federal education funds.[41] As noted by the court in *Hayes*, federal assistance to education is pervasive.[42] In addition, the Commission has previously noted that funding provided under Title I of the Elementary and Secondary Education Act, which is one of the programs subject to the GEPA, exceeded $1 billion and that this funding has been relied on for over 40 years.[43] In light of the penalties for failing to comply with the GEPA and its

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[40] The programs include the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act.

[41] 20 U.S.C. §§ 1234-1234i and 34 Code of Federal Regulations part 76.901.

[42] *Hayes*, *supra*, 11 Cal.App.4th at p. 1584. As an example, the court cites to Education Code sections 12000-12405, 49540 et seq., and 92140 et seq., which set forth provisions regarding the administration of federal programs by the State Board of Education, participation in the federal child care food program, and participation in federal programs for education in agriculture and mechanical arts.

[43] Statement of decision for *Pupil Suspensions II, Pupil Expulsions II, and Educational Services Plan for Expelled Pupils* (96-358-03, 03A, 03B, 98-TC-22, 01-TC-18, 96-358-04, 04A, 04B, 98-TC-23, 01-TC-17, 97-TC-09) test claims, adopted August 1, 2008, at <http://www.csm.ca.gov/sodscan/052011sod.pdf> as of July 30, 2012.

implementing regulations, and the length of time that federal educational funding has been relied on, the Commission finds that school districts are practically compelled to comply with the GEPA and its implementing regulations.

As relevant to this test claim, the GEPA mandates school districts to submit a general application to the state agency or board administering federal funds with assurances that the district will administer each program subject to the GEPA in accordance with all applicable statutes, regulations, program plans, and applications.[44] The regulations implementing the GEPA require school districts to comply with Title VI of the Civil Rights Act, Title IX, Section 504 of the Rehabilitation Act, the Age Discrimination Act, and their implementing regulations.[45] These federal laws prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. Thus, school districts are required to provide assurance that programs receiving federal education funds are provided in compliance with Title VI of the Civil Rights Act, Title IX, Section 504 of the Rehabilitation Act, the Age Discrimination Act, which prohibit discrimination on the basis of race, color, national origin, sex, disability, and age.

In addition, the GEPA requires school districts to provide an assurance to the state agency or board that the district will make such reports and maintain and provide access to such records as the state agency or board deem necessary to perform their duties.[46] The duties of state agencies or boards include monitoring of agencies, institutions, and organizations responsible for carrying out each program subject to the GEPA, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law.[47] Thus, school districts are required to provide compliance reports to state agencies or boards administering federal education funding as may be required by those state agencies or boards.

As relevant to this discussion, the GEPA (20 U.S.C. §§ 1221-1234i) and its implementing regulations (34 C.F.R, § 76 et seq.) impose the following activities on school districts:

1. Provide a written assurance to state agencies or boards administering federal education funding that programs receiving federal education funding are provided in compliance with Title VI of the Civil Rights Act, Title IX, Section 504 of the Rehabilitation Act, the Age Discrimination Act, which prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. (20 U.S.C. § 1232e(b)(1).)
2. Provide compliance reports to state agencies or boards administering federal education funding, as may be required by the agencies or boards. (20 U.S.C. § 1232e(b)(4).)

(2) Some of the Test Claim Statutes and Regulations Impose State-Mandated New Programs or Higher Levels of Service on School Districts that Exceed the Requirements of Federal Law.

Some of the test claim statutes and regulations pled in this test claim impose activities that are mandated by the federal antidiscrimination laws described above and, thus, are not reimbursable under article XIII B, section 6 of the California Constitution. In addition, some of the activities

[44] Title 20 United States Code section 1232e(b)(1).

[45] 34 Code of Federal Regulations part 76.500.

[46] Title 20 United States Code section 1232e(b)(4).

[47] Title 20 United States Code section 1232d(b)(3)(A).

pled are triggered by the school district's discretionary decision to offer certain optional educational programs. As described further below, activities required by a statute or regulation that are triggered by a local discretionary decision are not eligible for reimbursement. Finally, some activities that are mandated by the state are not new and, thus, do not impose a new program or higher level of service.

The following analysis addresses the test claim statutes and regulations in two separate sections. The first section addresses the test claim statutes, which provide for the general prohibition against discrimination and various notices regarding an individual's rights in regard to this prohibition. The second section addresses the test claim regulations, which set forth the local and state level complaint procedures to handle complaints alleging both discrimination complaints and complaints alleging violations of specific educational programs. For the reasons below, the Commission partially approves this test claim for those activities that constitute a state-mandated new program or higher level of service.

a. Policies, Notices, and Assurances Regarding Unlawful Discrimination, and Notices Regarding Civil Remedies (Ed. Code, §§ 231.5, 250, 251, 253, 262.3, and 262.4; Gov. Code, § 11139).

Education Code sections 231.5, 250, 251, 253, 262.3, and 262.4; and Government Code section 11139 address: (1) a district's written policy on sexual harassment; (2) a written assurance by districts regarding compliance with antidiscrimination laws; (3) the provision of notice regarding any possible civil remedies; and (4) the enforcement of the prohibition of discrimination by civil action.

(i) Written Policy on Sexual Harassment (Ed. Code, § 231.5).

Section 231.5 identifies as the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state. In light of this policy, section 231.5 requires school districts to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies. Specifically, section 231.5 requires school districts to engage in the following activities:

1. Have a written policy on sexual harassment, which includes information on where to obtain specific rules and procedures for reporting charges of sexual harassment and for pursuing remedies. It is intended that the written policy is included as part of a school district's regular policy statement rather than distributed as an additional written document. (Ed. Code, § 231.5(b) and (c) (Stats. 1998, ch. 914).)
2. Display the written policy in a prominent location in the main administrative building or other area of the campus or school site. (Ed. Code, § 231.5(d) (Stats. 1998, ch. 914).)
3. Provide the policy on sexual harassment, as it pertains to students, to new students as part of any orientation program conducted at the beginning of each session. (Ed. Code, § 231.5(e) (Stats. 1998, ch. 914).)
4. Provide faculty members, administrative staff, and support staff with the written policy on sexual harassment at the beginning of each year or at the time a new employee is hired. (Ed. Code, § 231.5(f) (Stats. 1998, ch. 914).)

5. Include a copy of the policy in any publication of the school that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the school. (Ed. Code, § 231.5(g) (Stats. 1998, ch. 914).)

However, as discussed above, Title IX imposes a federal mandate on school districts to have a written policy prohibiting discrimination on the basis of sex, which includes sexual harassment.[48] School districts are federally mandated to adopt a grievance procedure for allegations of discrimination on the basis of sex, and to notify all students and employees of the procedures for reporting discrimination on the basis of sex.[49] Also school districts are federally mandated to continually notify all students and employees of the school district's policy against discrimination on the basis of sex, or engaging in sexual harassment.[50] In addition, school districts are federally mandated to include a statement of its policy prohibiting discrimination on the basis of sex in each announcement, bulletin, catalog, application form which it makes available to any person, including students and parents of elementary and secondary school students, and employees.[51] Thus, the requirements to have a written policy on sexual harassment that includes a grievance procedure, to provide the policy to students and employees, and to include the policy in any publication that sets forth the rules, regulations, and procedures, and standards of conduct for the school constitute federal mandates and are not reimbursable under article XIII B, section 6 of the California Constitution.[52]

Additionally, although the federal mandates on school districts to notify students, parents, and employees, in a continuing manner, does not specifically require notice by displaying the policy in a prominent location in the main administrative building, the Commission finds that displaying the policy implements the federal mandate to take continuing steps to provide notification of the policy and is part and parcel of the federal law.

In *San Diego Unified School Dist. v. Commission on State Mandates* (*San Diego Unified School Dist.*) the California Supreme Court addressed whether state imposed procedural requirements that exceeded federal due process requirements constituted a federal mandate. The issue in *San Diego Unified School Dist.* was whether procedural due process activities imposed by the test claim statute were reimbursable when a school district sought to expel a pupil. The court recognized that federal due process law requires school districts to comply with federal procedural steps, such as notice and a hearing, to safeguard the rights of a pupil when the pupil is subject to an expulsion from school. The Education Code statute pled in the test claim mandated procedures on school districts to implement federal due process requirements. The test claim statute also required school districts to comply with additional procedures that were not

[48] 34 Code of Federal Regulations part 106.9(b).

[49] 34 Code of Federal Regulations part 106.8(a).

[50] 34 Code of Federal Regulations part 106.9(a).

[51] 34 Code of Federal Regulations part 106.9(b).

[52] These activities correspond to Education Code section 231.5 (b), (c), (e), (f), and (g).

expressly required by federal law; i.e. "primarily various notice, right of inspection, and recording rules."[53]

The court held that all procedures set forth in the test claim statute, including those that exceed federal law, are considered to have been adopted to implement a federal due process mandate and, thus, the costs were not reimbursable under article XIII B, section 6 of the California Constitution and Government Code section 17556.[54] The court held that for purposes of ruling upon a request for reimbursement, "challenged state rules or procedures that are intended to implement an applicable federal law – and whose costs are, in context, de minimis – should be treated as part and parcel of the underlying federal mandate."[55]

The court made this finding in regard to state procedures to provide an expulsion hearing to students facing a discretionary expulsion. In making its finding, the court states:

> [T]he Legislature, in adopting specific statutory procedures to comply with the general federal mandate, reasonably articulated various incidental procedural protections. These protections are designed to make the underlying federal right enforceable and to set forth procedural details that were not expressly articulated in the case law establishing the respective rights; viewed singly or cumulatively, they did not significantly increase the cost of compliance with the federal mandate.[56]

Similarly, the displaying of a district's policy in a prominent location is a reasonable articulation of incidental procedures of the federal mandate to take continuing steps to provide notice, which is de minimis in context of providing notice on a *continuing* basis. Thus, the requirement to display the district's policy on sexual harassment in a prominent location in the main administrative building or other area of the campus or school site constitutes a federal mandate not subject to article XIII B of the California Constitution. Thus, the Commission finds that Education Code section 231.5 does not impose a state-mandated new program or higher level of service.

(ii) Assurance of Compliance with Antidiscrimination Laws (Ed. Code, §§ 250, 251, and 253).

Section 250 requires school districts to provide a written assurance to state agencies extending state financial assistance or student financial aid that each program or activity conducted by the district will be conducted in compliance with state laws prohibiting discrimination. "State

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[53] *San Diego Unified School Dist., supra*, 33 Cal.4th at pages 873, footnote 11, and 890. As stated in footnote 11 of the court's decision, the excess activities in the *San Diego Unified School Dist.* case included (1) the adoption of rules and regulations, (2) the inclusion of several notices in the notice of expulsion hearing, (3) allowing the pupil or the parent to inspect and obtain copies of documents to be used at the hearing, (4) sending written notice on the rights and obligations of the parents, (5) maintenance of a record of each expulsion, and (6) recording of the expulsion order and the cause thereof in the student's mandatory interim record.

[54] *Id.* at page 888.

[55] *Id.* at page 890.

[56] *San Diego Unified School Dist., supra*, 33 Cal.4th at p. 889.

financial assistance" and "student financial aid" are defined to include federal funds administered by a state agency.[57] To meet this requirement, section 250 provides that a single assurance, not more than one page in length and signed by an appropriate responsible official of the school district may be provided for all the programs and activities conducted by an educational institution. To be clear, the activity required by Education Code section 250 is not *compliance* with state law prohibiting discrimination. Rather, the activity required is the *provision of a written assurance*, intended to be not more than one page in length for all programs and activities.

Read in context with section 250, section 251 requires districts to provide compliance reports to the CDE regarding the prohibition of unlawful discrimination in a district's activities, as may be required by the CDE, and to make those reports open for inspection during the normal business hours of the district.

As discussed above in the section of this analysis addressing the relevant federal laws, school districts are federally mandated to provide state agencies administering federal education funds with a general assurance that its programs that utilize federal education funding comply with federal antidiscrimination laws.[58] Specifically, federal law requires school districts to provide a written assurance that its programs comply with federal laws prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age.[59] Additionally, federal law mandates school districts to provide compliance reports to state agencies or boards administering federal education funding, as may be required by the state agencies or boards.[60]

Similarly, state antidiscrimination law prohibits discrimination on the basis of race, national origin, disability, sex, and age. As a result, providing a written assurance of compliance and compliance reports as may be required by the CDE regarding the prohibition of discrimination on the basis of race, national origin, disability, sex, and age constitutes a federal mandate that is not subject to reimbursement under article XIII B, section 6 of the California Constitution.

However, state antidiscrimination laws also require assurance that a school district is complying with the prohibition of discrimination on the basis of religion and sexual orientation, which is not required by federal law.[61] Also, providing compliance reports to the CDE regarding the prohibition of discrimination on the basis of religion and sexual orientation, as may be required by the CDE, is not required by federal law. As a result, the provision of an assurance that a school district is complying with the prohibition of discrimination on the basis of religion and sexual orientation and the provision of compliance reports as may be required by the CDE constitute state-mandated activities.

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[57] Education Code sections 213 and 214.

[58] Title 20 United States Code section 1232e.

[59] 34 Code of Federal Regulations part 76.500. Providing that a school district shall comply with Title VI of the Civil Rights Act (45 U.S.C. § 2000d et seq; and 34 CFR § 100 et seq), which prohibits discrimination on the basis of race, color, or national origin. In addition, part 76.500 requires districts to comply with Title IX, Section 504, and the Age Discrimination Act.

[60] Title 20 United States Code section 1232e(b)(4).

[61] Education Code section 200.

In addition, these state-mandated activities impose unique requirements on school districts in order to implement the state's policy against unlawful discrimination within schools. Prior to the 1998 amendment of sections 250 and 251, school districts were not required to engage in the activities mandated by the sections.[62] Thus, the Commission finds that Education Code sections 250 and 251 impose the following state-mandated new programs or higher levels of service on school districts:

1. Provide written assurance to any state agency administering state financial assistance or student financial aid to the school district that each program or activity conducted by the school district will be in compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation.[63] (Ed. Code, § 250 (Stats. 1998, ch. 914).)
2. Submit timely, complete, and accurate compliance reports regarding compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation to the State Department of Education as the State Department of Education may require. (Ed. Code, § 251 (Stats. 1982, ch. 1117).)

In contrast, the Commission finds that the activity of making the compliance reports available for public inspection during regular business hours pursuant to Education Code section 251, and the activities alleged to be imposed by Education Code section 253 do not constitute state-mandated new programs or higher levels of service.

The claimant also asserts that the provision in section 251 to make the compliance reports available for public inspection during regular business hours imposes a new program or higher level of service on school districts. However, prior to 1975, "public records" of school districts were required to be open to inspection at all times during district office hours.[64] In addition, since before 1975 "public records" has been defined to include "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristic."[65] The content of the compliance report specifically relates to the "public's business" and is prepared and retained by the district. As a result, the compliance report constitutes a "public record" and the requirement to make it available for public inspection is not new.

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[62] Exhibit A, *supra*, p. 4-5, and 13. The claimant cites to Statutes 1982, chapter 1117; and Statutes 1998, chapter 914. The 1982 version of section 250 only required school districts to provide assurance of compliance with laws prohibiting discrimination on the basis of sex. In 1998, the Legislature expanded the scope of the assurance required by Section 250 to include all forms of unlawful discrimination. Section 251 remained substantively unchanged between 1982 and 1998. Immediately prior to the enactment of sections 250 and 251 in 1982 and section 250's amendment in 1998, school districts were not required to engage in the activities mandated by the sections.

[63] Education Code section 250 provides that a single assurance may be provided for all the programs and activities conducted by an educational institution.

[64] Government Code section 6253 (Stats. 1974, ch. 544).

[65] Government Code section 6252 (Stats. 1970, ch. 575).

Section 253 requires the State Superintendent of Public Instruction to include specific information in the annual Coordinated Compliance Review Manual provided to school districts by the Superintendent, and for the Superintendent to annually review school districts for compliance with "sex discrimination" laws. The claimant asserts that section 253 requires school districts to comply with the sex discrimination provisions of state law as included in the annual Coordinated Compliance Review Manual provided to school districts by the Superintendent of Public Instruction and to cooperate with the Superintendent if selected in his or her annual review for compliance with "sex discrimination" laws.[66] However, the plain language of section 253 does not impose any activities on school districts. Rather, section 253 imposes activities on the State Superintendent of Public Instruction to include specific information in the Coordinated Compliance Review Manual and to review school districts for compliance with "sex discrimination" laws in fiscal years in which sufficient funds have been appropriated. None of the activities contained in section 253 are directed toward school districts. Thus, the Commission finds that Education Code section 253 does not require school districts to engage in any activities.

(iii) Notification of Possible Civil Remedies (Ed. Code, § 262.3)

Education Code section 262.3 addresses the rights of individuals that have filed a complaint of unlawful discrimination with a school district, and the notification these individuals receive regarding civil law remedies that may be available. Education Code section 262.3 requires school districts to engage in the following activities:

1. Advise people who have filed a complaint with the school district pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200), which prohibits unlawful discrimination, that civil law remedies, including, but not limited to injunctions, restraining orders, or other remedies or orders, may also be available to complainants. (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)
2. Make available by publication in appropriate informational materials the information regarding the availability of civil remedies to people who have filed a complaint pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200). (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

The activities required by Education Code sections 262.3(b) are not required by federal law. As a result, the Commission finds that the above activities constitute state-mandated activities. Additionally, section 262.3 imposes unique duties upon school districts to advise individuals that have filed complaints alleging unlawful discrimination of the available civil law remedies. The claimant has pled Statutes 1988, chapter 1514, which amended Education Code sections 260 and 262, and added sections 262.1, 262.2, 262.3, and 265.[67] The state-mandated activities listed above were originally contained in Education Code section 265 as added by Statutes 1988, chapter 1514. Immediately prior to the enactment of this test claim statute, school districts were not required to engage in the above activities. Thus, the Commission finds that the above listed activities constitute state-mandated new programs or higher levels of service.

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[66] Exhibit A, test claim, dated July 23, 2003, pgs. 41-2.

[67] Exhibit A, test claim filing, *supra*, "test claim form," and p. 6.

(iv) Enforcement of the Prohibition of Discrimination by Civil Action (Ed. Code, § 262.4 and Gov. Code, § 11139)

Education section 262.4 and Government Code section 11139 provide that specific provisions of state law prohibit discrimination in educational programs on the basis of specific characteristics. As further discussed below, the Commission finds that Education Code section 262.4 and Government Code section 11139 do not require school districts to engage in any activities.

Education Code section 262.4 provides, "[Chapter 2 of part 1 of division 1 of title 1 of the Education Code] may be enforced through a civil action." The chapter referenced in section 262.4 consists of Education Code sections 200-283 which prohibit discrimination on a variety of bases, and require specific acts of state and local entities to enforce or comply with this prohibition. Despite the requirements that may be in Chapter 2, the plain language of Education Code section 262.4 *does not* require school districts to engage in any activity. Rather, it provides individuals the ability to enforce Chapter 2 and its prohibitions through civil action.

Similarly, Government Code section 11139 provides in relevant part, "This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies." The article referenced by section 11139 consists of Government Code sections 11135-11139.7, which prohibit discrimination on a variety of bases. However, like Education Code section 262.4, the plain language of Government Code section 11139 does not impose any activities on school districts. Instead, section 11139 provides individuals the ability to enforce sections 11135-11139.7 through civil action.

Therefore, the Commission finds that Education Code section 262.4 and Government Code section 11139 does not impose any state-mandated new programs or higher levels of service on school districts within the meaning of article XIII B, section 6 of the California Constitution.

b. Uniform Complaint Procedures (Cal. Code Regs., tit. 5, §§ 4611, 4620, 4621, 4622, 4631, 4632, 4650, 4652, 4660, 4661, 4662, 4663, 4665, and 4670)

The title 5 regulations analyzed in this section set forth some of the complaint procedures adopted by the CDE to govern the filing and handling of complaints of prohibited discrimination *and* complaints of violations of seven educational programs discussed immediately below.

(i) Complaint Procedures Scope of Applicability (Cal. Code Regs., tit. 5, § 4610)

Although the claimant does not allege title 5 section 4610 to impose any state-mandated new programs or higher levels of service, section 4610 establishes the scope of the complaints that are to be processed with the procedures set forth in title 5 section 4600 et seq.

In regard to complaints of unlawful discrimination, section 4610 provides that the complaint procedures apply to the filing of complaints alleging unlawful discrimination on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, in any program or activity conducted by" a school district.[68] However, this does not include complaints of employment discrimination, which are instead required to be forwarded to the State

[68] California Code of Regulations, title 5, section 4610 (Register 92, No. 3).

Department of Fair Employment and Housing.[69] In addition, as further discussed below, in section (b)(ii) of this analysis (titled "Complaint Process"), some of the complaint procedures are mandated by federal law to the extent that they apply to complaints alleging discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age. But as applicable to complaints alleging discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), the procedures are not mandated by federal law. Also, the activity of forwarding information to the State Superintendent of Public Instruction regarding a decision by the district that was appealed to the Superintendent, is not mandated by any federal antidiscrimination laws, and thus, constitutes a state-mandated activity.

In addition to being the complaint procedures for allegations of unlawful discrimination, the regulations comprise the complaint procedures that apply to alleged violations of the following programs: (1) Adult Basic Education (Ed. Code, §§ 8500 – 8538 and 525000 – 52616.5); (2) Consolidated Categorical Aid Programs (Ed. Code, § 64000(a)); (3) Migrant Education (Ed. Code, §§ 54440 – 54445); (4) Vocational Education (Ed. Code, §§ 52300 – 52480); (5) Child Care and Development programs (Ed. Code, §§ 8200 – 8493); (6) Child Nutrition programs (Ed. Code, §§ 49490 – 49560); and (7) Special Education programs (Ed. Code, §§ 56000 – 56885 and 59000 – 59300). However, not all of these educational programs are required by law.

In 2003, the California Supreme Court decided the *Kern High School Dist.* case and considered the meaning of the term "state mandate" as it appears in article XIII B, section 6 of the California Constitution.[70] The court held that when analyzing state mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[71] In addition, the court in *Kern High School Dist*. left open the possibility that a state mandate might be found in circumstances of practical compulsion, where a local entity faced certain and severe penalties as a result of noncompliance with a program that is not legally compelled.[72]

As a result, it is necessary to determine whether school district participation in any of the seven educational programs listed above is required by law.[73] If a school district is not required to participate in one of the educational programs, the downstream requirement imposed by the title 5 regulations to process complaints alleging violations of the voluntary program using the complaint process set forth in title 5 section 4600 et seq., are not mandated by the state.

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[69] California Code of Regulations, title 5, section 4611 (Register 92, No. 3).

[70] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727.

[71] *Id.* at p. 743.

[72] *Id.* at pg. 731.

[73] For purposes of this discussion, it is not important whether the educational programs are required by state law or by federal mandate. This discussion only addresses whether school districts are required to engage in the complaint procedures set forth by the test claim regulations in regard to specified educational programs. The extent that any of the activities imposed by the test claim regulations are mandated by federal law will be discussed later in this analysis.

(a) Adult Basic Education (Ed. Code, §§ 8500 – 8538 and 52500 – 52616.5)

In general, adult education programs are provided by school districts and other local education agencies on a voluntary basis.[74] The only exceptions are adult English classes and classes in citizenship. The plain language of Education Code section 52540 requires a high school district to establish classes in English upon application of 20 or more persons above the age of 18 residing in the high school district that are unable to speak, read, or write in English at an eighth grade level.[75] Similarly, the plain language of Education Code section 52552 requires a high school district to establish special classes in training for citizenship upon application of 25 or more persons.[76] The language of the code sections is not limited to districts already voluntarily maintaining adult education programs. Where the terms of a statute are unambiguous, the plain meaning of the language governs and an intent that cannot be found in the words of the statute cannot be found to exist.[77] As a result, adult education programs are provided on a voluntary basis, *except* for adult English classes and classes in citizenship when requested by a specified number of people.[78]

Under *Kern High School Dist*., a school district's underlying discretionary decision to provide adult basic education programs, other than adult English classes and citizenship classes, triggers any subsequent requirement to process complaints. Thus, school districts are not mandated by the state to process complaints alleging violations of adult basic education programs established pursuant to Education Code sections 8500-8538 and 52500-552616.5, with the exception of adult English classes and citizenship classes provided pursuant to Education Code sections 52540 and 52552.

(b) Consolidated Categorical Aid Programs (Ed. Code, § 64000(a))

The consolidated categorical aid programs listed in Education Code section 64000(a) consist of 14 state and federal aid programs that provide funding for a variety of purposes ranging from bilingual education to safe and drug free schools and communities. Section 64000 describes how a school district receives funding for these programs, providing in relevant part:

> (b) Each school district that *elects to apply* for any of these state funds shall submit to the department, for approval by the state board, a single consolidated

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[74] Education Code section 52301 allows the county superintendent of schools of each county, with the consent of the state board, to establish and maintain a regional occupational center, or regional occupational program (ROC/P) in the county to provide education and training in career technical courses. Education Code sections 52501, 52502, and 52503 allow high school districts or unified school districts to establish and maintain adult education classes and/or schools.

[75] Education Code section 52540. Derived from Political Code section 1764, subdivision (c), added by Statutes 1923, chapter 268, p. 577, section 1.

[76] Education Code section 52552. Derived from Statutes 1921, chapter 488, p. 742, section 4.

[77] *Estate of Griswold*, (2001) 25 Cal.4th 904, 910-911.

[78] On September 27, 2012, the Department of Finance submitted a late filing arguing all adult education programs, including English and citizenship classes, are provided on a voluntary basis. A copy of the filing was provided to the Commission and the public during the September 28, 2012 hearing.

application for approval or continuance of those state categorical programs subject to this part. (Emphasis added.)

(c) Each school district that *elects to apply* for any of these federal funds may submit to the department for approval, by the state board, a single consolidated application for approval or continuance of those federal categorical programs subject to this part. (Emphasis added.)

As shown by the language above, districts elect to apply for and receive funding from the consolidated categorical aid programs listed in Education Code section 64000(a). Thus, school districts are not legally required to participate in the consolidated categorical aid programs. In addition, there is no evidence in the record that districts are practically compelled to engage in the programs. Thus, the requirement to process complaints alleging violations of a consolidated categorical aid program using the complaint process set forth in the test claim regulations is triggered by a school district's underlying discretionary decision to participate in the consolidated categorical aid programs. As a result, under *Kern High School Dist*., any activities contained in the test claim regulations are not mandated by the state for complaints alleging violations of any of the consolidated categorical aid programs as listed in Education Code section 64000(a).

(c) Migrant Children Education (Ed. Code, §§ 54440 – 54445)

In *Kern High School Dist.* the California Supreme Court found the Migrant Children Education Programs (Ed. Code, § 54440 et seq.) to be a voluntary educational program.[79] Thus, under *Kern High School Dist*., any activities contained in the test claim regulations are not mandated by the state for complaints alleging violations of the Migrant Children Education program.

(e) Vocational Education (Ed. Code, §§ 52300 – 52480)

Education Code sections 52300 through 52480 set forth various vocational education programs in which school districts can voluntarily participate. The voluntary nature of the programs is indicated by the plain language of the code sections. For example, Education Code section 52301 provides that a county superintendent of schools "*may* establish and maintain, . . ., a regional occupational center, or regional occupational program" and that any school districts maintaining high schools are authorized to cooperate in the establishment of the center or program. Likewise, Education Code section 52450 et seq. creates a state program of agricultural career technical education, which a school district "*may, at their option*, include as part of the curriculum of that district."[80] The remaining code sections in Education Code sections 52300-52480 contain similar language or provisions indicating the optional nature of the programs. Thus, under *Kern High School Dist*., any activities contained in the test claim regulations are not mandated by the state for complaints alleging violations of Vocational Education established pursuant to Education Code section 52300 through 52480.

(f) Child Care Development (Ed. Code, §§ 8200 – 8493)

Education Code sections 8200 through 8493 (Child Care and Development Services Act) establish a program under which various entities, both public and private, can contract with the

[79] *Kern High School Dist., supra*, 30 Cal.4th 727, 733.

[80] Education Code section 52450.

CDE to provide child care development services.[81] Public and private agencies are authorized to apply for a contract to provide child care development services, but are not required to do so. As a result, under *Kern High School Dist*., any activities contained in the test claim regulations are not mandated by the state for complaints alleging violations of child care development services provided pursuant to Education Code sections 8200-8493.

(g) Child Nutrition Programs (Ed. Code, §§ 49490 – 49560)

Under Education Code section 49550, each school district maintaining any K-12 grades must provide each needy pupil enrolled with one nutritionally adequate free or reduced price meal during each school day. The remaining code sections in Education Code sections 49490 through 49560 establish funded nutrition programs in which school districts can participate in order to meet or supplement the requirement to provide a free or reduced price meal during each school day. Although, school districts are authorized to participate in the various programs set forth in Education Code sections 49490 – 49560, they are not mandated by the state to do so. School districts are only required to provide one nutritionally adequate free or reduced price meal during each school day pursuant to Education Code section 49550. Thus, under *Kern High School Dist*., any activities contained in the test claim regulations are not mandated by the state for complaints alleging violations of child nutrition programs provided pursuant to Education Code sections 49490-49560, with the exception of section 49550.

(h) Special Education (Ed. Code, §§ 56000 – 56885 and 59000 – 59300)

Under state and federal law, a free appropriate public education shall be available to individuals with exceptional needs. Education Code sections 56000 – 56885 and 59000 – 59300 set forth the rights of various parties in relation to special education, the administrative duties of state and local entities in regard to the provision of special education, and a variety of special education programs required or authorized to be offered by state and local entities.

Title 5 section 4610 provides that the complaint process applies to special education programs established pursuant to Education Code sections 56000 – 56885 and 59000 – 59300. Generally, school districts are required by law to provide the special education programs and comply with the requirements set forth in those code sections. However, school districts are not required to offer programs provided pursuant to Education Code sections 56390 – 56392, 56400 – 56414, 56452 – 56474, 56475 – 56476, 56846 – 56847, and 59000-59300.

Education Code sections 56390 – 56392 provide school districts with the authority to award an individual with exceptional needs a certificate or document of educational achievement or completion. The provision of a certificate is not intended to eliminate an opportunity for an individual with exceptional needs to earn a standard diploma. Although school districts are given this authority, they are not required to utilize the authority. As a result, a school district voluntarily provides this certificate and any subsequent complaints processed through the

[81] See Education Code section 8208, defining "applicant or contract agency" to mean school district, community college district, college or university, county superintendent of schools, county, city, public agency, private nontax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter." See also, California Code of Regulations, title 5, section 18000 et seq., describing the process for application for, and award of, a contract.

uniform complaint procedures are triggered by this voluntary decision and not mandated by the state.

Education Code sections 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847 provide for family empowerment centers on disabilities, career and vocation programs, transition services, and project workability, interagency agreements entered into by the Superintendent, and the Superintendent's autism advisory committee. However, the activities or provisions of these code sections apply to the state or private individuals. As a result, these code sections do not impose any requirements on school districts.

Similarly, Education Code sections 59000 – 59300 establish state operated schools for severely handicapped students, including schools for the deaf (Ed. Code, § 59000 et seq.) and the blind (Ed. Code, § 59100 et seq.), and diagnostic centers to provide various services including pupil assessments (Ed. Code, § 59200 et seq.).[82] Thus, the test claim regulations as they relate to Education Code sections 59000 – 59300, direct the state to engage in specific activities, but do not impose any activities on school districts.

Based on this discussion, school districts are required to provide special education programs pursuant to Education Code sections 56000 – 56885, except for programs provided pursuant to Education Code sections 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847.

In summary, the Commission finds that complaints regarding the following educational programs listed in title 5 section 4610 are required by state law on the limited bases discussed above: (1) adult basic education; (2) child nutrition; and (3) special education. To the extent the complaint process activities discussed below are required, they are only mandated by the state for complaints alleging violations of these educational programs *and* complaints of unlawful discrimination not mandated by federal law.

(ii) Complaint Process

The title 5 regulations setting forth the uniform complaint procedures includes processes on the school district level (Cal. Code Regs., tit. 5, §§ 4620, 4621, 4631, and 4632) and the state (Superintendent/the CDE) level (Cal. Code Regs., tit. 5, §§ 4650, 4652, 4660, 4661, 4662, 4663, 4665, and 4670).

On the school district level, the complaint process involves a complainant filing a complaint with the school district alleging unlawful discrimination or a violation of the educational programs described in California Code of Regulations, title 5, section 4610.[83] Prior to the initiation of an official investigation into the complaint, local mediation may be conducted if offered by the school district to resolve complaints. If mediation is unsuccessful, or does not occur, the school

[82] *Lucia Mar Unified School Dist. v Honig* (1988) 44 Cal.3d 830, 832. See also, Education Code sections 59002, 59102, and 59202, providing that the administration of these schools and centers is under the State Department of Education/Superintendent of Public Instruction.

[83] The Commission notes that any state-mandated new programs or higher levels of service found in this part of the analysis, is limited by the findings that some of the educational programs listed in California Code of Regulations, title 5, section 4610 are not mandated by the state.

district superintendent conducts an investigation and prepares a written decision containing the school district's findings and disposition of the complaint.

The state level complaint process is initiated in two ways: (1) direct state intervention; and (2) appeal of the school district's decision to the Superintendent by a complainant. Regardless of how the state complaint process is initiated, the state is required to offer state mediation to resolve the dispute, which either party can waive. If mediation is waived or is unsuccessful, the Superintendent initiates an investigation. An investigation includes the request of documentation regarding the allegations, and interviews of the involved persons, as appropriate, to determine the facts of the case. In addition, the parties involved are given an opportunity to present information. After the investigation, an investigation report containing findings of facts, conclusions, and any required/recommended corrective actions, is mailed to the parties. After receipt of the state's investigation report, the complainant or the school district may request reconsideration by the Superintendent. Upon determination by the state that a school district has violated the provisions of Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600), the Superintendent notifies the school district of the action the Superintendent will take to effect compliance.

The following will analyze whether the complaint process imposes state-mandated new programs or higher levels of service on school districts.

(a) Referring Complaint Issues to Other Appropriate State or Federal Agencies (Cal. Code Regs., tit. 5, § 4611)

Title 5 section 4611 provides direction to the CDE and school districts to refer specific types of complaints exempt from the complaint procedures established by the test claim regulations to other appropriate state or federal agencies.

As amended in Register 93, number 51, section 4611 excludes the following complaints from the school district complaint procedures set forth in title 5, section 4600 et seq. and requires school districts to refer the complaints to the following specific agencies for resolution:

1. Allegations of child abuse to the applicable County Department of Social Services, Protective Services Division or appropriate law enforcement agency. (Cal. Code Regs., tit. 5, § 4611(a) (Register 92, No. 3).)
2. Health and safety complaints regarding a Child Development Program to the Department of Social Services (DSS) for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities. (Cal. Code Regs., tit. 5, § 4611(b) (Register 92, No. 3).)
3. Discrimination issues involving title IX of the Educational Amendments of 1972 to the U.S. Office of Civil Rights (OCR) *only* if there is no state discrimination law or regulation at issue. (Cal. Code Regs., tit. 5, § 4611(c) (Register 92, No. 3).)
4. Complaints of discrimination involving Child Nutrition Programs administered by the CDE from program participants or applicants to either the Administrator for the Food and

Nutrition Service at the United States Department of Agriculture or to the United States Secretary of Agriculture. (Cal. Code Regs., tit. 5, § 4611(d) (Register 93, No. 51).)[84]

5. Employment discrimination complaints to the State Department of Fair Employment and Housing (DFEH). The complainant must be notified by certified mail of any DFEH transferral. (Cal. Code Regs., tit. 5, § 4611(d) (Register 92, No. 3).)
6. Allegations of fraud to the responsible CDE Division Director and the CDE's Legal Office. (Cal. Code Regs., tit. 5, § 4611(e) (Register 92, No. 3).)

The claimant has pled the activity of referring allegations of child abuse to the applicable county agency or appropriate law enforcement agency as added in 1991 and last amended in 1993.[85] However, in order for an activity to constitute a new program or higher level of service it has to be new as compared with the legal requirements in effect immediately before the adoption of the regulation.[86] Immediately before the adoption of the regulation in 1991, the Child Abuse and Neglect Reporting Act (commencing with Pen. Code, § 11164) already required districts to report suspected instances of child abuse to a child protective agency, which includes local law enforcement or county welfare departments.[87] As a result, the Commission finds that the requirement to refer allegations of child abuse to other appropriate agencies does not constitute a new program or higher level of service.

In addition, as discussed above, child development programs are established by school districts on a voluntary basis. As a result, receiving and then referring health and safety complaints regarding child development programs is triggered by the underlying voluntary decision to establish such a program. Thus, based on *Kern High School Dist.*, the Commission finds that referring such complaints to the DSS or the appropriate child development regional administrator is not a state-mandated new program or higher level of service.

In regard to the remaining types of complaints, referring these complaints to the specified state and federal agencies is not a result of an underlying voluntary decision by the school district. In addition, referring these complaints to the specified agencies is not mandated by federal law. Also, referring these complaints imposes unique requirements on school districts in order to implement the state policy against unlawful discrimination and violations of specified educational programs. This requirement did not exist immediately prior to the adoption of this regulation. As a result, the Commission finds that California Code of Regulations, title 5, section 4611 imposes the following state-mandated new programs or higher levels of service:

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[84] California Code of Regulations, title 5, section 4611(c) was amended in Register 93, number 51, by separating complaints of discrimination involving Title IX and complaints of discrimination involving Child Nutrition Programs. The latter complaint became the subject of subdivision (d), shifting the remaining complaint types down a subdivision. The result is in Register 93, number 51 former subdivisions (d) and (e) became (e) and (f).

[85] Exhibit A, *supra*, p. 24. This coincides with Register 92, number 3; and Register 93, No. 51.

[86] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

[87] Penal Code section 11164 et seq. (Stats. 1987, ch. 1071).

1. Refer discrimination issues involving title IX of the Educational Amendments of 1972 to the U.S. Office of Civil Rights (OCR) *only* if there is no state discrimination law or regulation at issue. (Cal. Code Regs., tit. 5, § 4611(c) (Register 92, No. 3).)
2. Refer complaints of discrimination involving Child Nutrition Programs administered by the CDE from program participants or applicants to either the Administrator for the Food and Nutrition Service at the United States Department of Agriculture or to the United States Secretary of Agriculture. (Cal. Code Regs., tit. 5, § 4611(d) (Register 93, No. 51).)[88]
3. Refer employment discrimination complaints to the State Department of Fair Employment and Housing (DFEH) and notify the complainant by certified mail of any DFEH transferral. (Cal. Code Regs., tit. 5, § 4611(d) (Register 92, No. 3).)
4. Refer allegations of fraud to the responsible California Department of Education (CDE) Division Director and the CDE's Legal Office. (Cal. Code Regs., tit. 5, § 4611(e) (Register 92, No. 3).)

(b) Local Agency Compliance and Complaint Procedures (Cal. Code Regs., tit. 5, §§ 4620, 4621, 4622, 4631, and 4632)

This section analyzes the title 5 sections that set forth the complaint procedures at the school district level. Section 4620 states the responsibility that districts have to ensure compliance with state and federal laws and regulations and to investigate complaints of a district's failure to comply with state and federal laws in accordance with the procedures set out in the regulations pled. However, title 5 section 4620 does not, in and of itself, require school districts to engage in a specific activity. Rather, the actual activities taken to meet a school district's responsibility are set forth in the subsequent regulations (Cal. Code Regs., tit. 5, §§ 4621 – 4632), which were pled by the claimant.

These regulations include activities such as the adoption of policies and procedures for the investigation and resolution of complaints, notifying interested parties of these policies and procedures, the actual investigation of complaints, the preparation of a written decision containing the findings and disposition of the complaint, and forwarding information to the State Superintendent when notified that a district decision has been appealed to the state.

As a reminder, any activity required by the complaint procedures discussed below are limited to non-employment discrimination complaints, complaints alleging discrimination for which federal law does not require a district complaint procedures, and for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847). In addition, the complaints that are

[88] California Code of Regulations, title 5, section 4611(c) was amended in Register 93, number 51, by separating complaints of discrimination involving Title IX and complaints of discrimination involving Child Nutrition Programs. The latter complaint became the subject of subdivision (d), shifting the remaining complaint types down a subdivision. The result is in Register 93, number 51 former subdivisions (d) and (e) became (e) and (f).

processed through the policies and procedures adopted by school districts *do not* include complaints of employment discrimination, which are to be referred to the DFEH pursuant to title 5 section 4611.

1) Adoption of Policies and Procedures (Cal. Code Regs., tit. 5, § 4621)

Title 5 section 4621 addresses the adoption of policies and procedures for the investigation and resolution of complaints of alleged discrimination or violations of the educational programs specified in Title 5 section 4610.[89] Based on the plain language of section 4621, school districts are required to engage in the following *one-time* activity:

> Adopt policies and procedures consistent with Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600) for the investigation and resolution of complaints. Adoption is to occur within one year from the effective date of Chapter 5.1 of title 5 of the California Code of Regulations (September 25, 1992) by submission of the policies and procedures to the governing board for adoption.
>
> Policies must ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate.
>
> Policies and procedures are to include the person(s), employee(s), or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. (Cal. Code Regs., tit. 5, §§ 4621(a) and (b) (Register 92, No. 3).)[90]

The types of complaints processed through the complaint procedures are limited by the types of discrimination prohibited by state law that exceed the prohibitions of federal law. Federal law mandates the adoption of district level complaint procedures and policies for discrimination on the basis of specific characteristics. As addressed in the federal law section of this analysis, Section 504 of the Rehabilitation Act, Title IX, the Age Discrimination Act and Title II of the ADA mandate school districts to adopt policies and procedures for the investigation and resolution of complaints of discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age. These laws also mandate school districts to identify the employee responsible for compliance with the regulations implementing the federal prohibitions against discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age. Thus, as applicable to complaints regarding discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, the activities required by title 5 sections 4621(a) and 4621(b) regarding the adoption of policies and procedures for the investigation and resolution of complaints and the inclusion of the identity of the person responsible for the complaint process in the policies and procedures constitute a federal mandate not subject to article XIII B of the California Constitution.

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[89] As discussed above, any activities found to constitute state-mandated new programs or higher levels of service are limited by the findings that some of the educational programs set forth in California Code of Regulations, title 5, section 4610 are not mandated.

[90] Exhibit A, *supra*, p. 25. The 1991 addition of this regulation cited to by the claimant coincides with Register 92, number 3.

However, as applicable to complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), or violations of the mandated education programs discussed above, the activity is not mandated by federal law. As a result, subject to the limitations discussed above, the Commission finds the activity imposed by title 5 sections 4621(a) and (b) constitutes a state-mandated activity.

Also, the above activity imposes a unique requirement on school districts and does not apply generally to all residents and entities in the state. Moreover, it implements the state policy against unlawful discrimination and violations of specified educational programs. Immediately prior to the adoption of title 5 section 4621, as added in 1991, school districts were not required to engage in the activity mandated by section 4621. Thus, the activity constitutes a state-mandated new program or higher level of service.

It must be noted that the adoption of policies and procedures was required to be done within one year of the effective date of Chapter 5.1 of title 5 of the California Code of Regulations. The effective date was September 25, 1991, thus this one-time activity should have been done by September 25, 1992, which is outside of the reimbursement period that starts on July 1, 2002. However, new district formation may have occurred during the period of reimbursement, and thus, the adoption of policies and procedures would have had to occur outside of the timeframe set forth in the regulations and within the period of reimbursement.

Thus, the Commission finds that the following one-time activity imposed by title 5 section 4621 constitutes a state-mandated new program or higher level of service for school districts formed during the reimbursement period that could not have adopted policies and procedures prior to the 2002-2003 fiscal year, but only for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847):

> Adopt policies and procedures consistent with Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600) for the investigation and resolution of complaints.
>
> Policies must ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate. In addition, the policies and procedures are to include the person(s), employee(s), or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. (Cal. Code Regs., tit. 5, §§ 4621(a) and (b) (Register 92, No. 3).)

2) <u>Notification of District Procedures (Cal. Code Regs., tit. 5, § 4622)</u>

Title 5 section 4622 requires school districts to notify various individuals of the districts' complaint procedures. Specifically, section 4622 requires school districts to engage in the following activities:

1. Annually notify in writing school district students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties, of the school district complaint procedures, including the opportunity to appeal to the CDE and the provisions of Chapter 5.1 of title 5 of California Code of Regulations (commencing with section 4600). The annual notice shall include: (1) the identity of the person(s) responsible for processing complaints; and (2) notice of any civil law remedies that may be available, and of the appeal and review procedures contained in California Code of Regulations, title 5, sections 4650, 4652, and 4671. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)
2. The annual notification shall, when necessary, be in the primary language of the recipient pursuant to Education Code section 48985. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)

However, as discussed in the federal law section of this analysis, federal law mandates school districts to, in a continuing manner, notify individuals of the district complaint procedures and the identity of the individual responsible for processing complaints of discrimination on the basis of disability, sex, and age.[91] Although the federal mandate on school districts to notify students, parents, and employees, in a continuing manner, does not specifically require annual notification, the Commission finds that the annual notifications implement and are part and parcel of the federal mandate.[92]

Title 5 section 4622's specification that the *continuing* notice will be on an annual basis is a reasonable articulation of incidental procedural protections of the federal mandate, which is de minimis in context of providing notice on a *continuing* basis. Thus, as applicable to complaints regarding discrimination on the basis of age, disability, and sex, the activity required by title 5 section 4622 to provide annual notification of the district's complaint process constitutes a federal mandate not subject to article XIII B of the California Constitution.

As applicable to non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), or violations of the mandated education programs discussed above (i.e. adult basic education for English and citizenship, a child nutrition program for the provision of one free or reduced price meal each school day to each needy pupil, and special education), this activity is not mandated by federal law. In addition, the requirement that the annual notification be in the primary language of the recipient, when necessary, does not constitute a federal mandate. As a result, subject to the limitations discussed above, the Commission finds the activities imposed by title 5 section 4622 constitute state-mandated activities.

In order to determine if the state-mandated activities constitute "new programs or higher levels of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on the school district to implement a state policy. In addition, the requirements must be new in comparison to the legal requirements in effect immediately prior to the enactment of the mandate. Here, the state-mandated activities impose

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[91] 34 Code of Federal Regulations parts 104.8, 106.9, and 110.25.

[92] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 890.

unique requirements on school districts in order to implement the state policy against unlawful discrimination and violations of specified educational programs.

As applicable to special education programs established pursuant to Education Code section 56000 et seq., however, the requirement to annually notify students, employees, parents or guardians of its complaint process is not new. Immediately, prior to the adoption of title 5 section 4622 in 1991,[93] former California Code of Regulations, title 5, section 3081 established complaint procedures specifically for complaints regarding special education programs established pursuant to Education Code section 56000 et seq. These procedures were replaced by the uniform complaint process pled in this test claim, and contain many of the same requirements. Specifically, prior to 1991, former title 5 section 3081, already required school districts to annually notify individuals, agencies, and organizations of their right to file a complaint pursuant to the established complaint process.[94] Thus, as applicable to special education programs established pursuant to Education Code section 56000 et seq., the requirement to provide annual notification of the complaint process does not constitute a new program or higher level of service.

Similarly, the requirement to provide the annual notice in the primary language of the recipient, in specific circumstances, is not a new requirement. Prior to the adoption of title 5 section 4622, *all notices* were already subject to the Education Code section 48985 requirement to provide notices in the primary language of the recipient under specific circumstances. Thus, providing the annual notification in the primary language of the recipient does not impose a new program or higher level of service.

However, the requirement to provide annual notice regarding a district's complaint process, excluding complaints regarding special education programs, and unlawful discrimination on the basis of disability, age, and sex, did not exist prior to the adoption of title 5 section 4622 in 1991.[95] Thus, this activity constitutes a new program or higher level of service.

Based on the above discussion, the Commission finds that the following activity imposed by title 5 section 4622 constitutes a state-mandated new program or higher level of service only for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), and for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):

> Annually notify in writing school district students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties, of the school district complaint procedures.

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[93] Exhibit A., test claim, *supra*, p. 45. The claimant pled title 5 section 4622 as added in 1991. This corresponds to Register 92, number 3.

[94] Former California Code of Regulations, title 5, section 3081(a)(1) (Register 88, No. 15).

[95] Exhibit A., test claim, *supra*, p. 45. The claimant pled title 5 section 4622 as added in 1991. This corresponds to Register 92, number 3.

The annual notice shall include: (1) the opportunity to appeal to the CDE and the provisions of Chapter 5.1 of title 5 of California Code of Regulations (commencing with section 4600); (2) the identity of the person(s) responsible for processing complaints; and (3) notice of any civil law remedies that may be available, and of the appeal and review procedures contained in California Code of Regulations, title 5, sections 4650, 4652, and 4671. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)

3) Investigation and Disposition of Complaints (Cal. Code Regs., tit. 5, § 4631)

Title 5 section 4631 sets forth the complaint procedures for school districts to address allegations of discrimination or of violations of the specified educational programs. Based on the plain language of section 4631, school districts are required to engage in the following activities:

1. Complete the investigation of a complaint in accordance with the local procedures developed pursuant to section 4621 within 60 days from receipt of the complaint. (Cal. Code Regs., tit. 5, § 4631(a) (Register 92, No. 3).)
2. Prepare a written Local Educational Agency Decision (Decision) and send the Decision to the complainant within 60 days from receipt of the complaint.

   The Decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal the local educational agency decision to the CDE, and the procedures to be followed for initiating an appeal to the CDE. (Cal. Code Regs., tit. 5, § 4631(a) and (c) (Register 92, No. 3).)
3. The investigation must provide an opportunity for the complainant, or the complainant's representative, or both, and school district representatives to present information relevant to the complaint. (Cal. Code Regs., tit. 5, § 4631(b) (Register 92, No. 3).)

The claimant alleges that section 4631 also requires school districts to attempt to resolve complaints through mediation prior to the initiation of a formal compliance investigation. The source of this alleged requirement is section 4631(d). However, the plain language of subdivision (d) provides that school districts "*may* establish procedures for attempting to resolve complaints through mediation prior to the initiation of a formal compliance investigation." Based on the plain language of subdivision (d), school districts are authorized to establish procedures allowing for mediation, but are not required to do so. Thus, based on the plain language, the Commission finds that section 4631 does not require school districts to engage in any mediation related activities.

In addition, federal law mandates school districts to have complaint procedures, which include investigations into complaints that provide for the prompt and equitable resolution of complaints alleging discrimination on the basis of disability, sex, and age.[96] As discussed above, the

[96] 34 Code of Federal Regulations part 104.7(b) and 28 Code of Federal Regulations part 35.107(b), implement Section 504 of the Rehabilitation Act and Title II of the ADA prohibiting discrimination on the basis of disability. 34 Code of Federal Regulations part 110.25(c) implements the Age Discrimination Act, which prohibits non-employment discrimination on the basis of age. 34 Code of Federal Regulations part 106.8(a) and (b) implements Title IX which prohibits discrimination on the basis of sex.

California Supreme Court has found that rules or procedures that are intended to implement an applicable federal law, and whose costs are de minimis in context, should be treated as part and parcel of the underlying federal mandate.[97] The court made this finding where the Legislature adopted various incidental procedural protections designed to make an underlying federal right enforceable and to set forth procedural details that were not expressly articulated. These incidental procedural protections included: (1) the adoption of rules and regulations pertaining to pupil expulsions; (2) the inclusion in the notice of hearing of (a) a copy of the disciplinary rules of the district, and (b) a notice of the opportunity to inspect and obtain copies of all documents to be used at the hearing; (3) allowing upon request, the pupil or parent to inspect and obtain copies of the documents to be used at the hearing; and (4) sending written notice concerning (a) any decision to expel or suspend the enforcement of an expulsion order during a period of probation, and (b) the right to appeal the expulsion to the county board of education.[98]

Similarly, as applicable to complaints of discrimination on the basis of age, disability, and sex, the requirements of title 5 section 4631 were intended to implement federal law by setting forth incidental procedural details not expressly articulated. The requirements to complete the investigation into complaints within 60 days of receiving the complaint, prepare a written decision and provide it to the complainant, and to provide an opportunity for parties to provide information relevant to the complaint are reasonably articulated procedural protections designed to make the underlying federal right to a prompt and equitable complaint process enforceable and to set forth procedural details not expressly articulated. In addition, viewed in the context of the requirement to have a complaint process providing for *prompt* and *equitable* resolution of complaints, these incidental activities are de minimis in nature. Thus, as applicable to complaints of discrimination on the basis of age, disability, and sex, the activities required by title 5 section 4631 constitute a federal mandate not subject to article XIII B, section 6 of the California Constitution.

However, as applicable to complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), or violations of the education programs discussed above (i.e. adult basic education for English and citizenship, a child nutrition program for the provision of one free or reduced price meal each school day to each needy pupil, and special education), these activities are not mandated by federal law. As a result, subject to the limitations discussed above, the Commission finds the activities imposed by title 5 section 4631 constitute state-mandated activities.

In addition, the state-mandated activities imposed by title 5 section 4631 impose unique requirements on school districts in order to implement the state policy against unlawful discrimination and violations of specified educational programs. As applicable to complaints of unlawful discrimination, as limited above, and complaints regarding adult basic education and child nutrition programs, as limited above, the requirements did not exist prior to the adoption of

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[97] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 890.

[98] *Id.* at p. 873.

title 5 section 4622 in 1991.[99] Thus, for these complaints the activities constitute new programs or higher levels of service.

However, as discussed above, former title 5 section 3081, which existed immediately before title 5 section 4631, required complaint procedures for complaints of violations of special education programs established pursuant to Education Code section 56000. These procedures included the requirement to conduct an investigation into the complaint and the preparation of a district decision that included the district's findings, conclusions, rationale, and corrective actions, if necessary.[100] In addition, districts were required to provide the complainant a copy of its decision, and notify the complainant of his or her right to appeal the decision.[101] In addition, the process was required to provide an opportunity for the complainant and school district representatives to present information relevant to the complaint.[102] As a result, as applicable to complaints regarding special education programs established pursuant to Education Code section 56000 et seq., the state-mandated activities *do not* constitute new programs or higher levels of service.

Based on the above discussion, the Commission finds that the following activities imposed by title 5 section 4631 constitute state-mandated new programs or higher levels of service but only for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):

1. Complete the investigation of a complaint in accordance with the local procedures developed pursuant to section 4621 within 60 days from receipt of the complaint. (Cal. Code Regs., tit. 5, § 4631(a) (Register 92, No. 3).)
2. Prepare a written Local Educational Agency Decision (Decision) and send the Decision to the complainant within 60 days from receipt of the complaint.

   The Decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal the local educational agency decision to the CDE, and the procedures to be followed for initiating an appeal to the CDE. (Cal. Code Regs., tit. 5, § 4631(a) and (c) (Register 92, No. 3).)
3. The investigation must provide an opportunity for the complainant, or the complainant's representative, or both, and school district representatives to present information relevant to the complaint. (Cal. Code Regs., tit. 5, § 4631(b) (Register 92, No. 3).)

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[99] Exhibit A., test claim, *supra*, p. 45. The claimant pled title 5 section 4622 as added in 1991. This corresponds to Register 92, number 3.

[100] Former California Code of Regulations, title 5, section 3081(f)(1) (Register 88, No. 15).

[101] Former California Code of Regulations, title 5, section 3081(f)(1) and (2) (Register 88, No. 15).

[102] Former California Code of Regulations, title 5, section 3081(g)(1) (Register 88, No. 15).

4) Forwarding Information to the Superintendent (Cal. Code Regs., tit. 5, § 4632)

A complainant is authorized to appeal a school district's Decision to the Superintendent.[103] If a complainant utilizes this authority, title 5 section 4632 requires school districts to forward specified information to the Superintendent upon notification by the Superintendent of the appeal. Specifically, section 4632 requires school districts to engage in the following activity:

> Forward the following to the Superintendent of Public Instruction upon notification by the Superintendent that the Decision has been appealed to the state-level by a complainant: (1) the original complaint; (2) a copy of the Local Educational Agency Decision; (3) a summary of the nature and extent of the investigation conducted by the local agency, if not covered in the Local Educational Agency Decision; (4) a report of any action taken to resolve the complaint; (5) a copy of the school district complaint procedures; and (6) such other relevant information as the Superintendent may require. (Cal. Code Regs., tit. 5, § 4632 (Register 92, No. 3).)

This activity is not mandated by federal law. Thus, the Commission finds the above activity constitutes a state-mandated activity for non-employment discrimination complaints alleging unlawful discrimination on any basis and for the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847).

In addition, this activity imposes a unique requirement on school districts in order to implement the state policy against unlawful discrimination and violations of specified educational programs. Also, as applicable to non-employment discrimination complaints of unlawful discrimination, as limited above, and complaints regarding adult basic education and child nutrition programs, as limited above, the requirements did not exist prior to the adoption of title 5 section 4622 in 1991.[104] Thus, for these complaints, the requirement to forward specified information to the State Superintendent constitutes a new program or higher level of service.

However, as applicable to special education programs established pursuant to Education Code section 56000, the state-mandated activity is not new as compared to the requirements in effect immediately before the adoption to title 5 section 4632 in 1991. Former California Code of Regulations, title 5, section 3081(i), already required school districts to provide the specified information to the State Superintendent if a complainant appealed a school districts decision on a complaint regarding special education programs to the State Department of Education. Thus, the state-mandated activity does not constitute a new program or higher level of service as applicable to complaints regarding special education programs established pursuant to Education Code section 56000 et seq.

Based on the above discussion, the Commission finds that the above activity constitutes a state-mandated new program or higher level of service for non-employment discrimination complaints

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[103] California Code of Regulations, title 5, section 4652 (Register 92, No. 3).

[104] Exhibit A., test claim, *supra*, p. 45. The claimant pled title 5 section 4622 as added in 1991. This corresponds to Register 92, number 3.

alleging unlawful discrimination and for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550).

(c) State Complaint and Resolution Procedures (Cal. Code Regs., tit. 5, §§ 4650, 4652, 4660, 4661, 4662, 4663, 4665, and 4670)

The claimant alleges that title 5 sections 4650, 4652, 4660, 4661, 4662, 4663, 4665, and 4670 impose reimbursable state-mandated programs on school districts, including: (1) cooperating with the State Superintendent in mediation or investigations if the Superintendent intervenes directly into a complaint or if a district's decision on complaint is appealed to the Superintendent; (2) cooperating with state investigators by providing various documents and information regarding the allegations of a complaint to the investigators; (3) requesting reconsideration of an investigation report by the state; and (4) "appearing and presenting evidence in a court of competent jurisdiction when the Superintendent files an action seeking an order compelling compliance with provisions of the chapter."[105] However, for the reasons discussed below, the Commission finds that the title 5 regulations discussed in this section do not mandate new programs or higher levels of service on school districts.

First, the plain language of the regulations discussed in this section of the analysis does not impose any activities on school districts. Rather, the regulations authorize complainants to appeal a school district's decision and findings regarding allegations of the school district violating state or federal law to the State Superintendent.[106] In addition, the regulations impose requirements on the State Superintendent to investigate school districts if a complainant appeals a school district's decision or if specific conditions exist that require the State Superintendent to intervene without waiting for a school district action or complainant appeal.[107] After the CDE issues its investigation report, a complainant or school district is authorized to request reconsideration by the Superintendent, but is not required to seek reconsideration.[108] If the Superintendent finds that a school district is in violation of the provisions of Chapter 5.1 of the title 5 regulations (commencing with section 4600), the Superintendent is then authorized to take specified actions to seek compliance by the school district.[109] Thus, the plain language of the regulations does not require *school districts* to engage in any activities.

Second, even if the plain language required school district to engage in the activities alleged by the claimant, those activities do not constitute a "program" under article XIII B, section 6 of the California Constitution. A mandated activity constitutes a "program" when it: (1) carries out the governmental function of providing a service to the public; or (2) imposes unique requirements

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[105] Exhibit A. *Id.* at pgs. 47-48.

[106] California Code of Regulations, title 5, section 4652 (Register 92, No. 3).

[107] California Code of Regulations, title 5, section 4650, 4660, 4661, 4662, and 4663 (Register 92, No. 3).

[108] California Code of Regulations, title 5, section 4665 (Register 92, No. 3).

[109] California Code of Regulations, title 5, section 4670 (Register 92, No. 3).

on local agencies or school districts and does not apply generally to all residents and entities in the state.[110]

The claimant generally alleges that the regulations impose a reimbursable program on school districts to cooperate with the state's investigation into allegations by a complainant that a school district has violated state or federal law. The Commission presumes this allegation is based on the language in title 5 section 4663, which sets forth the actions the state will take if a complainant or school district refuses to cooperate with the investigation. Section 4663 provides in relevant part:

> Refusal by the local agency or complainant to provide the investigator with access to records and other information relating to the complaint which the investigator is privileged to review, or any other obstruction of the investigative process shall result in either a dismissal of the complaint or imposition of official applicable sanctions against the local agency.[111]

However, as indicated by the language above, the state complaint resolution process applies equally to the school district being investigated and the complainant, which can be a private individual.[112] Thus, cooperating with the state's investigation is not a unique requirement imposed on school districts. As a result, even if the language of the regulations specifically required school districts to cooperate with the state's investigation, the Commission finds that this activity does not constitute a "program" under articles XIII B, section 6 of the California Constitution.

In addition, the claimant alleges that title 5 section 4670 imposes a state-mandate program on school districts to "[appear] and [present] evidence in a court of competent jurisdiction when the Superintendent files an action seeking an order compelling compliance with the provisions of [Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600)." In other words, the claimant alleges that appearing and presenting evidence in court in order to oppose an order to compel the school district to comply with state law constitutes a "program" under article XIII B, section 6 of the California Constitution.

The claimant has not provided, nor can the Commission find, an argument to explain why appearing and presenting evidence in court in order to oppose an order to compel a school district to comply with state law provides a service to the public. Additionally, facing litigation for allegations of failing to meet one's legal obligations is not a unique requirement imposed on school districts. Both private and public individuals and entities face litigation to compel compliance with their legal obligations. In fact, the primary judicial function of courts is to

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[110] *San Diego Unified School Dist., supra,* 33 Cal.4th at pgs. 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

[111] California Code of Regulations, title 5, section 4663(b) (Register 92, No. 3). The Commission must make this presumption because the language of the regulations is directed at the Superintendent and the claimant does not specifically identify the language requiring cooperation with the Superintendent's investigation.

[112] California Code of Regulations, title 5, section 4600 (Register 92, No. 3). Defining "Complainant" to include "any individual, including a person's duly authorized representative or a interested third party . . . ."

enforce legal obligations and redress injuries to legal rights by the determination of controversies between litigants, both private and public.[113] Thus, the Commission finds that the activity alleged by the claimant to be mandated by title 5 section 4670 does not constitute a "program" under article XIII B section 6 of the California Constitution.

B. The Test Claim Statutes and Regulations Impose Costs Mandated by the State Within the Meaning of Government Code Sections 17514 and 17556.

The final issue is whether the state-mandated activities impose costs mandated by the state,[114] and whether any statutory exceptions listed in Government Code section 17556 apply to the test claim. Government Code section 17514 defines "costs mandated by the state" as any increased cost a local agency is required to incur as a result of a statute that mandates a new program or higher level of service." "Any increased costs" for which a claimant may seek reimbursement include both direct and indirect costs.[115] Government Code section 17564 requires reimbursement claims to exceed $1,000 to be eligible for reimbursement.

The claimant estimates that the Solana Unified Beach School District "incurred more than $1,000 in staffing and other costs in excess of any funding provided to school districts and the state for the period from July 1, 2002 through June 30, 2003" to implement all duties alleged by the claimant to be mandated by the state.[116] Thus, the claimant has met the minimum burden of showing costs necessary to file a test claim pursuant to Government Code section 17564.

In addition, none of the statutory exceptions listed in Government Code section 17556 apply to the state-mandated new programs or higher levels of service found in the analysis above. As a result, the Commission finds that the state-mandated new programs or higher levels of service impose costs mandated by the state on employers within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

IV. Conclusion

For the reasons discussed above, the Commission finds that the following activities constitute reimbursable state-mandated new programs or higher levels of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514:

1. <u>Assurance of Compliance with Antidiscrimination Laws in Excess of Federal Law, and Notices Regarding Civil Remedies (Ed. Code, §§ 250, 251, and 262.3)</u>

    a. Provide written assurance to any state agency administering state financial assistance or student financial aid to the school district that each program or activity conducted by the school district will be in compliance with state antidiscrimination laws

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[113] 16 California Jurisprudence Third (2002) Courts, section 30, p. 387, citing *Warner v. F. Thomas Parisian Dyeing & Cleaning Works* (1895) 105 Cal. 409, 412.

[114] *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

[115] Government Code section 17564.

[116] Exhibit A, test claim, *supra*, Exhibit 1 Declaration of Ellie Topolovac, Superintendent of Solana Beach School District.

prohibiting discrimination on the basis of religion and sexual orientation.[117] (Ed. Code, § 250 (Stats. 1998, ch. 914).)

b. Submit timely, complete, and accurate compliance reports regarding compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation to the State Department of Education as the State Department of Education may require. (Ed. Code, § 251 (Stats. 1982, ch. 1117).)

c. Advise people who have filed a complaint with the school district pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200), which prohibits unlawful discrimination, that civil law remedies, including, but not limited to injunctions, restraining orders, or other remedies or orders, may also be available to complainants. (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

d. Make available by publication in appropriate informational materials the information regarding the availability of civil remedies to people who have filed a complaint pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200). (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

2. Uniform Complaint Procedures

a. Referral of Complaints to Appropriate Entities (Cal. Code Regs., Tit. 5, § 4611)

(1) Refer discrimination issues involving title IX of the Educational Amendments of 1972 to the U.S. Office of Civil Rights (OCR) *only* if there is no state discrimination law or regulation at issue.[118] (Cal. Code Regs., tit. 5, § 4611(c) (Register 92, No. 3).)

(2) Refer complaints of discrimination involving Child Nutrition Programs administered by the CDE from program participants or applicants to either the Administrator for the Food and Nutrition Service at the United States Department of Agriculture or to the United States Secretary of Agriculture. (Cal. Code Regs., tit. 5, § 4611(d) (Register 93, No. 51).)[119]

(3) Refer employment discrimination complaints to the State Department of Fair Employment and Housing (DFEH) and notify the complainant by certified mail of any DFEH transferral. (Cal. Code Regs., tit. 5, § 4611(d) (Register 92, No. 3).)

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[117] Education Code section 250 provides that a single assurance may be provided for all the programs and activities conducted by an educational institution.

[118] The limitation's reference to "state discrimination law or regulation at issue" refers to *any* state discrimination laws or regulations.

[119] California Code of Regulations, title 5, section 4611(c) was amended in Register 93, number 51, by separating complaints of discrimination involving Title IX and complaints of discrimination involving Child Nutrition Programs. The latter complaint became the subject of subdivision (d), shifting the remaining complaint types down a subdivision. The result is in Register 93, number 51 former subdivisions (d) and (e) became (e) and (f).

(4) Refer allegations of fraud to the responsible California Department of Education (CDE) Division Director and the CDE's Legal Office. (Cal. Code Regs., tit. 5, § 4611(e) (Register 92, No. 3).)

b. Adoption of Policies and Procedures for the Investigation of Complaints (Cal. Code Regs., Tit. 5, § 4621)

Only school districts formed during the reimbursement period that could not have adopted policies and procedures prior to the 2002-2003 fiscal year are mandated to engage in the below activity, but *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847):[120]

> Adopt policies and procedures consistent with Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600) for the investigation and resolution of complaints.
>
> The policies must ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate. In addition, the policies and procedures are to include the person(s), employee(s), or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. (Cal. Code Regs., tit. 5, §§ 4621(a) and (b) (Register 92, No. 3).)

c. Notification of Complaint Procedures, and Investigation and Disposition of Complaints (Cal. Code Regs., Tit. 5, §§ 4622 and 4631)

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[120] This activity *is not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[121]

(1) Annually notify in writing school district students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties, of the school district complaint procedures.

The annual notice shall include: (1) the opportunity to appeal to the CDE and the provisions of Chapter 5.1 of title 5 of California Code of Regulations (commencing with section 4600); (2) the identity of the person(s) responsible for processing complaints; and (3) notice of any civil law remedies that may be available, and of the appeal and review procedures contained in California Code of Regulations, title 5, sections 4650, 4652, and 4671. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)

(2) Complete the investigation of a complaint in accordance with the local procedures developed pursuant to section 4621 within 60 days from receipt of the complaint. (Cal. Code Regs., tit. 5, § 4631(a) (Register 92, No. 3).)

(3) Prepare a written Local Educational Agency Decision (Decision) and send the Decision to the complainant within 60 days from receipt of the complaint.

The Decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal the local educational agency decision to the CDE, and the procedures to be followed for initiating an appeal to the CDE. (Cal. Code Regs., tit. 5, § 4631(a) and (c) (Register 92, No. 3).)

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[121] These activities *are not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56000-56885 and 59000-59300.

(4) The investigation must provide an opportunity for the complainant, or the complainant's representative, or both, and school district representatives to present information relevant to the complaint. (Cal. Code Regs., tit. 5, § 4631(b) (Register 92, No. 3).)

d. Forwarding of Information to the Superintendent of Public Instruction Regarding Appealed District Decisions (Cal. Code Regs., Tit. 5, § 4632)

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[122]

> Forward the following to the Superintendent of Public Instruction upon notification by the Superintendent that the Decision has been appealed to the state-level by a complainant: (1) the original complaint; (2) a copy of the Local Educational Agency Decision; (3) a summary of the nature and extent of the investigation conducted by the local agency, if not covered in the Local Educational Agency Decision; (4) a report of any action taken to resolve the complaint; (5) a copy of the school district complaint procedures; and (6) such other relevant information as the Superintendent may require. (Cal. Code Regs., tit. 5, § 4632 (Register 92, No. 3).)

Any other test claim statutes and allegations not specifically approved above, do not impose a reimbursable state mandated program subject to article XIII B, section 6 of the California Constitution.

[122] "Unlawful discrimination" as used in this activity is not limited and applies to complaints alleging unlawful discrimination on all grounds. This activity, however, is not reimbursable with respect to complaints regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

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RE: **Adopted Statement of Decision**

Uniform Complaint Procedures (K-12), 03-TC-02
Education Code Section 200 et al.
Solana Beach School District, Claimant

On September 28, 2012, the foregoing statement of decision of the Commission on State Mandates was adopted in the above-entitled matter.

Heather Halsey, Executive Director

Dated: October 5, 2012

Adopted: January 25, 2013

PARAMETERS AND GUIDELINES

Education Code Sections 250, 251, 262.3

Statutes 1982, Chapter 1117; Statutes 1988,
Chapter 1514; Statutes 1998, Chapter 914

California Code of Regulations, Title 5, Sections 4611, 4621, 4622, 4631, and 4632

Register 92, Number 3; Register 93, Number 51

Uniform Complaint Procedures (K-12)
03-TC-02

I. SUMMARY OF THE MANDATE

These parameters and guidelines address activities associated with the procedures involved for filing, investigating, and resolving the following two types of complaints arising in a school district: (1) complaints that allege violations of federal or state law governing specific educational programs; and (2) complaints that allege discrimination in violation of state and federal antidiscrimination laws. These parameters and guidelines also address the notice requirements regarding the prohibition against discrimination and the available civil remedies for discrimination complaints.

On September 28, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the test claim finding that Education Code sections 250, 251, and 262.3, and sections 4611, 4621, 4622, 4631, and 4632 of the Title 5 regulations impose a partially 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. The Commission approved the test claim for the reimbursable activities found under Section IV. Reimbursable Activities.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, including county boards of education, and excluding 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(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Solana Beach School District filed the test claim on July 23, 2003, establishing eligibility for reimbursement for the 2002-2003 fiscal year. Therefore, costs incurred for the activities in these parameters and guidelines are reimbursable on or after July 1, 2002.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(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.
3. Pursuant to Government Code section 17560(a), a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560(b).)
5. If the total costs for a given fiscal year do not exceed $1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a)
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

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 to 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 that incurs increased costs, the following activities are reimbursable:

1. <u>Assurance of Compliance with Antidiscrimination Laws in Excess of Federal Law, and Notices Regarding Civil Remedies (Ed. Code, §§ 250, 251, and 262.3)</u>
    a. Provide written assurance to any state agency administering state financial assistance or student financial aid to the school district that each program or activity conducted by the school district will be in compliance with state antidiscrimination laws

prohibiting discrimination on the basis of religion and sexual orientation.[1] (Ed. Code, § 250 (Stats. 1998, ch. 914).)

b. Submit timely, complete, and accurate compliance reports regarding compliance with state antidiscrimination laws prohibiting discrimination on the basis of religion and sexual orientation to the State Department of Education as the State Department of Education may require. (Ed. Code, § 251 (Stats. 1982, ch. 1117).)

c. Advise people who have filed a complaint with the school district pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200), which prohibits unlawful discrimination, that civil law remedies, including, but not limited to injunctions, restraining orders, or other remedies or orders, may also be available to complainants. (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

d. Make available by publication in appropriate informational materials the information regarding the availability of civil remedies to people who have filed a complaint pursuant to Education Code, division 1, part 1, chapter 2 (commencing with Ed. Code, § 200). (Ed. Code, § 262.3(b) (Stats. 1988, ch. 1514).)

2. Uniform Complaint Procedures

a. Referral of Complaints to Appropriate Entities (Cal. Code Regs., Tit. 5, § 4611)

(1) Refer discrimination issues involving title IX of the Educational Amendments of 1972 to the U.S. Office of Civil Rights (OCR) *only* if there is no state discrimination law or regulation at issue.[2] (Cal. Code Regs., tit. 5, § 4611(c) (Register 92, No. 3).)

(2) Refer complaints of discrimination involving Child Nutrition Programs administered by the CDE from program participants or applicants to either the Administrator for the Food and Nutrition Service at the United States Department of Agriculture or to the United States Secretary of Agriculture. (Cal. Code Regs., tit. 5, § 4611(d) (Register 93, No. 51).)[3]

(3) Refer employment discrimination complaints to the State Department of Fair Employment and Housing (DFEH) and notify the complainant by certified mail of any DFEH transferral. (Cal. Code Regs., tit. 5, § 4611(d) (Register 92, No. 3).)

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[1] Education Code section 250 provides that a single assurance may be provided for all the programs and activities conducted by an educational institution.

[2] The limitation's reference to "state discrimination law or regulation at issue" refers to *any* state discrimination laws or regulations.

[3] California Code of Regulations, title 5, section 4611(c) was amended in Register 93, number 51, by separating complaints of discrimination involving Title IX and complaints of discrimination involving Child Nutrition Programs. The latter complaint became the subject of subdivision (d), shifting the remaining complaint types down a subdivision. The result is in Register 93, number 51 former subdivisions (d) and (e) became (e) and (f).

(4) Refer allegations of fraud to the responsible California Department of Education (CDE) Division Director and the CDE's Legal Office. (Cal. Code Regs., tit. 5, § 4611(e) (Register 92, No. 3).)

b. Adoption of Policies and Procedures for the Investigation of Complaints (Cal. Code Regs., Tit. 5, § 4621) (One-Time Activity)

Only school districts formed during the reimbursement period that could not have adopted policies and procedures prior to the 2002-2003 fiscal year are mandated to engage in the below activity, but *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (3) special education (Ed. Code, §§ 56000 – 56885, excluding §§ 56390 – 56392, 56400 – 56414, 56472 – 56474, 56475 – 56476, and 56846 – 56847):[4]

(1) Adopt policies and procedures consistent with Chapter 5.1 of title 5 of the California Code of Regulations (commencing with section 4600) for the investigation and resolution of complaints.

The policies must ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate. In addition, the policies and procedures are to include the person(s), employee(s), or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. (Cal. Code Regs., tit. 5, §§ 4621(a) and (b) (Register 92, No. 3).)

[4] This activity *is not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

c. Notification of Complaint Procedures, and Investigation and Disposition of Complaints (Cal. Code Regs., Tit. 5, §§ 4622 and 4631)

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination on the basis of race, ethnic group identification, national origin, religion, and sexual orientation (excluding sexual harassment on the basis of sexual orientation), *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[5]

(1) Annually notify in writing school district students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties, of the school district complaint procedures.

The annual notice shall include: (1) the opportunity to appeal to the CDE and the provisions of Chapter 5.1 of title 5 of California Code of Regulations (commencing with section 4600); (2) the identity of the person(s) responsible for processing complaints; and (3) notice of any civil law remedies that may be available, and of the appeal and review procedures contained in California Code of Regulations, title 5, sections 4650, 4652, and 4671. (Cal. Code Regs., tit. 5, § 4622 (Register 92, No. 3).)

(2) Complete the investigation of a complaint in accordance with the local procedures developed pursuant to section 4621 within 60 days from receipt of the complaint. (Cal. Code Regs., tit. 5, § 4631(a) (Register 92, No. 3).)

(3) Prepare a written Local Educational Agency Decision (Decision) and send the Decision to the complainant within 60 days from receipt of the complaint.

The Decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant's right to appeal the local educational agency decision to the CDE,

[5] These activities *are not reimbursable for* complaints regarding employment discrimination and discrimination on the basis of disability, sex (including sexual harassment generally and on the basis of sexual orientation), and age, and regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56000-56885 and 59000-59300.

and the procedures to be followed for initiating an appeal to the CDE. (Cal. Code Regs., tit. 5, § 4631(a) and (c) (Register 92, No. 3).)

(4) The investigation must provide an opportunity for the complainant, or the complainant's representative, or both, and school district representatives to present information relevant to the complaint. (Cal. Code Regs., tit. 5, § 4631(b) (Register 92, No. 3).)

d. Forwarding of Information to the Superintendent of Public Instruction Regarding Appealed District Decisions (Cal. Code Regs., Tit. 5, § 4632)

School districts are mandated to engage in the below activities *only* for non-employment discrimination complaints alleging unlawful discrimination *and* for complaints alleging violations of the following educational programs: (1) adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552); and (2) child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550):[6]

(1) Forward the following to the Superintendent of Public Instruction upon notification by the Superintendent that the Decision has been appealed to the state-level by a complainant: (1) the original complaint; (2) a copy of the Local Educational Agency Decision; (3) a summary of the nature and extent of the investigation conducted by the local agency, if not covered in the Local Educational Agency Decision; (4) a report of any action taken to resolve the complaint; (5) a copy of the school district complaint procedures; and (6) such other relevant information as the Superintendent may require. (Cal. Code Regs., tit. 5, § 4632 (Register 92, No. 3).)

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.

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[6] "Unlawful discrimination" as used in this activity is not limited and applies to complaints alleging unlawful discrimination on all grounds. This activity, however, is not reimbursable with respect to complaints regarding the following educational programs: (1) Adult Basic Education established pursuant to Education Code sections 8500-8538 and 52500-52616.5 (except for Adult basic education for English and citizenship (Ed. Code, §§ 52540 and 52552)); (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a); (3) Migrant Education established pursuant to Education Code sections 54440-54445; (4) Vocational Education established pursuant to Education Code section 52300-52480; (5) Child Care and Development programs established pursuant to Education Code sections 8200-8493; (6) Child Nutrition programs established pursuant to Education Code sections 49490-49560 (except child nutrition programs for the provision of one free or reduced price meal each school day to each needy pupil (Ed. Code, § 49550); and (7) Special Education programs established pursuant to Education Code sections 56390–56392, 56400–56414, 56472–56474, 56475–56476, 56846–56847, and 59000–59300.

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. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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, 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 may 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 California Department of Education approved indirect cost rate for the year that funds are expended.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter[7] 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 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 REVENUES AND REIMBURSEMENTS

Any offsets 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, service 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(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 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 test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(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

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

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(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

State Controller's Office | School Mandated Cost Manual

UNIFORM COMPLAINT PROCEDURES CLAIM FOR PAYMENT

For State Controller Use Only
(19) Program Number 00346
(20) Date Rec'd AUG 29 2013
(21) LRS Input ___/___/___

Program 346

(01) Claimant Identification Number	S36070		Reimbursement Claim Data	
(02) Claimant Name	Etiwanda Elementary School District		(22) FORM-1, (04) 1. a. (f)	$ -
County of Location	San Bernardino		(23) FORM-1, (04) 1. b. (f)	$ -
Street Address or PO Box		Suite	(24) FORM-1, (04) 1. c. (f)	$ -
6061 East Avenue			(25) FORM-1, (04) 1. d. (f)	$ -
City	State	Zip Code	(26) FORM-1, (04) 2. a. (f)	$ -
Etiwanda	CA	91739-2218	(26) FORM-1, (04) 2. b. (f)	$ -
		Type of Claim	(26) FORM-1, (04) 2. c. (f)	$ 29,516
	(03)	(09) Reimbursement [X]	(26) FORM-1, (04) 2. d. (f)	$ -
	(04)	(10) Combined [ ]	(30) FORM-1,(06)	5%
	(05)	(11) Amended [ ]	(31) FORM-1,(07)	$ 1,476
Fiscal Year of Cost	(06)	(12) 2002-03	(32) FORM-1,(09)	$ -
Total Claimed Amount	(07)	(13) $ 30,991	(33) FORM-1,(10)	$ -
Less: 10% Late Penalty (refer to attached instructions)		(14)		
Less: Prior Claim Payment Received		(15)		
Net Claimed Amount		(16) $ 30,991		
Due from State	(08)	(17) $ 30,991		
Due to State		(18)		

(34) CERTIFICATION OF CLAIM:

In accordance with the provisions of Government Code Section17560 and 17561, I certify that I am the officer authorized by the school district or county office of education to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 of the Government Code.

I further certify that there was no application other than from the claimant, nor any grant(s) or payment(s) received, for reimbursement of costs claimed herein; claimed costs are for a new program or increased level of services of an existing program; and claimed amounts do not include charter school costs, either directly or through a third party. All offsetting savings and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Representative: Susan Cortum
Date: 8/19/13
Telephone Number: (909) 899-2451
E-mail Address: Susan_Cortum@etiwanda,k12.ca.us

Susan Cortum. Fiscal Services Manager

(38) Name of Agency Contact person for Claim
Sandra Reynolds
Telephone Number: (888) 202-9442
Name of Consulting Firm/Claim Preparer
E-Mail Address: rcginc19@gmail.com
Reynolds Consulting Group, Inc.

Form FAM-27 (New 05/13)

Program 346

UNIFORM COMPLAINT PROCEDURES
CLAIM SUMMARY

FORM 1

(01) Claimant:	(02) Type of Claim	Fiscal Year
Etiwanda Elementary School District		2002-03

Leave Blank

Direct Costs	Object Accounts					
(04) Reimbursable Activities	(a) Salaries Benefits	(b) Materials & Supplies	(c) Contracted Services	(d) Fixed Assets	(e) Travel	(f) Total
1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies						
a. Provide written assurance	$ -	$ -	$ -	$ -	$ -	$ -
b. Submit timely, complete, & accurate compliance reports	$ -	$ -	$ -	$ -	$ -	$ -
c. Advise Complainant	$ -	$ -	$ -	$ -	$ -	$ -
d. Publication of civil remedies	$ -	$ -	$ -	$ -	$ -	$ -
2. Uniform Complaint Procedures						
a. Referral to appropriate entities	$ -	$ -	$ -	$ -	$ -	$ -
School districts are mandated to engage in the following three activities only for non-employment discrimination complaints and for complaints alleging violations of the specific educational programs listed in the Parameters and Guidelines						
b. Adoption of policies and procedures (one-time activity)	$ -	$ -	$ -	$ -	$ -	$ -
c. Notification of complaint procedures, and investigation and disposition of complaints	$ -	$ 720	$ 28,796	$ -	$ -	$ 29,516
d. Forward information to the Superintendent of Public Instruction	$ -	$ -	$ -	$ -	$ -	$ -
(05) Total Direct Costs	$ -	$ 720	$ 28,796	$ -	$ -	$ 29,516

Indirect Costs				
(06) Indirect Cost Rate	[Refer to claiming instructions]			5.00%
(07) Total Indirect Costs:	[Line (05) - {Line (05)(d) -	$ 29,516	] x line (06)	$ 1,476
(08) Total Direct and Indirect Costs	[Line (05)(f) + Line (07)]			$ 30,991
Cost Reduction				
(09) Less: Offsetting Savings, if applicable				
(10) Less: Other Reimbursements, if applicable				
(11) Total Claimed Amount:	[Line (08) - {Line (9) + Line (10)}]			$ 30,991

New 05/13

Program 346

UNIFORM COMPLAINT PROCEDURES
ACTIVITY COST DETAIL

FORM 2

(01) Claimant: Etiwanda Elementary School District

(02) Fiscal Year 2002-03

(03) Reimbursable Component: Check only one box per form to identify the cost being claimed.

1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies

- [ ] Provide written assurance
- [ ] Submit timely, complete, & accurate compliance reports
- [ ] Advise complainant
- [ ] Publication of civil remedies

2. Uniform Complaint Procedures

- [ ] Referral to appropriate entities
- [ ] Adoption of policies and procedures **(One-Time Activity)**
- [x] Notification of complaint, and investigation and disposition of complaints
- [ ] Forward information to the Superintendent of Public Instruction

(04) Description of Expense	Object Accounts						
(a) Employee Names, Job Classifications, Functions Performed, and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries and Benefits	(e) Materials and Supplies	(f) Contracted Services	(g) Fixed Assets	(h) Travel and Training
Notification of complaint, and investigation and disposition of complaints							
ANNUAL NOTIFICATION	$ 0.07	10,287.00		$ 720.09			
			$ -				
INVESTIGATION AND DISPOSITION OF COMPLAINTS			$ -				
MARGARET CHIDESTER & ASSOCIATES			$ -		$ 28,796		
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(05) Total (x) Subtotal__ Page: 1 of 1			$ -	$ 720.09	$ 28,796	$ -	$ -

New 05/13

LAW OFFICES OF
MARGARET A. CHIDESTER & ASSOCIATES
17592 E. SEVENTEENTH STREET, SUITE 300
TUSTIN, CALIFORNIA 92780-7917
(714) 573-3838

May 30, 2003

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

Etiwanda School District
6061 East Avenue
Etiwanda, CA 91739

Attention: Mr. Shawn Judson
Superintendent
PO #930130

Invoice No. 1384
Federal Tax ID# 33-0216030

Professional Services Rendered During February 2003:

5 CCR Complaints

2/26	Discussion with Mr. Judson, Ms. Lawrence regarding response to uniform complaints.	CLF	.2 hrs.
2/26	Advised Mr. Judson, Ms. Lawrence, and Ms. Kordich regarding two complaints. Reviewed board policies regarding uniform complaint procedures. Prepared correspondence to Mr. Judson and to parents regarding each complaint.	CMT	1.8 hrs.
2/27	Prepared correspondence to Mr. Judson and to parents regarding each complaint.	CMT	.2 hrs.
2/28	Discussions with Mr. Judson regarding translations of correspondence and board policy for parents.	CMT	.2 hrs.

CLF	.2 hrs. at $175/hr.	$35.00
CMT	2.2 hrs. at $160/hr.	$352.00

$387.00

LAW OFFICES OF
MARGARET A. CHIDESTER & ASSOCIATES
17592 E. SEVENTEENTH STREET, SUITE 300
TUSTIN, CALIFORNIA 92780-7917
(714) 573-3838

June 17, 2003

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

Etiwanda School District
6061 East Avenue
Etiwanda, CA 91739

Attention: Mr. Shawn Judson
Superintendent
PO #930130

Invoice No. 1477
Federal Tax ID# 33-0216030

Professional Services Rendered During April:

5 CCR Complaints

4/1	Prepared local educational agency decision.	CMT	2.2 hrs.
4/1	Prepared local agency decision.	LDB	2.0 hrs.
4/1	Discussion with Ms. Cantu-Myricks.	LDB	.1 hrs.
4/1	Discussion with K. Mauricio.	LDB	.2 hrs.
4/2	Prepared local educational agency decision.	CMT	1.9 hrs.
4/2	Prepared local agency decision.	LDB	5.5 hrs. [NO CHARGE]
4/2	Discussion with Ms. Cantu-Myricks	LDB	.1 hrs.
4/3	Prepared local educational agency decision.	CLF	.2 hrs.
4/3	Prepared local educational agency decision.	CMT	6.2 hrs.
4/3	Prepared local agency decision.	LDB	4.8 hrs. [NO CHARGE]
4/3	Discussion with teacher Mr. Hernandez.	LDB	.5 hrs.
4/3	Discussion with K. Mauricio.	LDB	.2 hrs.
4/4	Prepared local educational agency decision.	CLF	1.0 hrs.
4/4	Prepared local educational agency decision and exhibits. Discussion with Mr. Judson regarding timeline for translation into Spanish and transmission to parent.	CMT	5.1 hrs.
4/4	Prepared local agency decision.	LDB	.6 hrs.
4/7	Researched sexual harassment cases and prepared local agency decision.	LDB	.8 hrs.
4/9	Prepared local educational agency decision. Discussions with Mr. Judson and Ms. Kordich regarding same. Prepared redacted exhibits.	CMT	6.7 hrs.
4/9	Discussion with substitute teacher Mr. Dynes.	LDB	.4 hrs.
4/9	Researched legal issues/case law regarding sexual harassment.	LDB	3.6 hrs. [NO CHARGE]

4/10	Prepared local educational agency decision. Prepared redacted version of local educational agency decision.	CMT	4.7 hrs.
4/10	Prepared local agency decision.	LDB	6.8 hrs.
4/11	Discussions with Ms. Kordich regarding status of teacher's witness statement. Reviewed same. Prepared final local educational agency decision and exhibits. Prepared final redacted version of local educational agency decision and exhibits. Prepared correspondence to Mr. Judson regarding same. Advised Mr. Judson regarding inquiry from local media.	CMT	3.6 hrs.
4/11	Prepared local agency decision.	LDB	1.5 hrs.
4/14	Conference call to Mr. Judson regarding investigation issues.	CMT	.3 hrs.
4/16	Reviewed correspondence from Mr. Judson regarding conduct of public comments section at Board meeting. Advised Mr. Judson regarding same.	CMT	.2 hrs.
4/23	Discussion with Mr. Judson regarding translation of agency decision and timelines.	CMT	.1 hrs.
4/24	Prepared full and redacted decisions with exhibits. Prepared correspondence to Attorney Blankenship.	CMT	4.4 hrs.

CLF	1.2 hrs. at $175/hr.	$210.00
CMT	35.4 hrs. at $160/hr.	$5,664.00
LDB	13.2 hrs. at $175/hr.	$2,310.00
LDB	13.9 hrs. at $175/hr.	[NO CHARGE]

$8,184.00

4/1	Prepared correspondence to S. Figueroa.	LDB	.1 hrs.
4/3	Discussion with advocate regarding student's representation by an attorney. Prepared correspondence to Attorney Blankenship regarding same.	CMT	.3 hrs.
4/3	Prepared correspondence to Blankenship.	LDB	.4 hrs.
4/13	Prepared local agency decision.	LDB	4.3 hrs.
4/14	Prepared local agency decision.	LDB	3.2 hrs.
4/16	Prepared agency decision regarding sexual harassment complaint.	CMT	2.1 hrs.
4/16	Prepared local agency decision.	LDB	4.3 hrs.
4/17	Prepared agency decision and exhibits.	CMT	8.3 hrs.
4/18	Prepared report of investigative findings.	CLF	1.3 hrs.

4/21	Prepared local agency decision.	LDB	.6 hrs.
4/22	Prepared agency decision and correspondence to Mr. Judson regarding same.	CMT	1.8 hrs.
4/23	Discussion with Mr. Judson regarding approval of agency decision. Prepared same. Prepared redacted decision.	CMT	3.7 hrs.
4/23	Prepared local agency decision.	LDB	.4 hrs. [NO CHARGE]
4/24	Prepared full and redacted decisions with exhibits. Prepared correspondence to Attorney Blankenship.	CMT	4.5 hrs.
4/24	Prepared local agency decision.	LDB	4.5 hrs. [NO CHARGE]

CLF	1.3 hrs. at $175/hr.	$227.50
CMT	20.7 hrs. at $160/hr.	$3,312.00
LDB	12.9 hrs. at $175/hr.	$2,257.50
LDB	4.9 hrs. at $175/hr.	[NO CHARGE]

$5,797.00

LAW OFFICES OF
MARGARET A. CHIDESTER & ASSOCIATES
17592 E. SEVENTEENTH STREET, SUITE 300
TUSTIN, CALIFORNIA 92780-7917
(714) 573-3838

June 19, 2003

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

Etiwanda School District
6061 East Avenue
Etiwanda, CA 91739

Attention: Mr. Shawn Judson
Superintendent
PO #930130

Invoice No. 1433
Federal Tax ID# 33-0216030

Professional Services Rendered During March:

5 CCR Complaints

3/19	Finalized correspondence regarding investigation of complaint.	MAC	.9 hrs.
3/26	Discussion with Mr. Judson and Ms. Soehnel concerning processing of complaint and interview of employees. Discussion with Mr. Judson concerning issue of representation.	MAC	.4 hrs.

MAC 1.3 hrs. at $190/hr. $247.00 **$247.00**

3/2	Reviewed documents forwarded by District in preparation for complaint investigation.	CMT	1.3 hrs.
3/5	Prepared witness questions for complaint investigation. Prepared correspondence to Mr. Judson.	CMT	2.5 hrs.
3/6	Advised Mr. Judson regarding procedures for complaint investigation and timelines for same.	CMT	.1 hrs.
3/13	Discussion with Mr. Judson regarding status of complaint investigation. Prepared correspondence from District to parent regarding appointment of attorneys to conduct witness interviews. Prepared correspondence to Ms. Lawrence regarding same. Discussions with Mr. Judson regarding assignment of site administrator to attend student-witness interviews. Discussion with parents' advocate regarding conduct of complainant's interview.	CMT	1.8 hrs.

3/14	Discussion with parent regarding complaint investigation procedures and parent's concerns. Discussion with Mr. Judson regarding alleged third complaint and parent's concerns. Discussion with Ms. Bowman regarding attendance at student interview as District representative. Discussion with Ms. Kordich regarding parent conference, civility policy, and complaint investigation. Researched civility policy and prepared correspondence to Ms. Kordich regarding same.	CMT	2.7 hrs.
3/17	Discussion with parent regarding scheduling interview.	CMT	.1 hrs.
3/18	Reviewed correspondence from parent's attorney regarding scheduling interview and prepared response to same. Prepared decision.	CMT	3.4 hrs.
3/19	Prepared decision. Discussion with Ms. Bowman regarding status of student interview. Discussion with Ms. Kordich regarding status of investigation.	CMT	8.5 hrs.
3/21	Reviewed District's correspondence regarding student. Discussion with Ms. Kordich regarding investigation. Prepared for witness interviews.	CMT	2.6 hrs.
3/22	Prepared correspondence to Attorney Blankenship regarding witness interviews. Prepared correspondence to Ms. Lawrence regarding reassignment of investigator. Prepared District notice to parent regarding same. Prepared witness list. Prepared witness questions.	CMT	2.7 hrs.
3/24	Reviewed District's files. Attended witness interviews.	CMT	3.9 hrs.
3/24	Reviewed file and interviewed witnesses, Ms. Anderson and Mr. Morgan.	LDB	3.3 hrs. [NO CHARGE]
3/26	Discussion with Ms. Cantu-Myricks.	LDB	.1 hrs.
3/26	Reviewed file, prepared for witness interviews.	LDB	.3 hrs.
3/27	Interviewed witnesses, teacher Mr. Jordan, principal Ms. Cantu-Myricks; prepared witness summaries.	LDB	6.7 hrs.
3/28	Interviewed Kelly Mauricio, reviewed file, prepared interview summaries.	LDB	2.2 hrs.
3/30	Prepared local agency decision	LDB	1.5 hrs.
3/31	Prepared local agency decision.	LDB	1.7 hrs.

CMT	29.6 hrs. at $160/hr.	$4,736.00
LDB	12.5 hrs. at $175/hr.	$2,187.50
LDB	3.3 hrs. at $175/hr.	[NO CHARGE]

$6,923.50

3/19	Reviewed parent's complaint letter. Researched District's obligation to investigate complaint of sexual harassment where parent has not filed uniform complaint form.	CMT	.3 hrs.
3/21	Reviewed District's correspondence regarding student. Discussion with Ms. Kordich regarding need to conduct investigation. Prepared for witness interviews.	CMT	.6 hrs.
3/22	Prepared correspondence to advocate regarding witness interviews. Prepared correspondence to Mr. Judson regarding investigation. Prepared District notice to parent regarding same. Prepared questions for complainant. Prepared witness list. Prepared witness questions.	CMT	2.6 hrs.
3/24	Reviewed District's files. Attended witness interviews.	CMT	3.5 hrs.
3/28	Interviewed Kelly Mauricio, reviewed file, prepared interview summaries.	LDB	2.3 hrs.
3/30	Prepared local agency decision.	LDB	1.4 hrs.
3/31	Prepared local agency decision.	LDB	1.5 hrs.
3/31	Prepared correspondence to S. Figueroa.	LDB	.2 hrs.

CMT	7.0 hrs. at $160/hr.	$1,120.00
LDB	5.4 hrs. at $175/hr.	$945.00

$2,065.00

LAW OFFICES OF
MARGARET A. CHIDESTER & ASSOCIATES
17592 E. SEVENTEENTH STREET, SUITE 300
TUSTIN, CALIFORNIA 92780-7917
(714) 573-3838

June 30, 2003

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

Etiwanda School District
6061 East Avenue
Etiwanda, CA 91739

Attention: Mr. Shawn Judson
Superintendent
PO #930130

Invoice No. 1521
Federal Tax ID# 33-0216030

Professional Services Rendered During May:

5 CCR Complaints

5/2	Advised Mr. Judson regarding report that student was seen reenacting incident while being videotaped. Reviewed witness statement regarding same. Advised Mr. Judson regarding statement to media and media access to campus.	CMT	.1 hrs.
5/5	Prepared correspondence from District to school sites regarding statement to media and media access to campus.	CMT	.1 hrs.
5/21	Reviewed complaint of race, national origin, and gender discrimination. Discussion with Mr. Judson and Ms. Kordich regarding same.	CMT	.1 hrs.

CMT .3 hrs. at $160/hr. $48.00 **$48.00**

5/2	Advised Mr. Judson regarding report that student was seen reenacting incident while being videotaped. Reviewed witness statement regarding same. Advised Mr. Judson regarding statement to media and media access to campus.	CMT	.1 hrs.
5/5	Prepared correspondence from District to school sites regarding statement to media and media access to campus.	CMT	.1 hrs.
5/8	Discussions with Ms. Kordich and Mr. Judson regarding conversation with and correspondence to parent regarding request to revise suspension language.	CMT	.8 hrs.
5/9	Discussions with Ms. Kordich regarding correspondence to parent regarding request to revise suspension language. Reviewed same.	CMT	.3 hrs.

5/21	Reviewed complaint of gender discrimination. Discussion with Mr. Judson and Ms. Kordich regarding same.	CMT	.1 hrs.
CMT	1.4 hrs. at $160/hr.	$224.00	$224.00

AUG. 29, 2013

State Controller's Office

School Mandated Cost Manual

UNIFORM COMPLAINT PROCEDURES CLAIM FOR PAYMENT	For State Controller Use only (19) Program Number 00346 (20) Date Filed SEP 03 2013 (21) LRS Input __/__/__	Program 346

(01) Claimant Identification Number: S37085			Reimbursement Claim Data	
(02) Claimant Name	Grossmont Union High School District		(22) FORM-1, (04) 1. a. (f))	
County of Location	San Diego County		(23) FORM-1, (04) 1. b. (f)	
Street Address or P.O. Box	P.O. Box 1043 Suite		(24) FORM-1, (04) 1. c. (f)	
City	La Mesa State CA Zip Code 91944-1043		(25) FORM-1, (04) 1. d. (f)	
		Type of Claim	(26) FORM-1, (04) 2. a. (f)	
	(03)	(09) Reimbursement [X]	(27) FORM-1, (04) 2. b. (f)	
	(04)	(10) Combined [ ]	(28) FORM-1, (04) 2. c. (f)	1,272
	(05)	(11) Amended [ ]	(29) FORM-1, (04) 2. d. (f)	
Fiscal Year of Cost	(06)	(12) 2002-2003	(30) FORM-1, (06)	2
Total Claimed Amount	(07)	(13) $ 1,291	(31) FORM-1, (07)	20
Less: 10% Late Penalty (refer to attached instructions)		(14) $ -	(32) FORM-1 (09)	
Less: Prior Claim Payment Received		(15) $ -	(33) FORM-1, (10)	
Net Claimed Amount		(16) $ 1,291		
Due from State	(08)	(17) $ 1,291		
Due to State		(18)		

(34) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the school district or county office of education to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 of the Government Code.

I further certify that there was no application other than from the claimant, nor any grant(s) or payment(s) received, for reimbursement of costs claimed herein, claimed costs are for a new program or increased level of services of an existing program; and claimed amounts do not include charter school costs, either directly or through a third party. All offsetting savings and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer (USE BLUE INK)

Date Signed 8-26-13

Ken Leighton,
Executive Director, Fiscal Services
Type or Print Name and Title of Authorized Signatory

Telephone Number (619) 644-8053
E-mail Address kleighton@guhsd.net

(35) Name of Agency Contact Person for Claim

Ken Leighton,
Executive Director, Fiscal Services

Telephone Number (619) 644-8053
E-mail Address kleighton@guhsd.net

Name of Consulting Firm/Claim Preparer

SixTen and Associates

Telephone Number (858) 514-8605
E-mail Address kbpsixten@aol.com

Form FAM-27 (New 05/13)

PROGRAM 346	UNIFORM COMPLAINT PROCEDURES CLAIM SUMMARY	FORM 1

(01) Claimant:	(02) Fiscal Year
Grossmont Union High School District	2002-2003

(03) Leave Blank

Direct Costs	Object Accounts					
(04) Reimbursable Activities	(a) Salaries and Benefits	(b) Materials and Supplies	(c) Contract Services	(d) Fixed Assets	(e) Travel	(f) Total
1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies						
a. Provide written assurance	$ -	$ -	$ -	$ -	$ -	$ -
b. Submit timely, complete, and accurate compliance reports	$ -	$ -	$ -	$ -	$ -	$ -
c. Advise complainant	$ -	$ -	$ -	$ -	$ -	$ -
d. Publication of civil remedies	$ -	$ -	$ -	$ -	$ -	$ -
2. Uniform Complaint Procedures						
a. Referral to appropriate entities	$ -	$ -	$ -	$ -	$ -	$ -
School districts are mandated to engage in the following three activities only for non-employment discrimination complaints and for complaints alleging violations of the specific educational programs listed in the Parameters and Guidelines.						
b. Adoption of policies and procedures **(One-Time Activity)**	$ -	$ -	$ -	$ -	$ -	$ -
c. Notification of complaint procedures, and investigation and disposition of complaints	$ -	$ -	$ 1,271.50	$ -	$ -	$ 1,271.50
d. Forward information to the Superintendent of Public Instruction	$ -	$ -	$ -	$ -	$ -	$ -
(05) Total Direct Costs	$ -	$ -	$ 1,271.50	$ -	$ -	$ 1,271.50

Indirect Costs

(06) Indirect Cost Rate	[Refer to Claim Summary Instructions]	1.56%
(07) Total Indirect Costs	[Line (05)(f)- line (05)(d) - $ 0.00] x line (06)	$ 19.84
(08) Total Direct and Indirect Costs	[Line (05)(f) + line (07)]	$ 1,291.34

Cost Reduction

(09) Less: Offsetting Revenues	$ -
(10) Less: Other Reimbursements	$ -
(11) Total Claimed Amount: [Line (08) - {Line (09) + Line (10)}]	$ 1,291.34

New 05/13

PROGRAM 346

UNIFORM COMPLAINT PROCEDURES
ACTIVITY COST DETAIL

FORM 2

(01) Claimant: Grossmont Union High School District

(02) Fiscal Year: 2002-2003

(03) Reimbursable Components: Check only one box per form to identify the component being claimed.

1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies
   - [ ] Provide written assurance
   - [ ] Submit timely, complete, and accurate compliance reports
   - [ ] Advise complainant
   - [ ] Publication of civil remedies
2. Uniform Complaint Procedures
   - [ ] Referral to appropriate entities
   - [ ] Adoption of policies and procedures (One-Time Activity)
   - [x] Notification of complaint, and investigation and disposition of complaints
   - [ ] Forward information to the Superintendent of Public Instruction

(04) Description of Expenses

(a) Employee Names, Job Classifications, Functions Performed, and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries and Benefits	(e) Materials and Supplies	(f) Contract Services	(g) Fixed Assets	(h) Travel
Provide written notice, investigation, opportunity to present information, and written decision for complaints							
Parham & Rajcic Law Office Legal Service	$133.00	0.25			$ 33.25		
Parham & Rajcic Law Office Legal Service	$136.00	8.25			$ 1,122.00		
Parham & Rajcic Law Office Legal Service	$147.00	0.25			$ 36.75		
Parham & Rajcic Law Office Legal Service	$159.00	0.50			$ 79.50		
(05) Total [X] Subtotal [ ] Page 1 of 1			$ -	$ -	$ 1,271.50	$ -	$ -

New 05/13

Grossmont Union High School District
1117/82 Uniform Complaint Procedures
2002-2003
Sort by Name

Date	Hours	Employee Name	Title	PHR	Salary	Activity	Component
02-03	0.25	Parham & Rajcic Law Office	Legal Service	$133.00	$33.25	Provide written notice, investigation, opportunity to present information, and written decision for complaints	Notification of complaint procedures
	0.25	**Parham & Rajcic Law Office Total**			$33.25		
02-03	8.25	Parham & Rajcic Law Office	Legal Service	$136.00	$1,122.00	Provide written notice, investigation, opportunity to present information, and written decision for complaints	Notification of complaint procedures
	8.25	**Parham & Rajcic Law Office Total**			$1,122.00		
02-03	0.25	Parham & Rajcic Law Office	Legal Service	$147.00	$36.75	Provide written notice, investigation, opportunity to present information, and written decision for complaints	Notification of complaint procedures
	0.25	**Parham & Rajcic Law Office Total**			$36.75		
02-03	0.50	Parham & Rajcic Law Office	Legal Service	$159.00	$79.50	Provide written notice, investigation, opportunity to present information, and written decision for complaints	Notification of complaint procedures
	0.50	**Parham & Rajcic Law Office Total**			$79.50		
	9.25	**Grand Total**			$1,271.50		

Grossmont Union High School District
1117/82 Uniform Complaint Procedures
Fiscal Year: 2002-2003
Summary of Legal Services for
Parham Rajcic Law Offices

Purpose: To summarize Attorney Time by rate and total staff time spent on Uniform Complaint Procedures.
Source: Parham & Rajcic Law Offices Invocies.
Findings:

Date	Page #	Attorney $133.00	Attorney $136.00	Attorney $147.00	Attorney $159.00
7/1/2002	1	0.25			
1/8/2003	2		0.25		
1/9/2003	2			0.25	
1/10/2003	2		0.25		
1/14/2003	3		3.00		
1/21/2003	3		0.75		
1/21/2003	4				0.50
1/22/2003	4		1.00		
1/30/2003	4		0.50		
1/31/2003	5		0.50		
2/3/2003	6		0.75		
2/6/2003	6		0.25		
2/14/2003	7		0.25		
2/18/2003	7		0.50		
2/21/2003	8		0.25		
Total		**0.25**	**8.25**	**0.25**	**0.50**

Conclusion: Findings go forward to FORM 2.

Uniform Complaint

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

SUPERINTENDENT'S OFFICE
02 AUG 14 AM 10:33

GROSSMONT UNION HIGH SCHOOL DISTRICT
ATTN: SUPERINTENDENT
P. O. BOX 1043
LA MESA, CA 91944-1043

August 12, 2002
A/c 484/3
Ref 484.3

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 1

DATE		HOURS		AMOUNT
LEGAL SERVICES RENDERED THROUGH AUGUST 12, 2002				
07/01/02	RECEIPT AND REVIEW OF CORRESPONDENCE FROM M. BUOMPENSIERO REGARDING COMPLAINT FILED AGAINST SUPERINTENDENT BY PARENT; PREPARATION OF NOTICE TO PARENT REGARDING CONSIDERATION OF COMPLAINT AT NEXT BOARD MEETING; FORWARD TO PARENT, CC TO DISTRICT.	0.25	MSW	33.25 = 133 p/h -SA
07/01/02	RESEARCH REGARDING CONFLICT OF INTEREST REPRESENTATION ROP ISSUE	0.75		99.75
07/01/02	REVIEW FILE; CHECK FILING FOR STIPULATION TO HEARING DATES REGARDING CERTIFICATED EMPLOYEE DISMISSAL	0.50	BCG	66.50
07/01/02	REVIEW FILE REGARDING VENDING MACHINE COMMISSIONS; TELEPHONE CONSULTATION WITH TAMMY REGARDING REPORTS	0.75		99.75
07/02/02	TELEPHONE CONSULTATION WITH A. BOXER REGARDING ROP ISSUES	0.50		78.00

1

Uniform Complaint

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

GROSSMONT UNION HIGH SCHOOL DISTRICT
ATTN: SUPERINTENDENT
P. O. BOX 1043
LA MESA, CA 91944-1043

February 07, 2003
A/c 484/3
Ref 484.3

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 1

DATE		HOURS	AMOUNT
LEGAL SERVICES RENDERED THROUGH FEBRUARY 07, 2003			
01/07/03	RECEIPT AND REVIEW OF PARENT APPEAL TO STATE BOARD OF EDUCATION REGARDING SCHOOL FACILITIES; TELEPHONE CONFERENCE WITH PARTNER REGARDING SAME.	0.50 GBW	68.00
01/07/03	TELEPHONE CONSULTATION WITH PEPSI COUNSEL REGARDING BEVERAGE CONTRACT L.B.	0.50	79.50
01/08/03	PREPARATION OF MEMO TO ASSOCIATE REGARDING PARENT COMPLAINT OF DISCRIMINATION AND REQUESTING EXTENSION. CS	0.25 GBW	34.00 = 136 p/h -SR
01/09/03	RECEIPT AND REVIEW OF MEMO FROM ASSOCIATE REGARDING PARENT COMPLAINT APPEAL; TELEPHONE CONSULTATION WITH STATE DEPT OF EDUCATION REGARDING RESPONSE DUE DATE CS	0.25 GBW	36.75 147 p/h -SR
01/10/03	LEAVE DETAILED MESSAGE FOR SUPERINTENDENT REGARDING PARENT COMPLAINT. CS	0.25 GBW	34.00 = 136 p/h -SR
01/13/03	RECEIPT AND REVIEW OF RESTRAINING ORDER FROM DISTRICT ATTORNEY; FORWARD TO E. ADAMS WITH INSTRUCTIONS.	0.25	34.00

2

Uniform Complaint

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

Grossmont

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 2

DATE		HOURS	AMOUNT
01/14/03	PREPARATION OF RESPONSE TO PARENT APPEAL OF COMPLAINT OF DISCRIMINATION. CS	3.00 HBW	408.00 = 136 p/h -8
01/14/03	TELEPHONE CONSULTATION WITH L. BERTULUCCI REGARDING STATUS OF PEPSI CONTRACT LiB.	0.25	39.75
01/16/03	RECEIPT AND REVIEW OF PEPSI REVISIONS TO CONTRACT; REVIEW AND MARK RELEVANT PROVISIONS FROM BID SPECS; DRAFT MEMORANDUM TO PEPSI COUNSEL; DISCUSS WITH L. BERTOLUCCI AND TRANSMIT COPY OF MEMO FOR REVIEW LiB.	3.50	556.50
01/20/03	PREPARE FOR MEETING WITH BOARD OF EDUCATION; REVIEW OF MATERIALS ON SCOTT INVESTIGATION	1.00 HBW	159.00
01/21/03	FINAL PREPARATION OF RESPONSE TO PARENT'S APPEAL OF DISCRIMINATION CLAIM TO OFFICE OF CIVIL RIGHTS; TELEPHONE CONFERENCE WITH DR. STEIN'S OFFICE REGARDING CS	0.75	102.00 = 136 p/h

3

Uniform Complaint

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

Grossmont

DATE		HOURS	AMOUNT
	DOCUMENTATION.		
01/21/03	REVIEW OF RESPONSE TO STATE BOARD OF EDUCATION REGARDING APPEAL OF UNIFORM COMPLAINT FILED BY DISTRICT PARENT. C5	0.50 GBW	79.50 = 159 p/h -SG
01/22/03	FINAL PREPARATION OF RESPONSE TO PARENT'S APPEAL TO OFFICE OF CIVIL RIGHTS REGARDING COMPLAINT OF DISCRIMINATION C5	1.00 GBW	136.00 = 136 p/l -SG
01/23/03	PREPARE FOR AND ATTEND BOARD MEETING REGARDING SCOTT ISSUE, RELATED TRAVEL	5.25 GBW	834.75
01/29/03	FURTHER RESEARCH REGARDING ABSENCES AND ABILITY TO MAKE-UP ATTENDANCE AND CLASS WORK; TELEPHONE CONFERENCE WITH PARTNER REGARDING SAME.	1.25	170.00
01/29/03	TELEPHONE CONSULTATION WITH K. K. REGARDING PATENT ISSUE; RECEIPT AND REVIEW OF MATERIALS ? Maybe W3	0.50	79.50
01/30/03	TELEPHONE CONFERENCE WITH DEPARTMENT OF EDUCATION REGARDING MEDIATION OF PARENT COMPLAINT; CORRESPONDENCE TO PARTNER REGARDING SAME. C5	0.50 GBW	68.00 = 136 p/l -SG

4

Uniform Complaint

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

Grossmont

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 4

DATE		HOURS	AMOUNT
01/31/03	TELEPHONE CONSULTATION WITH W. WILLIAMS OFFICE REGARDING FINDINGS FROM PATENT EXAMINER	0.25 WB	39.75
01/31/03	DRAFT LETTER TO CLIENT REGARDING LOCKOUT POLICY AND RESEARCH REGARDING SAME; OFFICE CONFERENCE WITH PARTNER REGARDING SAME.	1.75	238.00
01/31/03	TELEPHONE CONFERENCES WITH DEPARTMENT OF EDUCATION, ~~PARTNER, REGARDING APPEAL~~ OF DISCRIMINATION COMPLAINT; TELEPHONE CONFERENCE WITH BOARD PRESIDENT REGARDING SAME. CS	0.50 MBW	68.00 = 136 p/h -84

APD - ANTHONY DE MARCO	10.00	hrs at	$136.00/hr
PAD - PAMELA DEMPSEY	5.00	hrs at	$159.00/hr
SKV - STEFANIE VAUDREUIL	0.25	hrs at	$147.00/hr
JEP - JACKSON PARHAM	6.25	hrs at	$159.00/hr
MRB - MARK BRESEE	0.50	hrs at	$159.00/hr
Total Hours	22.00		

LEGAL SERVICES TOTAL $ 3265.00

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UCP

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

GROSSMONT UNION HIGH SCHOOL DISTRICT
ATTN: SUPERINTENDENT
P. O. BOX 1043
LA MESA, CA 91944-1043

March 12, 2003
A/c 484/3
Ref 484.3

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 1

DATE		HOURS	AMOUNT
LEGAL SERVICES RENDERED THROUGH MARCH 12, 2003			
02/03/03	TELEPHONE CONFERENCES WITH DEPARTMENT OF EDUCATION REGARDING APPEAL OF PARENT REGARDING DISCRIMINATION; EMAIL TO PARTNER REGARDING SAME; TELEPHONE CONFERENCES WITH BOARD PRESIDENT AND PARENT REGARDING SAME. C5	0.75	102.00 = 136 p/hr -SH
02/03/03	FURTHER PREPARATION OF DRAFT LETTER TO CLIENT REGARDING POLICY REVIEW AND RESEARCH REGARDING APPORTIONMENT FOR ABSENCES; OFFICE CONFERENCE WITH PARTNER REGARDING SAME.	1.50	204.00
02/06/03	TELEPHONE CONFERENCES WITH OFFICE OF CIVIL RIGHTS, PARTNER, AND PARENT REGARDING POSSIBILITY OF MEDIATION OF DISCRIMINATION COMPLAINT AND RELATED ISSUES. C5	0.25	34.00 = 136 p/hr -SH
02/07/03	REVIEW JT CONSULTING AGREEMENT AND RELATED TELEPHONE CONSULTATIONS; RESEARCH CASE	1.75	278.25

OCR not given UCP 185m in only in 06

6

UCP

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

DATE		HOURS	AMOUNT
02/10/03	ATTEND ROP JPA MEETING; MEETING PREPARATION; TRAVEL	5.00	795.00
02/11/03	REVIEW OF CONSULTANT CONTRACTS AT REQUEST OF K. CLARK; TELEPHONE CONSULTATION WITH PARTNER RE: SAME. GBW	0.50	79.50
02/12/03	FINAL PREPARATION OF OPINION LETTERS REGARDING CONFLICTS OF INTEREST AND INCOMPATIBILITY OF OFFICE; TELEPHONE CONFERENCES WITH PARTNER AND SUPERINTENDENT'S OFFICE REGARDING SAME GBW	1.75	238.00
02/13/03	REVIEW ROP FILE AND CORRESPONDENCE	0.50	79.50
02/14/03	LEAVE DETAILED MESSAGE WITH DEPARTMENT OF EDUCATION REGARDING PARENT COMPLAINT. GBW CS	0.25	34.00 = 136 p/hr SEK
02/18/03	TELEPHONE CONFERENCES WITH OFFICE OF EQUAL OPPORTUNITY REGARDING STATUS OF PARENT'S APPEAL; TELEPHONE CONFERENCE WITH PARTNER REGARDING SAME CS GBW	0.50	68.00 = 136 p/hr SEK

7

Public Reco

Law Offices of
PARHAM & RAJCIC
23195 La Cadena Drive, Suite 103
Laguna Hills, Calif. 92653
Tel. 949 587-0585 Fax 949 587-0539

Grossmont

MATTER: SECTION C /OTHER SERVICES/832166 A/c 484/3 Page 3

DATE		HOURS	AMOUNT
02/18/03	RECEIPT AND REVIEW OF CORRESPONDENCE FROM PARENT REGARDING PUBLIC RECORDS REQUEST AND REQUEST TO MEET WITH SUPERINTENDENT; TELEPHONE CONFERENCE WITH PARTNER REGARDING SAME; TELEPHONE CONFERENCE WITH PARENT REGARDING MEETING DATE AND TIME GBW	0.25	34.00
02/18/03	RESEARCH AND PREPARE MEMO TO A. BOXER REGARDING NEGOTIATIONS OVER ROP FUNDING	1.00	159.00
02/19/03	TELEPHONE CONSULTATION WITH A. BOXER REGARDING LEGAL ISSUES	0.50	79.50
02/19/03	REVIEW AND RESPOND TO ISSUES ASSOCIATED WITH CONSULTANCY AGREEMENT GBW	0.50	79.50
02/19/03	TELEPHONE CONSULTATION WITH K. CLARK RE: CONSULTANT CONTRACT. GBW	0.25	39.75
02/21/03	TELEPHONE CONFERENCE WITH SUPERINTENDENT'S OFFICE REGARDING PARENT COMPLAINT; SCHEDULE CONFERENCE CALL WITH SUPERINTENDENT REGARDING SAME CS GBW	0.25	34.00 =136 P/1 -8

8

UNIFORM COMPLAINT PROCEDURES CLAIM FOR PAYMENT	For State Controller Use Only (19) Program Number 00346 (20) Date Filed AUG 29 2013 (21) LRS Input	PROGRAM 346

(01) Claimant Identification Number S19365			Reimbursement Claim Data	
(02) Claimant Name Rowland Unified School District			(22) FORM 1, (04) 1. a. (f)	$0
County of Location Los Angeles			(23) FORM 1, (04) 1. b. (f)	$0
Street Address or P.O. Box 1830 Nogales Street		Suite	(24) FORM 1, (04) 1. c. (f)	$0
City Rowland Heights, CA 91748	State	Zip Code	(25) FORM 1, (04) 1. d. (f)	$0
		Type of Claim	(26) FORM 1, (04) 2. a. (f)	$0
	(03)	(09) Reimbursement [X]	(27) FORM 1, (04) 2. b. (f)	$0
	(04)	(10) Combined [ ]	(28) FORM 1, (04) 2. c. (f)	$1,773
	(05)	(11) Amended [ ]	(29) FORM 1, (04) 2. d. (f)	$0
Fiscal Year of Cost	(06)	(12) 2002-03	(30) FORM 1, (06)	6.91%
Total Claimed Amount	(07)	(13) $1,896	(31) FORM 1, (07)	$123
Less: 10% Late Penalty (refer to attached Instructions)		(14) $ 0	(32) FORM 1, (09)	$0
Less: Prior Claim Payment Received		(15) $ 0	(33) FORM 1, (10)	$0
Net Claimed Amount		(16) $ 1,896		
Due from State	(08)	(17) $ 1,896		
Due to State		(18)		

(34) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code Sections 17560 and 17561, I certify that I am the officer authorized by the school district or county office of education to file mandated cost claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Article 4, Chapter 1 of Division 4 of Title 1 of the Government Code.

I further certify that there was no application other than from the claimant, nor any grant(s) or payment(s) received, for reimbursement of costs claimed herein; claimed costs are for a new program or increased level of services of an existing program; and claimed amounts do not include charter school costs, either directly or through a third party. All offsetting revenues and reimbursements set forth in the parameters and guidelines are identified, and all costs claimed are supported by source documentation currently maintained by the claimant.

The amount for this reimbursement is hereby claimed from the State for payment of actual costs set forth on the attached statements.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Officer

Date Signed

Telephone Number 626-854-8309

Ruben P. Frutos, Superintendent

E-mail Address

Type or Print Name and Title of Authorized Signatory

(35) Name of Agency Contact Person for Claim

Telephone Number 916-853-6000

Mandate Help

E-mail Address mandatehelp@axiomadvisors.net

Name of Consulting Firm / Claim Preparer

Telephone Number 916-853-6000

Axiom, Inc.

E-mail Address mandatehelp@axiomadvisors.net

Form FAM-27 (New 05/13)

346

UNIFORM COMPLAINT PROCEDURES
CLAIM SUMMARY

(01) Claimant	(02)	Fiscal Year
S19365	Rowland Unified School District	20 02 / 20 03

(03) Leave Blank

Direct Costs	Object Accounts					
(04) Reimbursable Activities	(a) Salaries and Benefits	(b) Materials and Supplies	(c) Contract Services	(d) Fixed Assets	(e) Travel	(f) Total
1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies						
a. Provide written assurance	$0.00	$0.00	$0.00	$0.00	$0.00	$0
b. Submit timely, complete, and accurate compliance reports	$0.00	$0.00	$0.00	$0.00	$0.00	$0
c. Advise complainant	$0.00	$0.00	$0.00	$0.00	$0.00	$0
d. Publication of civil remedies	$0.00	$0.00	$0.00	$ 0.00	$0.00	$0
2. Uniform Complaint Procedures						
a. Referral to appropriate entities	$0.00	$0.00	$0.00	$0.00	$0.00	$0
School districts are mandated to engage in the following three activities *only* for non-employment discrimination complaints *and* for complaints alleging violations of the specific educational programs listed in the Parameters and Guidelines.						
b. Adoption of policies and procedures *(One-Time Activity)*	$0.00	$0.00	$0.00	$0.00	$0.00	$0
c. Notification of complaint procedures, and investigation and disposition of complaints	$1,773.44	$0.00	$0.00	$0.00	$0.00	$1,773
d. Forward information to the Superintendent of Public Instruction	$0.00	$0.00	$0.00	$0.00	$0.00	$0
(05) Total Direct Costs	$1,773	$0	$0	$0	$0	$1,773

Indirect Costs

(06) Indirect Cost Rate	[Refer to Claim Summary Instructions]	6.91 %
(07) Total Indirect Costs	[Line (05)(f) - line (05)(d) - $ $ 1,773.44] x line (06)	$123
(08) Total Direct and Indirect Costs	[Line (05)(f) + line (07)]	$1,896

Cost Reduction

(09) Less: Offsetting Revenues		$0
(10) Less: Other Reimbursements		$0
(11) Total Claimed Amount	[Line (08) – {line (09) + line (10)}]	$1,896

New 05/13

PARAGRAPH 3016 FORM 2

UNIFORM COMPLAINT PROCEDURES
ACTIVITY COST DETAIL

(01) Claimant	(02)	Fiscal Year
S19365	Rowland Unified School District	20 02 / 20 03

(03) Reimbursable Activities: Check only one box per form to identify the activity being claimed.

1. Assurance of Compliance with Antidiscrimination Laws & Notices Regarding Civil Remedies

- ☐ Provide written assurance
- ☐ Submit timely, complete, and accurate compliance reports
- ☐ Advise complainant
- ☐ Publication of civil remedies

2. Uniform Complaint Procedures

- ☐ Referral to appropriate entities
- ☐ Adoption of policies and procedures ***(One-Time Activity)***
- ☒ Notification of complaint, and investigation and disposition of complaints
- ☐ Forward information to the Superintendent of Public Instruction

(04) Description of Expenses			Object Accounts				
(a) Employee Names, Job Classifications, Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	(c) Hours Worked or Quantity	(d) Salaries and Benefits	(e) Materials and Supplies	(f) Contract Services	(g) Fixed Assets	(h) Travel
Midalia Miranda - Director of Special Projects	$52.16	34	$1,773.44	$0.00	$0.00	$0.00	$0.00
(05) Total ☒ Subtotal ☐ Page: 1 of 1			$1,773.44	$0.00	$0.00	$0.00	$0.00

New 05/13