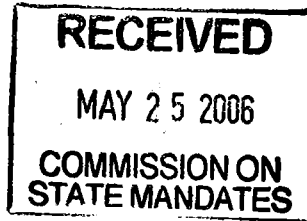


PRM

PUBLIC RESOURCE MANAGEMENT GROUP

May 25, 2006

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814



Subject: County of San Mateo
Handicapped & Disabled Students
Incorrect Reduction Claim (IRC)
Statues 1984, Chapter 1747; Statues 1985, Chapter 1274
Fiscal Years 1996-1997, 1997-1998 and 1998-1999

Dear Ms. Higashi:

Per you letter dated May 3, 2006 requesting additional information of the "final remittance demand by the State Controller, dated April 28, 2003," we are returning the enclosed completed IRC to the Commission which was originally filed April 27, 2006. The County's representation of fact is now supported by documentary evidence as required by the Commission's regulations. The remittance demand from the SCO is attached to the IRC as Exhibit 22. Furthermore, the IRC narrative has been changed to reflect this new exhibit and references thereto. The County of San Mateo is providing the Commission with an updated IRC with certification signatures dated May 17, 2006.

This filing is now complete and in compliance with Section 1185 of the Commission's regulations. Please feel free to contact me directly if you need further information on this matter by email at patrickdyer@prmgrou.net or by telephone at (916) 502-5243.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Dyer".

Patrick J. Dyer
Senior Project Manager
Public Resource Management Group, LLC

Enclosure: Original Copy of Completed IRC, + 2 copies



COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278

CSM-2

INCORRECT REDUCTION CLAIM FORM

For Official Use Only

RECEIVED

MAY 25 2006

COMMISSION ON
STATE MANDATES

Claim No.

Local Agency or School District Submitting Claim

COUNTY OF SAN MATEO

Contact Person

Patrick J. Dyer

Telephone No.

(916) 502-5243

Address

1380 Lead Hill Blvd., Suite 106, Roseville, CA 95661

Representative Organization to be Notified

Public Resource Management Group, LLC

This claim alleges an incorrect reduction of a reimbursement claim filed with the state Controller's Office pursuant to section 17561 of the Government Code. This incorrect reduction claim is filed pursuant to section 17551(b) of the Government Code.

CLAIM IDENTIFICATION: Specify Statute or Executive Order

Handicapped & Disabled Students (Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985)

<u>Fiscal Year</u>	<u>Amount of the Incorrect Reduction</u>
1996-97	\$893,367
1997-98	\$1,051,859
1998-99	\$1,287,198
TOTAL	\$3,232,423

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING AN INCORRECT REDUCTION CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Tom Huening,

Telephone No.

(650) 363 4891

Auditor-Controller, County of San Mateo

Signature of Authorized Representative

Date

4.26.06

Name and Title of Authorized Representative

Patrick Sutton,

Telephone No.

(650) 573 2192

Mental Health Accounting Manager, County of San Mateo

Signature of Authorized Representative

Date

4/26/06

COMMISSION ON STATE MANDATES

980 Ninth Street, Suite 300
Sacramento, CA 95814
PHONE: (916) 323-3562
X: (916) 445-0278

CSM-2

INCORRECT REDUCTION CLAIM FORM

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APR 27 2006

COMMISSION ON
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Name and Title of Authorized Representative

Telephone No.

Tom Huening,

Auditor-Controller, County of San Mateo

(650) 363 4891

Signature of Authorized Representative

Date

4.26.06

Name and Title of Authorized Representative

Telephone No.

Patrick Sutton,

Mental Health Accounting Manager, County of San Mateo

(650) 573 2192

Signature of Authorized Representative

Date

4-26-06

**COUNTY OF SAN MATEO
INCORRECT REDUCTION CLAIM**

Handicapped & Disabled Students
Chapters 1747 of 1984 and 1274 of 1985
Fiscal Years 1996-97, 1997-1998 and 1998-99

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**COUNTY OF SAN MATEO
INCORRECT REDUCTION CLAIM**

Handicapped & Disabled Students
Chapters 1747 of 1984 and 1274 of 1985
Fiscal Years 1996-97, 1997-1998 and 1998-99

The State Controller's Office (hereinafter "SCO") incorrectly reduced the claim of the County of San Mateo (hereinafter "County") for reimbursement of the County's costs of implementing the requirements of Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, *Handicapped and Disabled Students* (hereinafter "3632"). The County's claim complied with the requirements of the Parameters and Guidelines and Claiming Instructions for Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, and is supported by substantial documentation and evidence. The SCO's reduction of this claim is arbitrary, capricious and based on assumptions. The Commission will also find the SCO reductions are contrary to law and recent determinations by the Commission regarding the Handicapped and Disabled Students program and the eligibility for reimbursement of its specific activities.

I. SUMMARY OF THE CLAIM

The State Controller's Office incorrectly reduced the claim of the San Mateo County for reimbursement of the County's costs of implementing the requirements of Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, commonly referred to as *Handicapped and Disabled Students* or AB 3632 program costs. The SCO reduced the reimbursement claim by \$3,940,249 for the three fiscal years of 1996-97, 1997-98, and 1998-99 on April 28, 2003. Of this amount, the County concurs that \$164,988 was improperly claimed, and thus the total reduction that was improper was \$3,775,261. The incorrect reductions stem from the fact that the SCO arbitrarily excluded eligible activities for all three fiscal years. The majority of the disallowance stems from an overly restrictive Parameters and Guidelines interpretation by the SCO. The activities in question were clearly a part of the original test claim, statement of decision and are based on changes made to Title 2, Division 9, Chapter 1 of the California Code of Regulations, Section 60020, Government Code 7576 and Interagency Code of Regulations, and part of activities included in the Parameters and Guidelines. According to the SCO, these costs and activities of medication monitoring and crisis intervention were not specifically mentioned in the Parameters and Guidelines, and are therefore ineligible. The SCO made an errant assumption that the costs were intentionally excluded and are therefore ineligible. This disallowance is based on an errant assumption that these activities were intentionally excluded. When written, the Parameters and Guidelines for this program, like many other programs of the day, were intended to guide locals to broad general areas of activity within a mandate without being the overly restrictive litigious documents as they have become today. The activities of medication monitoring and crisis intervention were defined in statute by the California Code of Regulations, Section 60020 (f) as activities that are required by a child's individualized education program (hereinafter "IEP"). According to the Parameters and Guidelines and the SCO's own Mandated Cost Manual:

“Furthermore, any related county participation in the expanded IEP team and case management services for “individuals with exceptional needs” who are designated as “seriously emotionally disturbed”, pursuant to Subdivisions (a), (b), and (c) of Government Code § 7572.5 and their implementing regulations.” [Emphasis added]

“The Commission determined that county participation in the IEP process is a state mandated program and any related cost is fully reimbursable.”

Based on their disallowances, it is clear that the SCO may not understand the intricacies of this technical mental health program, what is included in an IEP, or how the County carries out its various mandated treatment services of these children in this population. This argument is further strengthened by the Commission’s recent reconsideration of the Handicapped and Disabled Students program and pending consolidation of Parameters and Guidelines. The Commission’s staff analysis and revised Parameters and Guidelines support the County’s case that the subject costs were incorrectly reduced by the SCO audit. The amount of the incorrect reduction related to the medication monitoring and crisis intervention totals \$1,329,581.

While other specific services are excluded in SCO’s claiming instructions, as well as the parameters and guidelines, neither the costs of medication monitoring and crisis intervention are specifically excluded from claiming eligibility.

The County also takes issue with a second issue regarding revenue offsets. The SCO’s field audit applied an excessive revenue offset, which in turn reduced the allowable claim. This issue is central to another incorrect assumption by the SCO. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) revenues only impact 10% of the County’s costs for this mandate. However, the SCO audit deducted 100% of the EPSDT revenue from the claim. The audit finding and disagreement regarding the revenue offset represents \$1,902,842.

The total incorrect reduction by the SCO for all fiscal years totals \$3,232,423.

The Commission on State Mandates has authority pursuant to Government Code, Section 1751(b) to “hear and decide upon a claim by a local agency or school district filed on or after January 1, 1984, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to Paragraph (2) of subdivision (d) of Section 17561.” The County of San Mateo is a local agency as defined in Government Code, Section 17518.

II. ISSUES IN DISPUTE

The following is a list of issues associated with this claim:

- A. The amount claimed by the County of San Mateo for reimbursement of the costs of the mandate imposed by Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, fairly represents the actual costs incurred by the County in carrying out the mandated activities. These costs were properly claimed under the Parameters and Guidelines for Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985. The Commission originally adopted a statement of decision on April 26, 1990, and subsequently amended applicable parameters and guidelines on August 29, 1996. Reimbursement of these costs is mandated under Article XIII B, Section 6 of the California Constitution.
- B. The incorrect adjustments made to the County's reimbursement claims by the SCO's Audit Division for fiscal years 1996-97, 1997-98 and 1998-99 have no force or effect in law since:
- a. The SCO cannot make a determination in fact or in law that the amounts claimed are excessive or unreasonable as required by Government Code, Section 17561(d)(2)(B). The only basis for disallowance is an assumption that is not consistent with the Parameters and Guidelines, statement of decision or underlying statutes. When written, the Parameters and Guidelines were broad and general. In 1990, it was common for Parameters and Guidelines to refer to statutes and implementing regulations. The omissions of the specific activities of medication monitoring and crisis intervention are not implied exclusions, as stated by the SCO in its Final Audit Report. (Finding 2)
 - b. EPSDT and Medical revenue offsets are misinterpreted and misrepresented in the SCO field audit. All of the EPSDT state general fund revenue was added as an offset, even though a significant portion of the EPSDT revenue was not linked to the population treated in this mandate. (Finding 3)
 - c. The SCO claims that the County did not properly offset its matching funds received from Medi-Cal. The SCO credited the County with the federal share of Medi-Cal revenue that was received for services found to be ineligible for reimbursement. This credit should be adjusted accordingly when the Commission restores disallowed costs as a result of this incorrect reduction claim. (Finding 4)
- C. This incorrect reduction claim has been timely filed.
- D. Because the SCO has enforced and is seeking to enforce its adjustment in contravention to the requirements of Government Code, Section 17561 and the Constitution of the State of California, the burden of proof is on the SCO to establish a legal basis for its actions. The County has met its burden

of going forward on this claim through its compliance with Title 2, California Code of Regulations, Section 1185.

- E. The Commission on State Mandates has the authority to hear this claim and direct restoration of the amounts claimed by the County which were incorrectly reduced. This claim provides sufficient information for the Commission to direct the Controller to reverse the reductions incorrectly made and direct the Controller to pay the County.

III. BRIEF HISTORY AND BACKGROUND OF HANDICAPPED AND DISABLED STUDENTS

Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, added to Gov't. Code Sections 7570, 7571, 7572, 7572.5, 7575, 7576, 7579, 7582, 7586.5, 7586.7, & 7587; Welfare & Institutions Code 5651; and CA Code of Regulations, Title 2, Section 60040. Requires county participation in the mental health assessment for "individuals with exceptional needs", and requires related county participation in the expanded "Individualized Education Program" (IEP) team and case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed." Additional provisions include treatment services, such as psychotherapy and other mental health services.

Originally, on April 26, 1990, the Commission determined that Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 imposed a reimbursable state mandate upon counties by requiring these mental health services are reimbursable pursuant to Part 7 (commencing with Government Code § 17500) of Division 4 of Title 2. Parameters and Guidelines were originally adopted shortly thereafter, but were amended on August 29, 1996. The Commission determined that county participation in the IEP process is a state mandated program and any related cost is fully reimbursable. Each of these is incorporated hereinafter as Exhibits 6, 7 and 8.

Just recently the Commission approved a revised statement of decision for Handicapped and Disabled Students II and is currently seeking a consolidation of the three closely-related mental health mandated programs.

IV. THE COUNTY'S CLAIM AND THE INCORRECT REDUCTIONS

The State Controller's Office conducted a field audit for the fiscal years 1996-97, 1997-98 and 1998-99. Attached hereto as Exhibit 1, 2 and 3 are the County's reimbursement claims for the fiscal years in question. Attached hereto as Exhibit 4 is a true and correct copy of the State Controller's final audit report, which was issued December 2002. The final remittance demand by the State Controller was dated April 28, 2003 (Exhibit 22).

In essence, there were four main audit findings for both fiscal years. All audit findings will be discussed. However, it is a substantial portion of the second and third audit findings that the County of San Mateo objects to.

A. Finding #1 Claimed Costs Exceeded Paid Amounts

The County of San Mateo acknowledged that it had over claimed for these costs, and that the reductions specified were correct.

B. Finding #2 Disallowed Medication Monitoring & Crisis Intervention Costs

The incorrect reduction in Finding #2 of the SCO's final audit report centers on the two activities of medication monitoring and crisis intervention:

- 15/60 Medication Monitoring/Visits

The California Code of Regulations in Section 60020(i) defines Mental Health services as such: "Mental Health services" means mental health assessments and the following services when delineated on an IEP in accordance with Section 7572(d) of the Government Code; psychotherapy as defined in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management. "Medication monitoring" is clearly defined in 60020(f) as including all medication support services including prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness. The cost of the medications is not a covered service and has not been billed by the County in the claiming process.

By citing the above code sections that clearly mandate medication monitoring as a service provided under Chapter 26.5, the Parameters and Guidelines includes medication monitoring by direct reference.

- 15/70 Crisis Intervention

It was the intent of AB 3632 and later amendments not to include mental health services designed in response to "psychiatric emergencies or other situations requiring an immediate response" (Article 2, section 60040(e)). This language was related primarily to inpatient hospitalization. The services currently in dispute were not provided as psychiatric emergency services leading to hospitalization or other emergency care but rather were provided in the normal course of mental health treatment. These services were provided as defined in the California Code of Regulations, Title 9, Section 543, and designed to alleviate problems, which, if left untreated, presented imminent threat to the pupil.

The State Controller's auditor claimed that treatment costs associated with medication monitoring and crisis interventions are ineligible, stating that these costs are not specified in the Parameters and Guidelines.

In their response to the County's objections to this area of disallowance in the draft audit report, the SCO stated the following:

“Each treatment service above is defined under Title 9, Section 543 of the California Administrative Code. Since medication monitoring and crisis intervention were both defined in regulation at the time the Parameters and Guidelines were adopted and were not included as reimbursable costs, the only reasonable conclusion is that they were intentionally excluded and therefore, not reimbursable.”

The Parameters and Guidelines, Summary of Mandates references California Code of Regulations, Division 9, Sections 60000-60200, Title 2, as well as Division 7, Title 1 of the Government Code commencing with Section 7570. The Parameters and Guidelines specifically cite Government Code sections 7571 and 7576 and their implementing regulations as governance. The “implementing regulations” for the provision of Chapter 25.6 of the Government Code are found in the California Code of Regulations, Title 2, Division 9, the Joint Regulations for Handicapped Children.

Section 7576 (amended in 1996) of the Government Code identifies the Department of Mental Health’s responsibility for the provision of Mental Health services and states, in part, that the Department of Mental Health “shall be responsible for the provision of mental health services as defined in regulations by the State Department of Mental Health, developed in connection with the State Department of Education, when required in the pupil’s individualized education plan”.

Additionally, the Parameters and Guidelines references to Section 5651 of the Welfare and Institutions code assures, in part, that “the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirement of that chapter”.

Given the broad and general construction of the Parameters and Guidelines, which were passed during the late 1980’s and early 1990’s, it’s not surprising that medication monitoring and crisis intervention were not specifically mentioned as reimbursable components. During this era, the Commission on State Mandates consciously crafted Parameters and Guidelines that were neither exhaustive nor complete. Rather, it was generally understood by the Commission on, State Mandates, as well as State and local agencies, that the mandate would be implemented differently in virtually every county in the state. The Parameters and Guidelines were meant to be an inclusive document, not exclusive.

In short, if the activity fell into the referenced mandate regulations or statutes, all parties understood that the associated costs would be eligible to claim and would be subject to State audit for reasonability.

the Since 1991, the State Controller, the Department of Mental Health and California counties have agreed that medication monitoring and crisis intervention were eligible cost components for the Handicapped and Disabled Students program. Each year, the State Controller has desk reviewed every Handicapped and Disabled Students claim individually in concert with knowledgeable experts from the state Department of Mental Health (DMH). The SCO openly admitted that it did not have the in-house expertise to properly interpret

the Ps and Gs for this program, and needed the direct assistance of DMH to determine component eligibility. Without fail, the State Controller has consistently reimbursed counties for these two components, and did so fully realizing what was in the Parameters and Guidelines for this program. This was not a case of an error not being caught over the course of time. All parties associated with this process understood that Medication Monitoring and Crisis Intervention were part and parcel of the mandated requirements included in the Parameters and Guidelines for the Handicapped and Disabled Students mandated program.

Over time, Parameters and Guidelines have become much more detailed, lengthy, legalistic and exhaustive. Looking at all Parameters and Guidelines from earlier eras, they appear overly broad, general and almost quaint in their lack of detail by today's standards, however, those were the rules set in place by the State of California. Neither format is inherently superior, however, the difference reflects the paradigm shift at the Commission on State Mandates and SCO over the past decade.

- The County is compelled by the California Code of Regulations, Section 60020 (f and i) to provide medication monitoring and crisis intervention services. The County was compelled to provide these services.
- The governing Parameters and Guidelines allow the activities and costs included in the County's claim. The SCO claiming instructions clearly allow the costs and their implementing regulations.
- The SCO arbitrarily disallowed costs of Medication Monitoring and Crisis Intervention. Clarification of those activities in a recent Commission reconsideration, confirm the County's argument that the costs disallowed are eligible for reimbursement. These activities are not new and have always been a part of the original test claim legislation.

In summary, the SCO incorrectly reduced the County of San Mateo's claim for the three fiscal years in question by the sum of \$1,329,581.

C. Finding #3 Offsetting Revenue EPSDT

The SCO claims that the County did not properly offset its matching funds received from the California Department of Mental Health under the Early Periodic Screening Diagnosis and Treatment (EPSDT) program and Board of Education AB 599 reimbursements. The County agrees that the AB 599 revenue should have been offset from the claimed costs. However, the County does not concur with the finding that \$2 million of EPSTD State Match should have reduced the allowable claim. The County has already offset the federal share of EPSDT Medi-Cal revenues, but failed to deduct the state general fund EPSDT match. The SCO incorrectly deducted all of the EPSDT state general fund revenues, even though a significant portion of that EPSDT revenue was not linked to the population served in the claim. Only a small percentage of the AB 3632 students in this claim are Medi-Cal beneficiaries, and thus, the actual state EPSDT revenue offset is quite small and less than

10% of what the SCO offset from the claim. The County disagrees with the SCO and asks that \$1,902,842 be reinstated.

D. Finding #4 Offsetting Revenue Medi-Cal

The SCO claims that the County did not properly offset its matching funds received from Medi-Cal. The SCO credited the County with the federal share of Medi-Cal revenue that was received for services found to be ineligible for reimbursement. This credit should be adjusted accordingly when the Commission restores disallowed costs as a result of this incorrect reduction claim.

V. TIMING OF ELIGIBLE COSTS

The Commission has previously argued that res judicata and collateral estoppel do not apply to similar reconsiderations and issues of retroactive or prospective decisions. There is nothing to prevent the Legislature or Commission from prospectively reconsidering a prior decision. Not limited to a prospective statute, the Commission or Legislature can also enact a retroactive decision. Although the statute at issue in this case is not retroactive as was the statute in the Commission's initial contemplation of this issue, the principle that the Commission or Legislature can supersede or modify res judicata. One could argue that such a case would only apply to the Legislature and the statutes it passes could be done retroactively, but since the Legislature has made a practice of directing the Commission those actions are essentially the same. Furthermore, retroactivity issues have been addressed by the Legislature for the Handicapped and Disabled Students program when the SCO has made audit reductions that contradict the underlying legislation because of their overly restrictive interpretation of what activities are reimbursable according to the Parameters and Guidelines. The Legislature has specifically intervened the mandate process for the Handicapped and Disabled Student program because of such overly restrictive Parameters and Guidelines interpretations in the form of Statutes 2002, chapter 1167 (AB 2781) and most recently Statutes 2004, chapter 493, (SB 1895).

The County would like clarify that the Commission has the authority to reinstate costs that are incorrectly reduced by the SCO. Regardless of the July 1, 2001 date in the HDS II Parameters and Guidelines for some activities, the Parameters and Guidelines in place at the time the reimbursement claim was filed do not prevent the medication monitoring and crisis intervention activities disallowed by the SCO. The Commission is not prevented by law from reinstating those costs. The recent staff analysis, statement of decision and Parameters and Guidelines crafted by Commission staff recently was based on the same statutes as the amended 1996 Parameters and Guidelines and should therefore be reinstated as a result of this incorrect reduction claim.

VI. DOCUMENTATION IN SUPPORT OF THE INCORRECT REDUCTION CLAIM

<u>Exhibit</u>	<u>Description</u>
1)	FY 1996-1997 Handicapped & Disabled Students Reimbursement Claim

- 2) FY 1997-1998 Handicapped & Disabled Students Reimbursement Claim
- 3) FY 1998-1999 Handicapped & Disabled Students Reimbursement Claim
- 4) Final Audit Report December 2002
- 5) Response to Final Draft Audit Report Sept 2002
- 6) Statement of Decision April 1990
- 7) Amended Parameters & Guidelines August 1996
- 8) State Controller's Claiming Instructions March 1997
- 9) Government Code Sections 17500-17630
- 10) Government Code Sections 7570-7588
- 11) Welfare & Institutions Code Sections 5651, 5701.3
- 12) Title 2, Cal Code of Regs., Div 2, Section 1185
- 13) Title 2, Cal Code of Regs., Div 9, Sections 60000-60200
- 14) AB 1892 (Chapter 1128 of 1994)
- 15) AB 2726 (Chapter 654 of 1996)
- 16) AB 2781 (Chapter 1167 of 2002)
- 17) SB 1895 (Chapter 493 of 2004)
- 18) Reconsideration Staff Analysis January 2006
- 19) Revised Statement of Decision January 2006
- 20) Staff Analysis of Consolidation April 2006
- 21) Proposed Consolidated Ps & Gs April 2006
- 22) SCO Remittance(s) Dated April 28, 2006

VII. CONCLUSION

The SCO has failed to utilize the Parameters and Guidelines and implementing regulations in its audit of this mandated program. The SCO interpretation is contrary to the Parameters and Guidelines and its own Claiming Instructions. Furthermore, their current interpretation is inconsistent with the legislation creating this mandate in the first place, as well as a decade of careful desk reviews by both the State Controller and DMH staff. If the County of San Mateo is required to participate in the assessment and treatment of a child's IEP, and the Commission has determined that those activities are fully reimbursable, then the assertion, assumption or interpretation that specific activities outlined in the mandate legislation which created this mandate are not reimbursable because of the way the Parameters and Guidelines refer to the implementing regulations, is contrary to law. The County of San Mateo has explained this position countless times to the SCO, and has exhausted all possible avenues with the State Controller to resolve this issue. It is the hope of San Mateo County that the Commission will concur with this IRC, especially in light of its own recent interpretation of this program and the activities in question. The laws have not changed regarding these specific activities since the original test claim. The County of San Mateo asks that the Commission reinstate costs referenced in this IRC immediately. The Parameters and Guidelines interpretation regarding medication monitoring and crisis intervention have been shared by the SCO and Department of Finance and is contrary to the current Commission staff analysis of those activities. The reduction by the SCO of the County's costs based upon those assertions should not be allowed to stand.

VIII. CERTIFICATION

The foregoing facts are known to me personally, and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct, except where stated upon information and belief, and where so stated, I declare that I believe them to be true.

Executed this 17th day of May, 2006 at San Mateo, California.



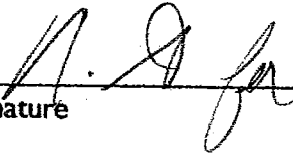
Signature

Patrick Sutton
County of San Mateo
Mental Health Representative

225 37th Avenue
San Mateo, CA 94403-4324
psutton@co.sanmateo.ca.us
Phone (650) 573-2192

The foregoing facts are known to me personally, and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct, except where stated upon information and belief, and where so stated, I declare that I believe them to be true.

Executed this 17 day of May, 2006 at Redwood City, California.



Signature

Tom Huening
County of San Mateo,
Auditor-Controller Representative

555 County Center, 4th Floor
Redwood City, CA 94063
badler@co.sanmateo.ca.us
Phone (650) 363-4891

IX. EXHIBITS

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit I)

FY 1996-1997 Claim

Office of Controller



G.R. (GERRY) TRIAS
CONTROLLER

COUNTY OF SAN MATEO

400 HARBOR BLVD., BLDG. "C", SUITE 472 • BELMONT • CALIFORNIA 94002

DANIEL P. VRTIS
ASSISTANT CONTROLLER

TELEPHONE (415) 363-4777
FAX (415) 363-7888

November 25, 1997


State Controller
Division of Accounting
P.O. Box 942850
Sacramento, Ca. 94250-5875

Re: SB 90 Claim Reimbursement

Attached is our claim for reimbursement of State mandated costs pursuant to Chapters 1747/84 & 1274/85 - Services to Handicapped Students, in the amount of \$2,493,079.00.

If there are any questions regarding this claim, please direct them to Robert Stein at (650) 595-7973.

Very truly yours,


Deputy
Controller

cc: Nestor Mercado, Senior Accountant - Mental Health

CLAIM FOR PAYMENT

Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller Use Only

(19) Program Number 00111

(20) Date File

(21) LRS Input

9941

**CONTROLLER COUNTY OF SAN MATEO
 COUNTY GOVERNMENT CENTER
 2200 BROADWAY, 3RD FLOOR
 REDWOOD CITY, CA 94063**

Reimbursement Claim Data

(22) HDS-1, (03)(a)

(23) HDS-1, (03)(b)

(24) HDS-1, (03)(c)

(25) HDS-1, (04)(1)(d)

(26) HDS-1, (04)(2)(d)

(27) HDS-1, (04)(3)(d)

(28) HDS-1, (04)(4)(d)

(29) HDS-1, (04)(5)(d)

(30) HDS-1, (06)

(31) HDS-3, (05)

65,314

(32) HDS-3, (06)

0

(33) HDS-3, (07)

0

(34)

1,857,947

(35)

293,079

(36)

2,200,000

293,079

(37)

City State Zip Code

Type of Claim	Estimated Claim	Reimbursement Claim
	(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>

Fiscal Year of Cost (06) 1997/1998 (12) 1996/1997

Total Claimed Amount (07) 2,200,000 (13) 2,151,026

Less: 10% Late Penalty, not to exceed \$1,000 (14)

Less: Estimated Claim Payment Received (15) 1,857,947

Net Claimed Amount (16) 293,079

Due from State (08) 2,200,000 (17) 293,079

Due to State (18)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, Inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 set forth on the attached statements.

Signature of Authorized Representative

G.R. Trias

G.R. Trias

Type or Print Name

Date

November 25, 1997

Deputy Controller

Title

(39) Name of Contact Person for Claim

Robert Steirn

Telephone Number

(615) 0595 17973 Ext.

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

FORM
HDS -3

(01) Claimant: COUNTY OF SAN MATEO MENTAL HEALTH SERVICES 225 West 37th Ave. San Mateo, CA 94403	(02) Type of Claim:	Fiscal Year:
	Reimbursement <input checked="" type="checkbox"/>	96 / 97
	Estimated <input type="checkbox"/>	

(03) Reimbursable Components**Assessment of Individuals With Exceptional Needs**

(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.	142,264
(b) Residential Placement: IEP Reviews, Case Management and Expanded IEP	111,544
(c) Related Services: Attendance at IEP Meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.	0
(d) Due Process Proceedings.	
(e) Administrative Costs	

Mental Health Treatment

(f) Treatment Services: Short-Doyle Program.	3,760,243
(g) Administrative Costs	

(04) Sub-total for Assessment of Individual With Exceptional Needs (Sum of (03), lines (a) to (e))	253,808
(05) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	65,314
(06) Less: Amount Received From State Categorical Funding.	0
(07) Less: Amount Received From Other (Identify)	
(08) Total for Assessment of Individual With Exceptional Needs (line (04) minus the sum of lines (05), (06), (07)).	188,494

(09) Sub-total for Mental Health Treatment (block (03), lines (f) and (g))	3,760,243
(10) Less: Non-categorical State General/Realignment Funds.	0
(11) Less: Amount Received From State Categorical Funds.	568,934
(12) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	1,228,777
(13) Less: Amount Received From Other (Identify)	0
(14) Total Mental Health Treatment (line (09) minus the sum of lines (10) to (13))	1,962,532
(15) Total Claimed Amount (sum of line (08) and line (14)).	2,151,026

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
NORTH PENINSULA FAM SAN MATEO COUNTY	00266 00041	15 30 15 30	2,215 81,401	0.65 1.73	1,440 140,824

(05) Total Subtotal

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

FORM
HDS-4

) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
 Mental Health Services 1996-97
 225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
ST VINCENT'S SCHOOL	00421	5 60	108	67.58	7,299
VICTOR RESIDENTIAL	00198	5 60	124	82.42	10,220
BELMONT HILLS HOSPITAL	00245	5 10	34	430.18	14,626
SAN MATEO COUNTY	00041	5 10	18	613.61	11,045
EDGEWOOD	00273	10 60	335	67.82	22,721
SAN MATEO COUNTY	00041	10 20	39	83.36	3,251
REDWOOD TDS - YFA	00148	10 85	1,364	59.50	81,163
SENECA	00115	10 85	293	269.93	79,089
PENINSULA CHILDREN'S	00144	10 85	891	109.28	97,372
SAN MATEO COUNTY	00041	10 85	6,265	86.69	543,113
NORTH PENINSULA FAM	00266	15 40	1,205	0.65	783
NORTH PENINSULA FAM	00266	15 45	1,670	0.65	1,086
REDWOOD TDS - YFA	00148	15 40	200	0.77	153
NORTH PENINSULA FAM	00266	15 50	14,289	0.65	9,288
NORTH PENINSULA FAM	00266	15 10	3,237	0.65	2,104
CHILDREN'S HLT COUNCIL	00250	15 50	12,804	0.99	12,676
REDWOOD TDS - YFA	00148	15 10	10,093	0.76	7,695
SAN MATEO COUNTY	00041	15 50	31,840	1.71	54,446
SAN MATEO COUNTY	00041	15 10	392,613	1.58	620,329
SAN MATEO COUNTY	00041	15 40	414,989	1.62	672,282
SAN MATEO COUNTY	00041	15 45	578,948	1.84	1,065,264
SAN MATEO COUNTY	00041	15 60	95,946	3.45	331,014

(05) Total Subtotal X Page 1 of 2 3,647,019

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
FAMILY SERVICE AGENCY	00145	15 45	165	1.69	279
SAN MATEO COUNTY	00041	15 70	30,774	2.49	76,627
CHILDREN'S HLT COUNCIL	00250	15 10	15,948	0.99	15,789
CHILDREN'S HLT COUNCIL	00250	15 40	20,224	0.99	20,022
FAMILY SERVICE AGENCY	00145	15 10	300	1.69	507

(05) Total Subtotal

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

1) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
NORTH PENINSULA FAM SAN MATEO COUNTY	00266 00041	15 1 15 1	88 79,077	0.51 1.41	45 111,499

(05) Total Subtotal Page 1 of 1 111,544

Office of Controller



TOM HUENING
CONTROLLER

COUNTY OF SAN MATEO

COUNTY GOVERNMENT CENTER • REDWOOD CITY • CALIFORNIA 94063

ROBERT G. ADLER
DEPUTY CONTROLLER

TELEPHONE: (650) 363-4777
FAX: (650) 363-7888
www.co.sanmateo.ca.us/control

July 15, 1999

Office of the State Controller
Attn: Local Reimbursement
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

RE: SB 90 Claim Reimbursement

Attached is our amended claim for reimbursement of State mandated costs pursuant to Chapter 1747/84 – Handicapped and Disabled Students for Fiscal Year 96/97, in the amount of \$2,297,163.00.

If there are any questions regarding this claim, please direct them to Celia C. Bautista at (650) 599-1171.

Very truly yours,


Tom Huening
Controller

TH:av
f:/lu/sbltr.doc1

cc: Nestor Mercado – Mental Health

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller's Use Only

(19) Program Number 00111
 (20) Date Filed:
 (21) Signature Present

(01) Claimant Identification Number:
 Tax I.D. 94-6000-532

Reimbursement Claim Data

(02) Mailing Address
 9941
 Controller County of San Mateo
 555 County Center
 Redwood City, CA 94063

(22) HDS -1, (03)(a)
 (23) HDS -1, (03)(b)
 (24) HDS -1, (03)(c)
 (25) HDS -1, (04)(1)(d)
 (26) HDS -1, (04)(2)(d)

Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated	<input type="checkbox"/>	(09) Reimbursement <input type="checkbox"/>
(04) Combined	<input type="checkbox"/>	(10) Combined <input type="checkbox"/>
(05) Amended	<input type="checkbox"/>	(11) Amended <input checked="" type="checkbox"/>

(27) HDS -1, (04)(3)(d) 65,344
 (28) HDS -1, (04)(4)(d) 0
 (29) HDS -1, (04)(5)(d) 0
 (30) HDS -1, (06) 0

Fiscal Year of Cost 19 96 / 97

(31) HDS -3, (05)

Total Claimed Amount \$2,297,163

(32) HDS -3, (06)

Less: 10% Late Penalty, but not to exceed \$000 (if applicable) 0

(33) HDS -3, (07) 0

Less: Estimate Payment Received 2,151,026

(34)

Net Claimed Amount 146,137

(35)

Due from State 146,137

(36)

Due to State

(37)

(38) CERTIFICATION OF CLAIM

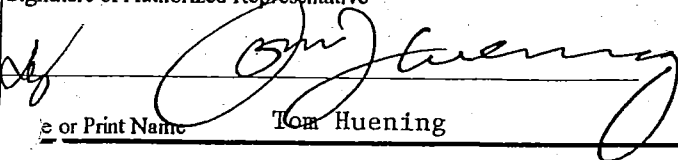
In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there were no applications for nor any grant or payments received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1747, Statutes of 1984 Chapter 1274, Statutes of 1985, and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program for Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200 set forth on the attached statements.

Signature of Authorized Representative

Date


 or Print Name Tom Huening

07.15.99

Title Controller

(39) Name of Contact Person for Claim
 Nestor M. Mercado

Telephone Number
 (415) 573 - 2378 Ext

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS CLAIM SUMMARY	FORM HDS -3
--	------------------------------

(01) Claimant: COUNTY OF SAN MATEO MENTAL HEALTH SERVICES 225 West 37th Ave. San Mateo, CA 94403	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> XX Estimated <input type="checkbox"/>	Fiscal Year: 96 / 97
---	---	------------------------------------

(03) Reimbursable Components	
Assessment of Individuals With Exceptional Needs	
(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.	142,375
(b) Residential Placement: IEP Reviews, Case Management and Expanded IEP	111,547
(c) Related Services: Attendance at IEP Meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.	0
(d) Due Process Proceedings.	
(e) Administrative Costs	
Mental Health Treatment	
(f) Treatment Services: Short-Doyle Program.	3,906,295
(g) Administrative Costs	
(04) Sub-total for Assessment of Individual With Exceptional Needs (Sum of (03), lines (a) to (e))	
	253,922
(05) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	65,344
(06) Less: Amount Received From State Categorical Funding.	0
(07) Less: Amount Received From Other (Identify)	
(08) Total for Assessment of Individual With Exceptional Needs (line (04) minus the sum of lines (05), (06), (07)).	188,578
(09) Sub-total for Mental Health Treatment (block (03), lines (f) and (g))	
	3,906,295
(10) Less: Non-categorical State General/Realignment Funds.	0
(11) Less: Amount Received From State Categorical Funds.	568,934
(12) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	1,228,776
(13) Less: Amount Received From Other (Identify)	0
(14) Total Mental Health Treatment (line (09) minus the sum of lines (10) to (13))	2,108,585
(15) Total Claimed Amount (sum of line (08) and line (14)).	2,297,163

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
SAN MATEO COUNTY	00041	15 30	81,401	1.73	140,824
NORTH PENINSULA FAM	00266	15 30	2,215	0.70	1,551

(05) Total Subtotal Page 1 of 1 142,375

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
NORTH PENINSULA FAM	00266	15 1	88	0.55	48
SAN MATEO COUNTY	00041	15 1	79,077	1.41	111,499

(05) Total Subtotal

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

FORM
HDS-4

) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
 Mental Health Services 1996-97
 225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
SAN MATEO COUNTY	00041	5 10	18	613.61	11,045
ST VINCENT'S SCHOOL	00421	5 60	108	68.13	7,358
BELMONT HILLS HOSPITAL	00245	5 10	34	589.29	20,036
VICTOR RESIDENTIAL	00198	5 60	124	82.42	10,220
SAN MATEO COUNTY	00041	10 20	39	83.36	3,251
REDWOOD TDS - YFA	00148	10 85	1,364	52.31	71,350
EDGEWOOD	00273	10 60	335	67.82	22,721
PENINSULA CHILDREN'S	00144	10 85	891	162.59	144,866
SAN MATEO COUNTY	00041	10 85	6,265	86.69	543,113
SENECA	00115	10 85	293	266.70	78,143
SAN MATEO COUNTY	00041	15 60	95,946	3.45	331,014
NORTH PENINSULA FAM	00266	15 45	1,670	0.70	1,169
NORTH PENINSULA FAM	00266	15 50	14,289	0.70	10,002
SAN MATEO COUNTY	00041	15 10	392,613	1.58	620,329
FAMILY SERVICE AGENCY	00145	15 10	300	2.77	831
FAMILY SERVICE AGENCY	00145	15 45	165	2.81	464
SAN MATEO COUNTY	00041	15 40	414,989	1.61	668,132
SAN MATEO COUNTY	00041	15 50	31,840	1.71	54,446
NORTH PENINSULA FAM	00266	15 40	1,205	0.70	844
NORTH PENINSULA FAM	00266	15 10	3,237	0.70	2,266
SAN MATEO COUNTY	00041	15 45	578,948	1.84	1,065,264
CHILDREN'S HLT COUNCIL	00250	15 50	12,804	2.91	37,260

(05) Total Subtotal X Page 1 of 2 3,704,124

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1996-97
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

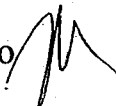
(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
SAN MATEO COUNTY	00041	15 70	30,774	2.48	76,320
REDWOOD TDS - YFA	00148	15 10	10,093	2.00	20,187
CHILDREN'S HLT COUNCIL	00250	15 10	15,948	2.91	46,409
CHILDREN'S HLT COUNCIL	00250	15 40	20,224	2.91	58,852
REDWOOD TDS - YFA	00148	15 40	200	2.02	403

(05) Total Subtotal Page 2 of 2 3,906,295

INTER OFFICE MEMO

To: Faith, Janet, Aurora

From: Nestor M. Mercado 
Ext. 2378

Date: July 13, 1999


Subject: Amended SB90 Claim - FY 97

Attached is the draft of FY 97 amended claim for SB90. The net claim of \$146,137 represents the increase since the initial claim was fully paid for.

For the most part, the increase was brought about by the change in our cost reporting methodology during the fiscal year. The change was made -----from our earlier position of reporting actual payments to Medi-Cal providers in November, and this became the basis for filing the claims then-----to reporting figures from contractor's actual cost reports in mid December. Peninsula Children's Center and Children's Health Council accounted for 97% of the increase.

Please call me if you have any questions.

*If OK, I'm
planning on
sending this over
to Controller's for
signature tomorrow
AN.*





HEALTH SERVICES AGENCY

July 1, 1999

Ms. Fran Sternet
Division of Accounting & Reporting
State Controller's Office
P. O. Box 942850
Sacramento, CA 94250-5875

**RE: HANDI & DISABLE STU CH 1747/84
Fiscal Year 1996 - 97.**

Dear Ms. Sternet:

Enclosed please find copies of our cost reports as submitted to the State Department of Mental Health for FY 97. Please note that these sets are by legal entity and that these relate only to the identified service providers included in our SB90 claim.

In reference to our conversation earlier this week, we agreed to include in this package MHForms 1909, 1940, and 1966, and that this submission should clear the receivable of \$2,151,026 stated in your letter of June 17th. Further to our conversation, we talked about submitting an amended claim based on the final figures that were not available at the time the claim was filed. I am hoping that I will be able to submit the amended claim next week.

Thank you so much for your assistance in this regard. Please feel free to call me at (650) 573-2378 if you have any questions or need additional information.

Sincerely,

Nestor M. Mercado
Senior Accountant

/encl.

MENTAL HEALTH SERVICES DIVISION

Board of Supervisors: Rose Jacobs Gibson • Richard S. Gordon • Mary Griffin • Jerry Hill • Michael D. Nevin • Health Services Director: Margaret Taylor
225 - 37th Avenue • San Mateo, CA 94403 • PHONE 650.573.2541 • TDD 650. 573-3206 • FAX 650.573.2841

<http://www.health.co.san-mateo.ca.us>

FISCAL YEAR 1: NTRACTORS
 SALARIES AND BENEFITS RATIO
 FOR SB 90 COST CALCULATIONS

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PERCENT
 OF D.L.
 TO TOTAL
 COST

TOTAL SALARIES AND BENEFITS TO TOTAL LABOR DIRECT LABOR BENEFITS TO TOTAL LABOR

ACTUAL INFORMATION FROM COST REPORTS

	TOTAL COST	SALARIES	BENEFITS	TOTAL SAL/BEN	TOTAL COST	RATE	BENEFIT RATE
SAN MATEO COUNTY	36,047,411	22,079,039	16,366,967	5,712,072	45.40%	34.90%	
BELMONT HILLS HOSPITAL	4108 440,545	306,928	261,215	45,713	59.29%	17.50%	34.90%
PENINSULA CHILDRENS	4113 115,737	86,143	71,093	15,050	61.43%	21.17%	17.50%
CHILDRENS HEALTH COUNCIL	4176 46,226	33,648	28,681	4,967	62.05%	17.32%	21.17%
YOUTH & FAMILY ASST	4183 83,448	72,399	62,548	9,851	74.95%	15.75% Actual from J. Walker	17.32%
VICTOR RESIDENTIAL	4194 85,520	56,229	44,022	12,207	51.48%	27.73%	17.32%
NORTH PENINSULA FAM ALT	4195 99,690	73,840	61,222	12,618	61.41%	20.61%	15.75%
FAMILY SERVICE AGENCY	4196 623,556	489,803	431,811	57,992	69.25%	13.43%	27.73%
PROJECT FOCYS	4197 0	0	0	0	#DIV/0!	0.00%	20.61%
F A C E S	4198 0	0	0	0	#DIV/0!	0.00%	13.43%
SENECA CENTER	9204 339,525	204,496	181,985	22,511	53.60%	12.37%	78.55%
EDGEWOOD	9215 21,708	12,426	10,133	2,293	46.68%	22.63%	74.07%
ST. VINCENT'S SCHOOL FOR BOYS	9224 24,696	14,479	12,621	1,858	51.11%	14.72%	74.07%
		16,366,573	5,711,934	22,078,507	36,047,411	61.25%	13.43%
		3,577,209	626,107	4,203,316	6,033,180	69.67%	17.50%
		106,405	22,525	128,930	173,213	74.43%	21.17%
		84,185	14,579	98,764	135,678	72.79%	17.32%
		110,269	17,367	127,636	147,121	86.76%	15.75%
		139,831	38,774	178,605	271,633	65.75%	27.73%
		61,225	12,619	73,844	99,690	74.07%	20.61%
		637,984	85,662	723,646	921,281	78.55%	13.43%
		182,632	22,590	205,222	340,716	60.23%	12.37%
		13,156	2,977	16,133	28,184	57.24%	22.63%
		14,641	2,155	16,796	28,648	58.63%	14.72% Estimate

PROVIDER NAME	NO.	MODE	SFC	SEP UNITS	A	B	C	D	E	F	H	J	K	L	M	N	NET AMOUNT		
					SEP UOS	TOTAL UOS	PERCENT OF SEP TO TOTAL	TOTAL COST BEFORE ADMIN	DIRECT LABOR	ADMIN AT MAX 10%	TOTAL COST	TOTAL GROSS SEP	MEDICAL REVENUE GROSS	ADD ADMIN REVENUE	TOTAL REVENUE	MEDICAL REVENUE @ 50%	SEP REVENUE ONLY		
SAN MATEO COUNTY	00041	5	10	18	12,635	0.14%	7,416,260	3,366,982	336,988	7,752,958	613.61	11,045	3,358,416	503,762	3,862,178	1,931,089	2,704	8,341	
SAN MATEO COUNTY	00041	10	20	39	31,742	0.12%	2,531,033	1,149,089	114,909	2,645,942	83.36	3,251	680,338	102,051	782,389	391,195	469	2,782	
SAN MATEO COUNTY	00041	10	85	6,265	6,265	99.88%	519,606	235,901	23,590	543,196	86.69	543,113	344,330	51,650	395,980	197,990	197,950	345,163	
SAN MATEO COUNTY	00041	15	1	78,077	1,110,376	7.12%	1,501,267	681,575	68,158	1,569,425	1.41	111,499	965,862	145,029	1,111,891	555,946	39,563	71,916	
SAN MATEO COUNTY	00041	15	10	392,613	838,658	46.81%	1,267,114	575,270	57,227	1,324,641	1.58	620,329	755,860	113,379	869,239	434,620	203,446	416,883	
SAN MATEO COUNTY	00041	15	30	81,401	349,842	23.27%	578,798	282,774	28,277	605,075	1.73	140,824	186,849	28,027	214,876	107,438	25,001	115,823	
SAN MATEO COUNTY	00041	15	45	578,948	1,784,913	32.25%	1,460,976	663,283	66,328	1,527,304	1.61	668,132	757,266	113,590	870,856	435,428	191,066	477,066	
SAN MATEO COUNTY	00041	15	50	31,840	110,872	28.72%	181,359	1,434,668	143,466	3,303,505	1.84	1,065,264	1,956,176	293,426	2,249,602	1,124,801	362,748	702,516	
SAN MATEO COUNTY	00041	15	60	95,946	1,770,647	5.42%	5,837,620	82,337	8,234	189,593	1.71	54,446	93,360	14,004	107,364	53,662	15,417	39,029	
SAN MATEO COUNTY	00041	15	70	30,774	129,656	23.74%	308,194	139,920	265,028	6,102,648	3.45	331,014	3,575,771	536,366	4,112,137	2,066,069	111,439	219,575	
PENINSULA CHILDRENS	00144	10	85	891	891	100.00%	136,482	83,841	8,384	144,866	162.59	76,320	176,314	26,447	202,761	101,381	24,068	52,252	
CHILDRENS HLT COUNCIL	00250	15	10	15,948	16,098	99.07%	44,163	27,403	2,740	46,903	2.81	46,409	83,552	12,833	99,385	49,193	48,193	85,673	
CHILDRENS HLT COUNCIL	00250	15	40	20,224	20,494	98.68%	58,224	34,887	3,489	59,713	2.91	58,852	14,586	2,188	16,774	8,387	5,252	41,157	
CHILDRENS HLT COUNCIL	00250	15	45	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	8,276	50,576	
CHILDRENS HLT COUNCIL	00250	15	60	12,804	12,864	98.53%	35,281	21,898	2,190	37,481	2.81	37,280	7,862	1,179	9,041	4,821	4,500	32,760	
REDWOOD TDS - YFA	00148	10	85	1,364	1,364	100.00%	66,375	49,748	4,975	71,350	52.31	71,350	22,044	3,307	25,351	12,676	0	0	
REDWOOD TDS - YFA	00148	15	10	10,093	10,093	100.00%	18,779	14,075	1,408	20,187	2.00	20,187	10,584	1,688	12,172	6,086	6,086	14,101	
REDWOOD TDS - YFA	00148	15	30	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
REDWOOD TDS - YFA	00148	15	40	200	200	100.00%	375	281	28	403	2.02	403	92	14	106	53	53	360	
VICTOR RESIDENTIAL	00198	5	60	124	1,091	11.37%	85,520	44,026	4,403	89,923	82.42	10,220	0	0	0	0	0	10,220	
NORTH PENINSULA FAM	00266	15	1	88	1,080	8.15%	554	340	34	588	0.54	48	456	68	524	262	21	27	
NORTH PENINSULA FAM	00266	15	10	3,237	22,665	14.28%	14,817	9,161	916	15,833	0.70	2,266	13,204	1,981	15,185	7,593	1,084	1,182	
NORTH PENINSULA FAM	00266	15	30	2,215	13,683	16.19%	9,006	5,531	563	9,559	0.70	1,551	7,942	1,191	9,133	4,567	739	812	
NORTH PENINSULA FAM	00266	15	40	1,205	18,666	6.46%	12,285	7,544	754	13,039	0.70	844	11,376	1,706	13,082	6,541	423	421	
NORTH PENINSULA FAM	00266	15	45	1,670	44,479	3.75%	29,275	17,978	1,798	31,073	0.70	1,169	22,811	3,422	26,233	13,117	492	677	
NORTH PENINSULA FAM	00266	15	50	14,289	64,476	22.16%	42,438	26,060	2,606	45,042	0.70	10,002	35,966	5,395	41,361	20,681	4,583	5,419	
FAMILY SERVICE AGENCY	00145	15	10	300	111,090	0.27%	287,349	198,989	19,899	307,248	2.77	831	193,265	28,990	222,255	111,128	300	531	
FAMILY SERVICE AGENCY	00145	15	30	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
FAMILY SERVICE AGENCY	00145	15	40	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
FAMILY SERVICE AGENCY	00145	15	45	165	78,498	0.21%	206,515	143,012	14,301	220,816	2.81	464	138,120	20,718	158,838	79,419	167	297	
PROJECT FOCYS	00146	15	10	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
PROJECT FOCYS	00146	15	40	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
PROJECT FOCYS	00146	15	45	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
F A C E S	00143	15	10	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
F A C E S	00143	15	40	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
F A C E S	00143	15	45	0	0	0.00%	0	0	0	0	0.00	0	0	0	0	0	0	0	
BELMONT HILLS HOSPITAL	00245	5	10	34	940	3.62%	522,825	310,042	31,004	553,929	599.29	20,036	328,119	49,218	377,337	188,669	6,330	13,206	
SENECA	00115	10	85	293	1,346	21.77%	340,716	182,624	18,262	358,978	266.70	78,143	156,214	23,432	179,646	89,823	19,554	59,589	
ST VINCENT'S SCHOOL	00421	5	60	108	381	28.35%	24,696	12,622	1,262	25,958	68.13	7,358	0	0	0	0	0	7,358	
EDGEWOOD	00273	10	60	335	335	100.00%	21,708	10,133	1,013	22,721	67.82	22,721	0	0	0	0	0	22,721	
State Allocation																			
TOTAL				1,797,497	7,522,071		26,717,857	12,442,263	1,244,226	27,962,063	2,111	4,160,217	13,908,953	2,086,344	15,995,297	7,997,656	1,284,120	(566,934)	2,297,163

SUMMARY:

Gross SEP Costs	4,160,217	0
Adjustments (if any)	0	0
Total Cost	4,160,217	0
Less Medi-Cal FFP	4,160,217	0
Less: State Fund Allocation	1,284,120	4,160,217
NET CLAIM	2,866,097	1,284,120
	568,934	2,866,097
	568,934	568,934
	2,297,163	2,297,163

SUMMARY:

ASSMT (15 - 30)	13,908,953	2,086,344	15,995,297	7,997,656	TOTAL
RESID'L TRTMENT (15 - 1)	4,160,217	111,547	3,906,295	4,160,217	
ALL OTH	39,604	25,740	1,228,776	1,284,120	
	102,771	85,807	2,677,519	2,866,097	
	0	0	568,934	568,934	
	102,771	85,807	2,108,585	2,297,163	

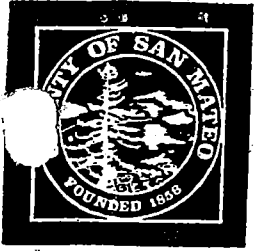
County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 2)

FY 1997-1998 Claim

Office of Controller



G.R. (GERRY) TRIAS
CONTROLLER

COUNTY OF SAN MATEO

400 HARBOR BLVD., BLDG. "C", SUITE 472 • BELMONT • CALIFORNIA 94002

DANIEL P. VRTIS
ASSISTANT CONTROLLER

TELEPHONE (415) 363-4777
FAX (415) 363-7888

December 31, 1998

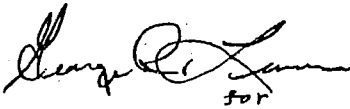
State Controller
Division of Accounting
P.O. Box 942850
Sacramento, Ca. 94250-5875

Re: SB90 Claim Reimbursement

Attached is our claim for reimbursement of State Mandated Costs pursuant to Chapter 1747/84 - Handicapped & Disabled Students in the amount of \$3,496,165.00.

If there are any questions regarding this claim, please direct them to Robert Stein at (650) 595-7973.

Very truly yours,



for

Controller

cc: Nestor Mercado - Senior Accountant, Mental Health

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller's Use Only

(19) Program Number 00111
 (20) Date Filed:
 (21) Signature Present

(01) Claimant Identification Number:
 (02) **9941**
COUNTY GOVERNMENT CENTER
2200 BROADWAY, 3RD FLOOR
REDWOOD CITY, CA 94063
 City State Zip Code

Reimbursement Claim Data	
(22)	HDS -1, (03)(a)
(23)	HDS -1, (03)(b)
(24)	HDS -1, (03)(c)
(25)	HDS -1, (04)(1)(d)
(26)	HDS -1, (04)(2)(d)
(27)	HDS -1, (04)(3)(d) 79,662
(28)	HDS -1, (04)(4)(d) 0
(29)	HDS -1, (04)(5)(d) 0
(30)	HDS -1, (06) 0
(31)	HDS -3, (05)
(32)	HDS -3, (06)
(33)	HDS -3, (07) 0
(34)	
(35)	
(36)	
(37)	

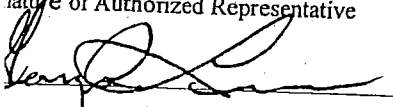
Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated	<input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>
(04) Combined	<input type="checkbox"/>	(10) Combined <input type="checkbox"/>
(05) Amended	<input type="checkbox"/>	(11) Amended <input type="checkbox"/>
Fiscal Year of Cost	(06) 19 98 / 99	(12) 19 97 / 98
Total Claimed Amount	(07) \$2,500,000	(13) \$2,429,787
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		(14) 0
Less: Estimate Payment Received		(15) 1,433,622
Net Claimed Amount	\$2,500,000	(16) 996,165
Due from State	(08) \$2,500,000	(17) 996,165
Due to State		(18)

(18) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 10900 through 10960, inclusive.

I further certify that there were no applications for nor any grant or payments received, other than from the claimant, for reimbursement of costs incurred herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985, and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program for Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200 set forth on the attached statements.

Name of Authorized Representative


Date
DEC 31 1998

Name of Contact Person for Claim
Nestor M. Mercado

Title **Controller**
 Telephone Number
 (415) 573 - 2378 Ext

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

FORM
HDS -3

(01) Claimant: COUNTY OF SAN MATEO MENTAL HEALTH SERVICES 225 West 37th Ave. San Mateo, CA 94403	(02) Type of Claim: Reimbursement <input checked="" type="checkbox"/> XX Estimated <input type="checkbox"/>	Fiscal Year: 97 / 98
--	---	-------------------------

(03) Reimbursable Components

Assessment of Individuals With Exceptional Needs

(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.	183,852
(b) Residential Placement: IEP Reviews, Case Management and Expanded IEP	118,379
(c) Related Services: Attendance at IEP Meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.	0
(d) Due Process Proceedings.	
(e) Administrative Costs	
Mental Health Treatment	
(f) Treatment Services: Short-Doyle Program.	3,914,536
(g) Administrative Costs	

(04) Sub-total for Assessment of Individual With Exceptional Needs (Sum of (03), lines (a) to (e))	302,231
(05) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	79,662
(06) Less: Amount Received From State Categorical Funding.	0
(07) Less: Amount Received From Other (Identify)	
(08) Total for Assessment of Individual With Exceptional Needs (line (04) minus the sum of lines (05), (06), (07)).	222,569
(09) Sub-total for Mental Health Treatment (block (03), lines (f) and (g))	3,914,536
(10) Less: Non-categorical State General/Realignment Funds.	0
(11) Less: Amount Received From State Categorical Funds.	568,934
(12) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	1,138,384
(13) Less: Amount Received From Other (Identify)	0
1) Total Mental Health Treatment (line (09) minus the sum of lines (10) to (13))	2,207,218
(15) Total Claimed Amount (sum of line (08) and line (14)).	2,429,787

total \$1,218,046.00 w/ special

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

FORM
HDS-4

1) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
 Mental Health Services 1997-98
 225 West 37th Ave., San Mateo, CA 94403

3) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

4) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) <i>SEP</i> Units of Service	(e) Rate Per Unit	(f) Total
REDWOOD TDS - YFA	00148	15 1	43	1.58	68
NORTH PENINSULA FAM	00266	15 1	20	0.60	12
SAN MATEO COUNTY	00041	15 1	113,061	1.61	182,028
SENECA	00115	15 1	435	4.01	1,744

Total Subtotal

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

1) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1997-98
225 West 37th Ave., San Mateo, CA 94403

3) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

4) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
ACHIEVE(PENIN. CHDRNS)	00144	15 30	931	0.94	875
SAN MATEO COUNTY	00041	15 30	63,174	1.86	117,504

SEPA and DH col J

Total Subtotal

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

**FORM
HDS-4**

(C) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
 Mental Health Services 1997-98
 225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

<input type="checkbox"/> Assessment	<input checked="" type="checkbox"/> Treatment Services
<input type="checkbox"/> Residential Placement	<input type="checkbox"/> Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
ST MARY'S HOSPITAL	00234	5 10	10	567.50	5,675
VICTOR RESIDENTIAL	00198	5 60	341	284.48	97,008
SAN MATEO COUNTY	00041	5 60	365	33.71	12,305
UCSF LANGLEY-PORTER	00117	5 10	12	540.00	6,480
QUALITY GROUP HOME	00662	5 60	65	90.00	5,850
BELMONT HILLS HOSPITAL	00245	5 10	10	487.10	4,871
SENECA	00115	10 85	7	221.43	1,550
SAN MATEO COUNTY	00041	10 85	6,958	80.96	563,320
EAST BAY BEHAVIORAL	00267	10 85	175	57.35	10,036
ACHIEVE(PENIN. CHDRNS)	00144	10 85	471	230.54	108,583
REDWOOD TDS - YFA	00148	10 85	1,610	41.99	67,596
FAMILY SERVICE AGENCY	00145	15 45	90	2.36	212
FAMILY SERVICE AGENCY	00145	15 40	165	2.20	363
FAMILY SERVICE AGENCY	00145	15 10	1,413	2.31	3,264
FAMILY SERVICE AGENCY	00145	15 50	3,888	2.17	8,437
SENECA	00115	15 45	285	3.24	923
SENECA	00115	15 10	3,342	5.04	16,844
NORTH PENINSULA FAM	00266	15 45	2,025	0.78	1,580
Total					914,897

aters 1747 and 1274/85

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

FORM
HDS-4

(0) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
 Mental Health Services 1997-98
 225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
NORTH PENINSULA FAM	00266	15 50	10,258	0.78	8,001
REDWOOD TDS - YFA	00148	15 60	820	3.72	3,053
NORTH PENINSULA FAM	00266	15 40	200	0.68	136
SAN MATEO COUNTY	00041	15 70	29,748	2.80	83,294
SAN MATEO COUNTY	00041	15 10	413,412	1.73	715,203
SAN MATEO COUNTY	00041	15 40	427,459	1.85	790,799
SAN MATEO COUNTY	00041	15 45	310,574	2.08	645,994
SAN MATEO COUNTY	00041	15 50	246,624	1.41	347,740
SAN MATEO COUNTY	00041	15 60	68,543	3.86	264,576
ACHIEVE(PENIN. CHDRNS)	00144	15 10	605	0.96	581
NORTH PENINSULA FAM	00266	15 10	2,507	0.77	1,930
CHILDREN'S HLT COUNCIL	00250	15 10	11,451	3.13	35,842
CHILDREN'S HLT COUNCIL	00250	15 40	15,493	3.21	49,733
CHILDREN'S HLT COUNCIL	00250	15 50	10,533	3.15	33,179
REDWOOD TDS - YFA	00148	15 10	5,382	1.98	10,656
REDWOOD TDS - YFA	00148	15 45	4,455	2.00	8,922

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

FORM
HDS -1

Claimant:
COUNTY OF SAN MATEO
MENTAL HEALTH SERVICES
225 West 37th Ave.
San Mateo, CA 94403

(02) Type of Claim:
Reimbursement xx
Estimated

Fiscal Year:
19 97 - 98

Claim Statistics

(03) (a) Number of students who were suspected of being "individuals with exceptional needs and were referred to the local mental health department for assessment and recommendation in the fiscal year of claim.	569
(b) Number of students who required residential placements in the fiscal year of claim.	9
(c) Number of due process proceedings that took place in the fiscal year of claim.	0

Direct Costs

(04) Reimbursable Components:	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Total
1. Assessment				
2. Residential Placement				
3. Related Services				
4. Due Process Proceedings				
5. Treatment Services				
(05) Total Direct Costs				

Indirect Costs

(06) Indirect Cost Rate	(From ICRP)	%
(07) Total Indirect Costs	[Line (06)x line (05)(a)] or [line (06)x{line (05)(a)+line (05)(b)}]	
(08) Total Direct and Indirect Costs	[Line (05)9d) + line (07)]	

Cost Reduction

(9) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, (i.e. State General/Realignment Funds, State Categorical Funds, Short-Doyle/Medi-Cal, (FFP only), etc.),	
(11) Total Claimed Amount	[Line (08) - {Line (09) + line(10)}]

PROVIDER NAME	LEGAL ENTITY NO.	MODE	SFC	SEP UNITS	TOTAL UOS	PERCENT OF SEP TO TOTAL ADMIN	TOTAL COST BEFORE ADMIN	DIRECT LABOR	ADMIN	MAX 10%	TOTAL COST	PER UNIT	TOTAL SEPS	MEDICAL REVENUE GROSS	ADD REVENUE	TOTAL REVENUE	MEDICAL REVENUE @ 50.98%	SEP REVENUE ONLY	NET AMOUNT
3 SAN MATEO COUNTY	00041	5	10	0	0	0.00%	12,000	3,049	0	0	0	0.00	0	0	0	0	0	0	0
3 SAN MATEO COUNTY	00041	5	60	365	365	100.00%	590,228	139,913	13,991	564,209	80.96	12,305	33,711	12,305	0	0	0	0	0
3 SAN MATEO COUNTY	00041	15	1	6,958	6,958	89.84%	1,110,323	443,795	44,380	1,790,917	1,81	563,320	366,454	54,988	421,422	214,841	0	0	0
3 SAN MATEO COUNTY	00041	15	10	413,412	813,716	45.28%	1,543,318	392,457	39,216	1,682,635	1,73	182,203	995,649	147,847	1,133,496	577,856	0	0	0
3 SAN MATEO COUNTY	00041	15	30	63,174	392,890	16.08%	713,185	181,220	18,122	731,307	1.86	117,504	216,915	32,537	249,452	127,171	0	0	0
3 SAN MATEO COUNTY	00041	15	46	427,459	1,076,041	39.73%	1,940,329	493,038	49,304	1,989,633	1.85	790,789	894,511	129,677	994,189	506,837	0	0	0
3 SAN MATEO COUNTY	00041	15	50	310,574	1,272,310	24.41%	2,584,391	656,691	65,669	2,650,050	2.08	645,994	347,740	1,431,856	214,778	370,085	188,688	0	0
3 SAN MATEO COUNTY	00041	16	80	68,543	1,613,894	4.25%	6,098,706	1,542,058	154,208	6,222,912	3.88	264,576	321,813	2,964,640	444,696	3,409,336	1,738,078	0	0
3 ACHIEVE/PENIN. CHDRNS	00041	15	70	297,749	110,979	26.81%	303,239	77,033	7,705	310,944	0.94	591	6,144	922	7,066	2,394	0	0	0
3 ACHIEVE/PENIN. CHDRNS	00144	15	10	805	11,501	5.26%	102,707	59,759	5,976	108,593	2.80	83,294	141,831	21,275	163,106	83,151	0	0	0
3 ACHIEVE/PENIN. CHDRNS	00144	15	30	931	8,707	10.69%	7,730	4,422	442	8,172	0.94	875	4,056	610	4,676	2,394	0	0	0
3 CHILDREN'S HLT COUNCIL	00250	15	10	11,451	11,886	86.34%	34,786	24,041	2,404	37,190	3.13	35,842	49,733	10,532	1,580	4,833	2,464	0	0
3 CHILDREN'S HLT COUNCIL	00250	15	40	15,493	17,203	90.06%	51,581	35,618	3,565	55,146	3.21	33,179	6,698	1,005	7,703	3,927	0	0	0
3 CHILDREN'S HLT COUNCIL	00250	15	60	10,533	11,397	82.42%	33,598	23,213	2,321	35,909	3.15	33,179	16,036	2,405	18,441	9,401	0	0	0
3 REDWOOD TDS - YFA	00148	15	1	1,810	1,810	100.00%	64,810	27,862	2,786	67,596	41.99	68	1.58	88	0	0	0	0	0
3 REDWOOD TDS - YFA	00148	15	10	5,382	5,502	97.82%	10,453	4,494	448	10,902	1.98	10,656	2,682	397	2,969	1,514	0	0	0
3 REDWOOD TDS - YFA	00148	15	30	0	0.00%	0.00%	6,554	3,677	368	8,922	0.00	0	0	0	0	0	0	0	0
3 REDWOOD TDS - YFA	00148	15	45	4,455	4,455	100.00%	8,554	3,677	368	8,922	2.00	8,922	1,008	151	1,159	591	0	0	0
3 VICTOR RESIDENTIAL	00198	5	60	820	820	100.00%	2,927	1,259	126	3,053	3.72	3,053	1,485	223	1,708	871	0	0	0
3 NORTH PENINSULA FAM	00286	15	1	20	555	3.60%	313	220	22	335	0.60	12	109	16	125	64	0	0	0
3 NORTH PENINSULA FAM	00286	15	10	2,507	23,202	10.81%	16,784	11,809	1,181	17,965	0.77	1,930	8,375	1,256	9,631	4,910	2	0	0
3 NORTH PENINSULA FAM	00286	15	40	200	17,366	1.15%	10,995	7,736	774	11,769	0.88	136	10,837	1,626	12,463	6,354	531	0	0
3 NORTH PENINSULA FAM	00286	15	45	2,025	40,795	4.65%	29,845	20,999	2,100	31,945	0.78	1,580	18,753	2,411	18,712	9,539	73	0	0
3 FAMILY SERVICE AGENCY	00145	15	10	1,413	143,137	0.99%	40,804	28,780	2,878	43,782	0.78	8,001	18,753	2,411	18,712	9,539	73	0	0
3 FAMILY SERVICE AGENCY	00145	15	40	165	107,125	0.15%	220,385	147,922	14,792	235,177	2.20	363	188,622	28,293	216,915	110,583	2,017	0	0
3 FAMILY SERVICE AGENCY	00145	15	45	90	89,157	0.10%	194,022	130,228	13,023	207,045	2.36	212	153,586	23,038	176,624	90,043	134,6	0	0
3 ST MARY'S HOSPITAL	00234	5	10	10	453	6.87%	115,310	77,396	7,740	123,050	2.17	8,437	104,031	15,605	119,636	60,990	90	0	0
3 UOSt LANGLEY-PORTER	00117	5	10	12	35	34.29%	18,900	10,520	257,072	567,49	6.075	6,075	159,945	23,992	183,937	93,771	0	0	0
3 SENECA	00115	10	85	7	1,753	0.40%	389,014	192,109	19,211	388,225	4.01	1,550	218,656	32,798	142,858	7,281	0	0	0
3 SENECA	00115	15	10	3,342	5,077	65.83%	4,465	2,324	232	4,697	1.744	587	5,082	792	5,884	2,979	130	0	0
3 BELMONT HILLS HOSPITAL	00245	5	10	285	5,276	5.40%	16,225	8,447	846	17,071	3.24	4,871	9,259	13,890	105,488	54,288	0	0	0
3 SEQUOIA UNION HIGH	00267	5	60	SEE 00041	303	3.30%	140,497	70,509	7,091	147,998	4.871	0	0	0	0	0	0	0	0
3 EAST BAY BEHAVIORAL	00267	10	85	175	175	100.00%	10,036	0	0	10,036	0.00	0	0	0	0	0	0	0	0
3 QUALITY GROUP HOME	00652	5	60	65	65	100.00%	5,850	0	0	5,850	90.00	5,850	0	0	0	0	0	0	0
5 State Allocation							1,756,960	7,462,497											
TOTAL							18,261,214	5,980,035	538,004	18,799,218	2,698	4,216,767	8,472,178	1,420,827	10,893,003	5,553,251	1,218,046	2,429,787	5,850
SUMMARY:																			
Gross SEP Costs																			
Costs re: Non-claimable																			
Total Cost																			
Less: State Fund Allocation																			
Less: State Fund Allocation (Net of Negatives)																			
NET CLAIM																			

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 3)

FY 1998-1999 Claim

Office of Controller

**TOM HUENING
CONTROLLER**



COUNTY OF SAN MATEO

555 COUNTY CENTER, 4TH FLOOR • REDWOOD CITY • CALIFORNIA 94063

ROBERT G. ADLER
DEPUTY CONTROLLER

TELEPHONE: (650) 363-4777
FAX: (650) 363-7888

www.co.sanmateo.ca.us/controller/

January 28, 2000

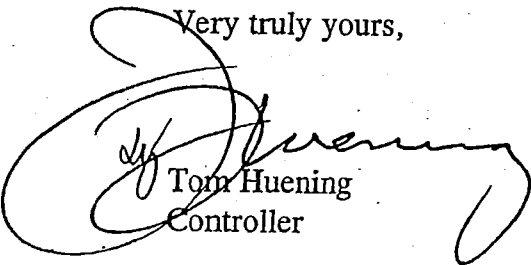
Office of the State Controller
Attn: Local Reimbursements Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

RE: SB 90 Claim Reimbursement

Attached is our claim for reimbursement of State mandated costs pursuant to Chapter 1747/84-Handicapped and Disabled students for FY 98/99 and 99/2000 (estimate) in the amount of \$2,896,055 and \$2,900,000, respectively.

If there are any questions regarding these claims, please direct them to Celia C. Bautista at (650) 599-1171.

Very truly yours,


Tom Huening
Controller

TH:mjv
f:/lu/sbltr.doc

cc: Nestor Mercado - Mental Health

MAILED 1/31/00
CAH

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller's Use Only

(19) Program Number 00111
 (20) Date Filed:
 (21) Signature Present

(01) Claimant Identification Number:

(02) 9941

Controller County of San Mateo
 555 County Center
 Redwood City, CA 94063

City State Zip Code
 San Mateo CA 94403

Reimbursement Claim Data

(22)	HDS -1, (03)(a)	
(23)	HDS -1, (03)(b)	
(24)	HDS -1, (03)(c)	
(25)	HDS -1, (04)(1)(d)	
(26)	HDS -1, (04)(2)(d)	
(27)	HDS -1, (04)(3)(d)	0
(28)	HDS -1, (04)(4)(d)	0
(29)	HDS -1, (04)(5)(d)	0
(30)	HDS -1, (06)	0
(31)	HDS -3, (05)	80,368
(32)	HDS -3, (06)	
(33)	HDS -3, (07)	0
(34)		
(35)		
(36)		
(37)		

Type of Claim	Estimated Claim	Reimbursement Claim
(03) Estimated <input checked="" type="checkbox"/>	XX	(09) Reimbursement <input checked="" type="checkbox"/>
(04) Combined <input type="checkbox"/>		(10) Combined <input type="checkbox"/>
(05) Amended <input type="checkbox"/>		(11) Amended <input type="checkbox"/>
(06)		(12)
Fiscal Year of Cost	1999- 2000	19 98 / 99
Total Claimed Amount	\$2,900,000	\$2,896,055
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		1,000
Less: Estimate Payment Received		2,500,000
Net Claimed Amount	\$2,900,000	\$ 395,055
Due from State	(08) \$2,900,000	(17) \$ 395,055
Due to State		(18)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200; and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there were no applications for nor any grant or payments received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1747, Statutes of 1984 Chapter 1274, Statutes of 1985, and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program for Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985 and Title 2, California Code of Regulations, Division 9, Sections 60000 through 60200 set forth on the attached statements.

Signature of Authorized Representative

Date

[Signature] 01.31.00

Type or Print Name

TOM HUENING

Title Controller

(39) Name of Contact Person for Claim
 Nestor M. Mercado

Telephone Number
 (415) 573 - 2378 Ext

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

FORM
HDS -3

(01) Claimant: COUNTY OF SAN MATEO MENTAL HEALTH SERVICES 225 West 37th Ave. San Mateo, CA 94403	(02) Type of Claim:	Fiscal Year:
	Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	98 - 99

(03) Reimbursable Components	
Assessment of Individuals With Exceptional Needs	
(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.	126,993
(b) Residential Placement: IEP Reviews, Case Management and Expanded IEP	211,477
(c) Related Services: Attendance at IEP Meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.	0
(d) Due Process Proceedings.	
(e) Administrative Costs	
Mental Health Treatment	
(f) Treatment Services: Short-Doyle Program.	4,282,728
(g) Administrative Costs	
(04) Sub-total for Assessment of Individual With Exceptional Needs (Sum of (03), lines (a) to (e))	
	338,470
(05) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	80,368
(06) Less: Amount Received From State Categorical Funding.	0
(07) Less: Amount Received From Other (Identify)	
(08) Total for Assessment of Individual With Exceptional Needs (line (04) minus the sum of lines (05), (06), (07)).	
	258,102
(09) Sub-total for Mental Health Treatment (block (03), lines (f) and (g))	
	4,282,728
(10) Less: Non-categorical State General/Realignment Funds.	0
(11) Less: Amount Received From State Categorical Funds.	568,934
(12) Less: Amount Received From Short-Doyle/Medi-Cal (FFP only)	1,075,841
(13) Less: Amount Received From Other (Identify)	0
(14) Total Mental Health Treatment (line (09) minus the sum of lines (10) to (13))	
	2,637,953
(15) Total Claimed Amount (sum of line (08) and line (14)).	
	2,896,055

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1998-99
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a)	(b)	(c)	(d)	(e)	(f)
Name of Provider	Provider I.D. Numbers	S.F. Codes	Units of Service	Rate Per Unit	Total
SAN MATEO COUNTY	00041	15 1	110,196	1.79	197,251
MENTAL HLT ASSN	00265	15 1	45	1.84	83
NORTH PENINSULA FAM	00266	15 1	45	0.76	34
SENECA	00115	15 1	8,398	1.68	14,109

(05) Total Subtotal Page 1 of 1 211,477

MANDATED COSTS

**SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL**

**FORM
HDS-4**

(1) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1998-99
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
SAN MATEO COUNTY	00041	15 30	55,872	2.23	124,595
SAN MATEO - 9206	00041	15 30	2,160	0.77	1,663
MENTAL HLT ASSN	00265	15 30	120	2.82	338
NORTH PENINSULA FAM	00266	15 30	390	0.85	332
SENECA	00115	15 30	30	2.17	65

(05) Total Subtotal Page 1 of 1 126,993

MANDATED COSTS

SERVICES TO HANDICAPPED STUDENTS

COMPONENT/ACTIVITY COST DETAIL

**FORM
HDS-4**

(01) Claimant: San Mateo County (02) Fiscal Year costs were incurred:
Mental Health Services 1998-99
225 West 37th Ave., San Mateo, CA 94403

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

- Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a) Name of Provider	(b) Provider I.D. Numbers	(c) S.F. Codes	(d) Units of Service	(e) Rate Per Unit	(f) Total
SAN MATEO COUNTY	00041	10 30	11	157.82	1,736
SAN MATEO COUNTY	00041	10 85	8,046	100.00	804,600
SAN MATEO COUNTY	00041	15 10	390,390	1.89	737,837
SAN MATEO COUNTY	00041	15 40	378,060	2.05	775,023
SAN MATEO COUNTY	00041	15 45	224,496	2.39	536,545
SAN MATEO COUNTY	00041	15 50	239,152	1.59	380,252
SAN MATEO COUNTY	00041	15 60	96,026	4.25	408,111
SAN MATEO COUNTY	00041	15 70	21,455	3.02	64,794
SAN MATEO - 9206	00041	15 10	240	0.77	185
SAN MATEO - 9206	00041	15 40	960	0.77	739
ACHIEVE(PENIN. CHDRNS)	00144	10 85	432	151.65	65,514
ACHIEVE(PENIN. CHDRNS)	00144	15 10	398	1.56	621
CHILDREN'S HLT COUNCIL	00250	15 10	8,608	3.72	32,022
CHILDREN'S HLT COUNCIL	00250	15 40	16,430	3.76	61,777
CHILDREN'S HLT COUNCIL	00250	15 50	6,167	3.83	23,620
CHILDREN'S HLT COUNCIL	00250	15 60	690	3.50	2,415
MENTAL HLT ASSN	00265	15 10	60	2.47	148
REDWOOD TDS - YFA	00148	10 85	54	239.20	12,917
REDWOOD TDS - YFA	00148	15 45	570	3.07	1,749
DEVEREAUX	00472	5 60	49	89.98	4,409
VICTOR RESIDENTIAL	00198	5 60	317	241.78	76,644
VICTOR RESIDENTIAL	00198	10 85	188	98.33	18,486
VICTOR RESIDENTIAL	00198	15 60	330	3.67	1,211
NORTH PENINSULA FAM	00266	15 10	829	0.88	730

(05) Total Subtotal X Page 1 of 2 4,012,085

MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT/ACTIVITY COST DETAIL

**FORM
HDS-4**

(1) Claimant: San Mateo County
 Mental Health Services
 225 West 37th Ave., San Mateo, CA 94403

(2) Fiscal Year costs were incurred:
 1998-99

(03) Reimbursable Components: Check a box to identify the cost being claimed. Check ONLY one box per form.

Assessment Treatment Services
 Residential Placement Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f)

(a)	(b)	(c)	(d)	(e)	(f)
Name of Provider	Provider I.D. Numbers	S.F. Codes	Units of Service	Rate Per Unit	Total
NORTH PENINSULA FAM	00266	15 40	85	0.84	71
NORTH PENINSULA FAM	00266	15 45	560	0.96	538
NORTH PENINSULA FAM	00266	15 50	1,779	0.96	1,708
FAMILY SERVICE AGENCY	00145	15 40	120	2.58	310
EDGEWOOD CHLD CTR	00273	10 85	101	183.07	18,490
SENECA	00115	10 85	181	191.94	34,741
SENECA	00115	10 95	15	47.60	714
SENECA	00115	15 10	19,041	2.16	41,129
SENECA	00115	15 40	26,445	2.33	61,617
SENECA	00115	15 45	47,517	2.00	95,034
FOREST HEIGHTS LODGE	00640	5 60	359	45.38	16,291



HEALTH SERVICES AGENCY

December 5, 2000

Office of the State Controller
Attn: Local Reimbursement Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

RE: SB90 Claim Reimbursement

Attached is our revised claim for reimbursement of State mandated costs pursuant to Chapter 1747/84-Handicapped and Disabled students for FY 98/99 and 99/2000 (estimate) in the amount of \$3,041,213 and \$2,900,000, respectively.

If there are any questions regarding these claims, please direct them to Emy D. Atijera at (650) 573-2554.

Very truly yours.

Janet Crist-Whitzel
Deputy Director for Administration

MENTAL HEALTH SERVICES DIVISION

Board of Supervisors: Rose Jacobs Gibson • Richard S. Gordon • Mary Griffin • Jerry Hill • Michael D. Nevin • Health Services Director: Margaret Taylor
225 - 37th Avenue • San Mateo, CA 94403 • PHONE 650.573.2541 • TDD 650. 573-3206 • FAX 650.573.2841

<http://www.health.co.san-mateo.ca.us>

CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller Use Only
 (1) Program Number 00111
 (20) Date Filed ___/___/___
 (21) Signature Present _____

(01) Claimant Identification Number
9941

(02) Mailing Address
555 County Center

Claimant Name
Controller

County of Location
County of San Mateo

Street Address or P.O. Box
555 County Center

City State Zip Code
Redwood City CA 94063

Reimbursement Claim

(22) HDS-1, (03)(a)

(23) HDS-1, (03)(b)

(24) HDS-1, (03)(c)

(25) HDS-1, (04)(1)(d)

(26) HDS-1, (04)(2)(d)

(27) HDS-1, (04)(3)(d)

(28) HDS-1, (04)(4)(d)

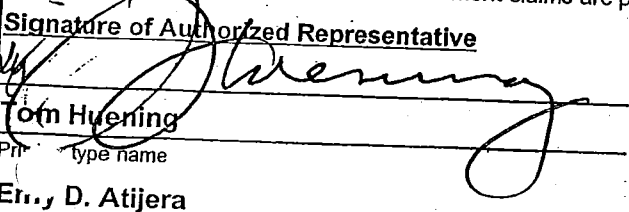
(29) HDS-1, (04)(5)(d)

(30) HDS-1, (06)

Type of Claim	Estimated Claim	Reimbursement Claim	
(03) Estimated <input checked="" type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27) HDS-1, (04)(3)(d)	
(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28) HDS-1, (04)(4)(d)	
(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29) HDS-1, (04)(5)(d)	
(06) Fiscal Year of Cost of Cost	(12) 1999-2000	(31) HDS-3, (05)	85,532
(07) Total Claimed Amount	\$2,900,000	(32) HDS-3, (06)	
SS: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		(14)	
LESS: Estimated Claim Payment Received		(15)	
\$2,431,273		(16)	
Net Claimed Amount		(17)	
\$468,727		(18)	
(08) Due from State	\$468,727	(19)	
Due to State	\$145,158	(20)	
	\$145,158	(21)	

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapters 1747/84 and 1274/85 and certify under the penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 through 1096, inclusive. I further certify that there were no applications for nor any grants or payments received, other than from the claimant for reimbursement of costs claimed herein; and such costs are for new program or increased level of service of an existing program mandated by Chapters 1747/84 and 1274/85. The amount for estimated and/or reimbursement claims are payment of estimated and/or actual costs for the mandated program.

Signature of Authorized Representative

 Tom Huening
 Print name

Date
 12.05.00

Title
 Controller

(650) 573-2554
 Telephone Number

(39) Name of Contact Person for Claim
 Err. D. Atijera

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

**FORM
HDS-3**

1) Claimant: Controller

(02) Fiscal year costs were incurred:

1998-1999

(03) Reimbursable Components

Assessment of Individuals With Exceptional Needs

(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.

\$123,241

(b) Residential Placement: IEP Reviews, Case Management, and Expanded IEP

\$209,093

(c) Related Services: Attendance at IEP meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.

(d) Due Process Proceedings

(e) Administrative Costs

Mental Health Treatment

(f) Treatment Services: Short-Doyle Program

\$4,248,335

(g) Administrative Costs

(04) Sub-total for Assessment of Individual with Exceptional Needs [Sum of (03), lines (a) to (e)]

\$332,334

(05) Less: Amount Received from Short-Doyle/Medi-Cal (FFP only)

\$85,532

(06) Less: Amount Received from State Categorical Funding

(07) Less: Amount Received from Other (Identify)

(08) Total for Assessment of Individual with Exceptional Needs [Line (04) minus the sum of line (05) to (07)]

\$246,802

(09) Sub-total for Mental Health Treatment [block (03), lines (f) and (g)]

\$4,248,335

10) Less: Non-Categorical State General/Realignment Funds

11) Less: Amount Received from State Categorical Funds

\$568,934

12) Less: Amount Received from Short-Doyle/Medi-Cal (FFP only)

\$884,990

13) Less: Amount Received from Other (Identify)

14) Total for Mental Health Treatment [Line (09) minus the sum of lines (10) to (13)]

\$2,794,411

15) Total Claimed Amount [Sum of line (08) and line (14)]

\$3,041,213

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
HDS-4**

(01) Claimant: Controller

(02) Fiscal year costs were incurred:

1998-1999

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

Assessment

Treatment Services

Residential Placement

Other (Identify)

(04) Description of Expense: Complete columns (a) through (f)

(a) Name of Providers	(b) Provider I.D. Number	(c) Service Function Codes	Object Accounts		
			(d) Units of Service	(e) Rate per Unit	(f) Total
SAN MATEO COUNTY	41	30	55,023	2.2326	\$122,844
NORTH PENINSULA	266	30	390	0.8517	\$332
SENECA	115	30	30	2.1635	\$65

(05) Total _____ Subtotal _____

Page: _____ of _____

\$123,241

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
HDS-4**

(01) Claimant: Controller

(02) Fiscal year costs were incurred:

1998-1999

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

Assessment

Treatment Services

Residential Placement

Other (Identify)

(04) Description of Expense: Complete columns (a) through (f)

(a) Name of Providers	(b) Provider I.D. Number	(c) Service Function Codes	Object Accounts		
			(d) Units of Service	(e) Rate per Unit	(f) Total
SAN MATEO COUNTY	41	1	109,156	1.7856	\$194,909
NORTH PENINSULA	266	1	45	0.7514	\$34
SENECA	115	1	8,398	1.6849	\$14,150

(05) Total _____ Subtotal _____

Page: _____ of _____

\$209,093

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
COMPONENT / ACTIVITY COST DETAIL**

**FORM
HDS-4**

01) Claimant: Controller

(02) Fiscal year costs were incurred:

1998-1999

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

Assessment

Treatment Services

Residential Placement

Other (Identify)

(04) Description of Expense: Complete columns (a) through (f)

(a) Name of Providers	(b) Provider I.D. Number	(c) Service Function Codes	Object Accounts			(f) Total
			(d) Units of Service	(e) Rate per Unit	(f) Total	
SAN MATEO COUNTY	41	85	8,046	99.9993	\$804,594	
SAN MATEO COUNTY	41	10	389,600	1.8942	\$737,980	
SAN MATEO COUNTY	41	40	376,847	2.0524	\$773,441	
SAN MATEO COUNTY	41	45	224,046	2.3919	\$535,896	
SAN MATEO COUNTY	41	50	237,781	1.5868	\$377,311	
SAN MATEO COUNTY	41	60	95,452	4.2494	\$405,614	
SAN MATEO COUNTY	41	70	21,455	3.0158	\$64,704	
ACHIEVE(PENIN. CHDRNS)	144	85	432	151.6528	\$65,514	
ACHIEVE(PENIN. CHDRNS)	144	10	398	1.5580	\$620	
CHILDREN'S HLT COUNCIL	250	10	8,608	3.7219	\$32,038	
CHILDREN'S HLT COUNCIL	250	40	16,430	3.7553	\$61,700	
CHILDREN'S HLT COUNCIL	250	50	6,167	3.8319	\$23,631	
CHILDREN'S HLT COUNCIL	250	60	690	3.5004	\$2,415	
REDWOOD TDS - YFA	148	85	54	239.2037	\$12,917	
REDWOOD TDS - YFA	148	45	570	3.0684	\$1,749	
VICTOR RESIDENTIAL	198	5/60	317	241.7790	\$76,644	
VICTOR RESIDENTIAL	198	85	188	98.3304	\$18,486	
VICTOR RESIDENTIAL	198	60	330	3.6714	\$1,212	
NORTH PENINSULA FAM	266	10	829	0.8760	\$726	
NORTH PENINSULA FAM	266	40	85	0.8379	\$71	
NORTH PENINSULA FAM	266	45	560	0.9598	\$537	
NORTH PENINSULA FAM	266	50	1,779	0.9596	\$1,707	
FAMILY SERVICE AGENCY	145	40	120	2.5754	\$309	
EDGEWOOD	273	85	101	195.4059	\$19,736	
SENECA	115	85	181	191.9409	\$34,741	
SENECA-SAN LEANDRO	115	95	15	47.600	\$714	
SENECA	115	10	19,041	2.1633	\$41,191	
SENECA	115	40	26,445	2.1633	\$57,208	
SENECA	115	45	47,517	1.9978	\$94,929	

(05) Total _____ Subtotal _____

Page: _____ of _____

\$4,248,335

COUNTY OF SAN MATEO		MENTAL HEALTH SERVICES		FISCAL YEAR 1998 - 99		AB9892 / SB90		11.28.00		LEGAL		FROM COST REPORTS		TOTAL SALARIES AND BENEFITS		OTHER COSTS		TOTAL		Percent of salaries/benefits to total cost		Percent of Benefits to Sal & Bene		Amount of Benefits included in Total Salaries		Amount of Direct Salaries in Tot Sal & Ben		Percent of Direct Salaries to Total Cost		Total Cost Before Admin		Direct Labor						
PROVIDER NAME	NO.	ENTY																																				
SAN MATEO COUNTY	00041		10	30	11			19488177	38738009	53,204,188	30.8528%	24.05%	3,981,955	12,506,222	23.5051%																							
SAN MATEO COUNTY	00041		10	85	8,046																																	
SAN MATEO COUNTY	00041		15	1	110,186																																	
SAN MATEO COUNTY	00041		15	10	390,390																																	
SAN MATEO COUNTY	00041		15	30	55,872																																	
SAN MATEO COUNTY	00041		15	40	378,080																																	
SAN MATEO COUNTY	00041		15	45	224,495																																	
SAN MATEO COUNTY	00041		15	50	239,152																																	
SAN MATEO COUNTY	00041		15	60	96,028																																	
SAN MATEO COUNTY	00041		15	70	214,555																																	
SAN MATEO - 9208	00041		15	10	240																																	
SAN MATEO - 9208	00041		15	30	2180																																	
SAN MATEO - 9206	00041		15	40	860																																	
ACHIEVE/PENNI (CHDRNS)	00144		10	85	432			89644	21482	105,106	79.5806%	15.39%	12,870	70,774	67.3359%																							
ACHIEVE/PENNI (CHDRNS)	00144		15	10	388																																	
CHILDRENS HLT COUNCIL	00250		15	10	8,608			112222	13086	125,288	89.5712%	14.80%	16,812	95,610	76.3122%																							
CHILDRENS HLT COUNCIL	00250		15	40	16,430																																	
CHILDRENS HLT COUNCIL	00250		15	50	8,187																																	
CHILDRENS HLT COUNCIL	00250		15	60	690																																	
MENTAL HLT ASSN	00285		15	1	45			447881	874020	1,121,901	38.9216%	15.39%	68,845	378,935	33.7782%																							
MENTAL HLT ASSN	00285		15	10	60																																	
MENTAL HLT ASSN	00285		15	30	120																																	
REDWOOD TDS - YFA	00148		10	85	54			102873	208485	309,388	33.2528%	12.25%	12,588	90,275	29.1805%																							
REDWOOD TDS - YFA	00148		15	45	570																																	
DEVEREAUX	00472							0	4409	4,409	0.0000%																											
VICTOR RESIDENTIAL	00198		5	60	317			231524	119295	350,819	65.9983%	20.29%	46,978	184,548	52.6045%																							
VICTOR RESIDENTIAL	00198		10	85	188																																	
VICTOR RESIDENTIAL	00198		15	80	330																																	
NORTH PENINSULA FAM	00268		15	1	45			138993	17572	154,565	68.6313%	14.45%	19,796	117,197	75.8235%																							
NORTH PENINSULA FAM	00268		15	10	829																																	
NORTH PENINSULA FAM	00268		15	30	390																																	
NORTH PENINSULA FAM	00268		15	40	85																																	
NORTH PENINSULA FAM	00268		15	45	580																																	
NORTH PENINSULA FAM	00268		15	50	1,778																																	
FAMILY SERVICE AGENCY	00145		15	40	120			689371	258309	942,680	72.6924%	11.72%	80,072	603,298	63.9983%																							
FAMILY SERVICE AGENCY	00145		10	85	101			13411	5079	18,480	72.5311%	7.11%	953	12,458	67.3770%																							
EDGEWOOD CHLD CTR	00273		10	85	181			413822	138486	550,408	75.2028%	10.71%	44,348	388,573	67.1453%																							
SENECA	00115		10	85	181																																	
SENECA	00115		10	85	15																																	
SENECA	00115		15	1	8,388																																	
SENECA	00115		15	10	19,041																																	
SENECA	00115		15	30	30																																	
SENECA	00115		15	40	28,445																																	
SENECA	00115		15	45	47,517																																	
FOREST HEIGHTS LODGE	00840							0	16281	16,281	0.0000%																											
SEQUOIA UNION HIGH	00421																																					
EAST BAY BEHAVIORAL	00267																																					
CLAREMONT SENIOR	00882																																					
State Allocation																																						
TOTAL																																						

COUNTY OF SAN MATEO									
MENTAL HEALTH SERVICES									
FISCAL YEAR 1998 - 99									
date prepared: 12/01/00									
Name of Provider/Service 1 OR FINAL									
PROVIDER NAME	LEGAL ENTITY	MODE	SFC	Costs Equiv. to Negative & Non claimable	Rev Equiv. to Neg Amt	GROUP 1	GROUP 2	GROUP 3	TOTAL
3 SAN MATEO COUNTY	00041	10	30	0	0	0	0	0	4101
3 SAN MATEO COUNTY	00041	10	85	0	0	0	94,551	0	4101
1 SAN MATEO COUNTY	00041	15	1	0	0	61,943	0	61,943	4101
3 SAN MATEO COUNTY	00041	15	10	0	0	129,997	129,997	0	4101
2 SAN MATEO COUNTY	00041	15	30	0	0	19,596	0	19,596	4101
3 SAN MATEO COUNTY	00041	15	45	0	0	161,659	161,659	0	4101
3 SAN MATEO COUNTY	00041	15	50	0	0	164,717	164,717	0	4101
3 SAN MATEO COUNTY	00041	15	60	0	0	93,746	93,746	0	4101
3 SAN MATEO COUNTY	00041	15	70	0	0	131,682	131,682	0	4101
3 SAN MATEO COUNTY-9206	00041	15	10	0	0	13,832	13,832	0	4101
2 SAN MATEO COUNTY-9206	00041	15	30	0	0	0	0	0	4101
3 ACHIEVE (PENIN. CHDRNS)	00144	15	10	0	0	10,330	10,330	0	4113
3 ACHIEVE (PENIN. CHDRNS)	00144	15	10	0	0	288	288	0	4113
3 CHILDREN'S HLT COUNCIL	00250	15	10	0	0	2,893	2,893	0	4176
3 CHILDREN'S HLT COUNCIL	00250	15	40	0	0	9,049	9,049	0	4176
3 CHILDREN'S HLT COUNCIL	00250	15	50	0	0	3,625	3,625	0	4176
3 CHILDREN'S HLT COUNCIL	00250	15	60	0	0	508	508	0	4176
1 MENTAL HLT ASSN	00285	15	1	0	0	0	0	0	4178
2 MENTAL HLT ASSN	00285	15	10	0	0	0	0	0	4178
2 MENTAL HLT ASSN	00285	15	30	0	0	0	0	0	4178
3 REDWOOD TDS - YFA	00148	15	85	0	0	681	681	0	4183
3 REDWOOD TDS - YFA	00148	15	45	0	0	0	0	0	4183
3 DEVEREAUX	00472	5	60	0	0	0	0	0	4194
3 VICTOR RESIDENTIAL	00198	10	85	0	0	0	0	0	4194
3 VICTOR RESIDENTIAL	00198	15	80	0	0	9,381	9,381	0	4194
1 NORTH PENINSULA FAM	00268	15	1	0	0	2	2	0	4195
1 NORTH PENINSULA FAM	00268	15	10	0	0	142	142	0	4195
2 NORTH PENINSULA FAM	00268	15	30	0	0	90	90	0	4195
3 NORTH PENINSULA FAM	00268	15	45	0	0	18	18	0	4195
3 NORTH PENINSULA FAM	00268	15	50	0	0	70	70	0	4195
3 NORTH PENINSULA FAM	00268	15	60	0	0	145	145	0	4195
3 FAMILY SERVICE AGENCY	00145	15	10	0	0	0	0	0	4198
3 FAMILY SERVICE AGENCY	00145	15	45	0	0	145	145	0	4198
3 FAMILY SERVICE AGENCY	00145	15	50	0	0	0	0	0	4198
3 EDGEWOOD CHLD CTR	00273	10	85	0	0	0	0	0	4197
3 SENECA	00115	10	95	0	0	0	12,068	12,068	9221
1 SENECA	00115	15	1	0	0	0	0	0	9221
3 SENECA	00115	15	10	0	0	3,892	3,892	0	9221
2 SENECA	00115	15	30	0	0	7,647	7,647	0	9221
3 SENECA	00115	15	40	0	0	9	9	0	9221
3 SENECA	00115	15	45	0	0	11,608	11,608	0	9221
3 FOREST HEIGHTS LODGE	00640	5	60	0	0	25,639	25,639	0	4108
3 SECUIA UNION HIGH	00421	5	60	0	0	0	0	0	9224
3 EAST BAY BEHAVIORAL	00287	10	85	0	0	0	0	0	9215
3 QUALITY GROUP HOME	00662	5	60	0	0	0	0	0	9215
5 State Allocation									
TOTAL				0	0	65,837	19,895	884,960	870,522

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 4)

Final Audit Report December 2002

SAN MATEO COUNTY

Audit Report

HANDICAPPED AND DISABLED STUDENTS PROGRAM

Chapter 1747, Statutes of 1984, and
Chapter 1274, Statutes of 1985

July 1, 1996, through June 30, 1999



KATHLEEN CONNELL
California State Controller

December 2002



KATHLEEN CONNELL
Controller of the State of California

December 26, 2002

The Honorable Tom Huening
Auditor-Controller
San Mateo County
555 County Center, 4th Floor
Redwood City, CA 94063

Dear Mr. Huening:

The State Controller's Office (SCO) has completed an audit of the claims filed by San Mateo County for costs of the legislatively mandated Handicapped and Disabled Students Program (Chapter 1747, Statutes of 1984, and Chapter 1274, Statutes of 1985) for the period of July 1, 1996, through June 30, 1999.

The county claimed and was paid \$7,767,163 (\$7,768,163 in costs, less a \$1,000 penalty for filing late) for the mandated program. The SCO audit disclosed that \$3,826,914 is allowable and \$3,940,249 is unallowable. The unallowable costs resulted primarily from the county claiming ineligible and unsupported costs, and understating offsetting revenues. The amount paid in excess of allowable costs claimed, totaling \$3,940,249, should be returned to the State.

The above amounts incorporate the fiscal effect of Assembly Bill 2781 (Chapter 1167, Statutes of 2002). The legislation changed the regulatory criteria by stating that the percentage of treatment costs claimed by counties for fiscal year 2000-01 and prior fiscal years is not subject to dispute by the SCO. Consequently, AB 2781 increased net reimbursable costs by \$3,145,436.

The SCO has established an informal audit review process to resolve a dispute of facts. The auditee should submit, in writing, a request for a review and all information pertinent to the disputed issues within 60 days after receiving the final report. The request and supporting documentation should be submitted to: Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001.

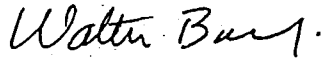
The Honorable Tom Huening

-2-

December 26, 2002

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,



WALTER BARNES
Chief Deputy State Controller, Finance

WB:jj/ams

cc: Gale Bataille, Director
Department of Mental Health Services
San Mateo County

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
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Schedule 2—Summary of Audit Adjustments	12
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Audit Report

Summary

The State Controller's Office (SCO) has completed an audit of the claims filed by San Mateo County for costs of the legislatively mandated Handicapped and Disabled Students Program (Chapter 1747, Statutes of 1984, and Chapter 1274, Statutes of 1985), for the period of July 1, 1996, through June 30, 1999. The last day of fieldwork was November 9, 2001.

For the audit period, the county claimed and was paid \$7,767,163 (\$7,768,163 in costs, less a \$1,000 penalty for filing late) for the mandated program. The SCO audit disclosed that \$3,826,914 is allowable and \$3,940,249 is unallowable. The unallowable costs resulted primarily from the county claiming ineligible and unsupported costs, and understating offsetting revenues. The amount paid in excess of allowable costs claimed, totaling \$3,940,249, should be returned to the State.

Background

Chapter 1747, Statutes of 1984, required counties to participate in the mental health assessment for "individuals with exceptional needs," participate in the expanded Individualized Education Program (IEP) team, and provide case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed." These requirements impose a new program or higher level of service on counties. On April 26, 1990, the Commission on State Mandates determined that Chapter 1747, Statutes of 1984, resulted in state-mandated costs, which are reimbursable pursuant to *Government Code* Section 17561.

Parameters and Guidelines, adopted by the Commission on State Mandate, establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist counties in claiming reimbursable costs.

Objective, Scope, and Methodology

The objective of the audit was to determine whether costs claimed are increased costs incurred as a result of the legislatively mandated Handicapped and Disabled Students Program (Chapter 1747, Statutes of 1984, and Chapter 1274, Statutes of 1985) for the period of July 1, 1996, through June 30, 1999.

The auditor performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

The SCO conducted the audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The SCO did not audit the county's financial statements. The scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance concerning the allowability of expenditures claimed for reimbursement. Accordingly, transactions were examined, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

Review of the county's management controls was limited to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

The SCO audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the Findings and Recommendations section of this report and in the accompanying Summary of Program Costs (Schedule 1).

For the audit period, San Mateo County claimed and was paid \$7,767,163 (\$7,768,163 in costs, less a \$1,000 penalty for filing late) for costs of the legislatively mandated Handicapped and Disabled Students Program. The audit disclosed that \$3,826,914 is allowable and \$3,940,249 is unallowable.

For fiscal year (FY) 1996-97, the county was paid \$2,297,163 by the State. The audit disclosed that \$1,258,200 is allowable. The amount paid in excess of allowable costs claimed, totaling \$1,038,963, should be returned to the State.

For FY 1997-98, the county was paid \$2,429,787 by the State. The audit disclosed that \$1,078,383 is allowable. The amount paid in excess of allowable costs claimed, totaling \$1,351,404, should be returned to the State.

For FY 1998-99, the county was paid \$3,040,213 by the State. The audit disclosed that \$1,490,331 is allowable. The amount paid in excess of allowable costs claimed, totaling \$1,549,882, should be returned to the State.

Views of Responsible Official

The SCO issued a draft audit report on June 28, 2002. Tom Huening, Auditor-Controller, responded by letter dated September 24, 2002, agreeing with Finding 1 and disagreeing with most of the remaining findings in the draft report. The county's response is included as an attachment to this audit report.

The draft report included audit adjustments totaling \$7,164,028. Audit adjustments in this final report have been reduced by \$3,223,779, from \$7,164,028 to \$3,940,249.

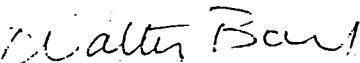
Finding 3 of the draft report disclosed that \$308,661 was unallowable because the county claimed various mental health services at rates that exceeded the statewide maximum allowance. Based on previous Commission on State Mandates rulings, the SCO determined that actual county costs incurred in excess of state Department of Mental Health statewide maximum rates are allowable. Consequently, the finding has been eliminated from the final report and Findings 4 through 6 of the draft report have been renumbered as Findings 3 through 5.

The audit adjustment in Finding 5 of this final report (Finding 6 of the draft report) has been revised because of the elimination of Finding 3 of the draft report and legislation occurring after the issuance of the draft report that changed the regulatory criteria (discussed in the Findings and Recommendations section). Consequently, the adjustment of \$3,145,436 has been reduced to zero.

The remaining findings continue to be valid.

Restricted Use

This report is solely for the information and use of San Mateo County and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.


WALTER BARNES
Chief Deputy State Controller, Finance

Findings and Recommendations

**FINDING 1—
Claimed costs
exceeded amounts
paid**

The county claimed costs for assessment and treatment services to handicapped and disabled students that exceeded the amounts it paid to the contract providers of those mandated services.

The county's claims were based on its annual cost reports to the California Department of Mental Health. The county's annual cost reports reflected the actual amounts paid to the county's mental health service providers or the maximum provider contract amounts, whichever were greater. The county prorated these amounts on its program claims based on program service units to total service units provided.

In addition, the county included in its program claims a 10% administrative charge on labor costs included in contract provider invoices. The county did not provide the SCO auditor any documentation to substantiate that these administrative charges represented additional costs incurred.

Parameters and Guidelines for the program specifies that only actual increased costs incurred in the performance of the mandated activities and adequately documented are reimbursable.

As a result, costs claimed in excess of actual costs incurred are unallowable as follows:

	Audit Adjustment			Total
	FY 1996-97	FY 1997-98	FY 1998-99	
Assessment costs	\$ (223)	\$ (529)	\$ (1,033)	\$ (1,785)
Treatment costs	(171,208)	(218,886)	(126,458)	(516,552)
Total costs	\$ (171,431)	\$ (219,415)	\$ (127,491)	\$ (518,337)

Recommendation

The county should establish procedures to ensure that costs claimed are eligible increased costs incurred as a result of the mandate and are supported by appropriate documentation.

Auditee's Response

The County concurs with this finding.

SCO's Comments

The finding and recommendation remain unchanged.

**FINDING 2—
Ineligible
treatment costs
claimed**

The county claimed costs for medication support, crisis intervention, and other services (skilled nursing and other residential services) that are not reimbursable under program guidelines.

Parameters and Guidelines specifies that only the following treatment services are reimbursable: individual therapy; collateral therapy and contacts; group therapy; day treatment; and the mental health portion of residential treatment in excess of California Department of Social Services payments for residential placement.

As a result, ineligible treatment costs claimed are unallowable as follows:

	Audit Adjustment			Total
	FY 1996-97	FY 1997-98	FY 1998-99	
Treatment costs	\$ (473,861)	\$ (408,543)	\$ (489,322)	\$ (1,371,726)

Recommendation

The county should ensure that costs claimed are eligible increased costs incurred as a result of the mandate.

Auditee's Response

The following services disallowed by the State Controller are shown by mode and service function code:

- 05/10 Hospital Inpatient – This activity was claimed in error. The County concurs with this finding. Reduction amount: \$38,894.
- 05/60 Residential, Other – The County does not concur with this finding. Costs included in this category were actually eligible, allowable day treatment service costs that were miscoded. Reduction amount: \$76,223.
- 10/20 Crisis Stabilization – This cost was claimed in error. The County concurs with this finding. Reduction amount: \$3,251.
- 10/60 Skilled Nursing – The County does not concur with this finding. Costs included in this category were actually eligible, allowable day treatment service costs that were miscoded. Reduction amount: \$21,708.
- 15/60 Medication Visits – The County strenuously objects to the State Controller's findings and disallowances in this area. Physician and nursing activities related to assessment and prescribing psychiatric medications, otherwise known as medication management, is an eligible component of this mandated program. Note that the County did not claim costs for the actual medications, which are specifically unallowable AB 3632 costs. State mandated cost claiming for medication support activities is supported by the applicable regulations: Title 2, Division 9, Chapter 1 of the California Code of Regulations, Section 60020; Government Code 7576; and Interagency Responsibilities Code of Regulations. Reduction amount: \$1,007,332.

- 15/70 Crisis Intervention – This is another instance of the State Controller's field auditor misinterpreting the types of costs categorized under this service function code. These services are mental health outpatient services provided in the normal course of mental health treatment and are included as a subfunction of the "mental health services" function code. Under no circumstances are these services analogous to hospital psychiatric emergency visits, which the County agrees would not be an eligible cost. Reduction amount: \$224,318.

SCO's Comments

The finding for ineligible treatment costs for medication monitoring and crisis intervention remains unchanged. *Parameters and Guidelines*, Section V(B) 2, specifies the following treatment services, when required by a child's individualized education program (IEP), are reimbursable: individual therapy, collateral therapy and contacts, group therapy, day treatment, and the mental health portion of residential treatment in excess of the California Department of Social Services' payments for residential placement. Each treatment service above is defined under Title 9, Section 543 of the *California Administrative Code*. Since medication monitoring and crisis intervention were both defined in regulation at the time the *Parameters and Guidelines* were adopted and were not included as reimbursable costs, the only reasonable conclusion is that they were intentionally excluded and, therefore, not reimbursable.

The finding and recommendation for skilled nursing and other residential services remain unchanged. The county did not furnish any documentation to show that these services represented eligible day treatment services that had been miscoded.

FINDING 3— State categorical revenues not properly deducted from claimed costs

The county did not properly offset its claimed costs by certain categorical revenues received from the State.

The county did not report state matching funds received from the California Department of Mental Health under the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program to reimburse the county for the cost of services provided to Medi-Cal clients. The SCO auditor deducted all such revenues received from the State because the county did not provide adequate information regarding how much of these funds were applicable to the mandate. However, if the county can provide an accurate accounting of the number of Medi-Cal units of service applicable to the mandate, the SCO auditor will review the information and adjust the audit finding as appropriate.

The county also did not report state funding received from the State Board of Education under AB 599 intended to reimburse the county for program-related school expenses such as learning equipment, books, etc.

SCO's Comments

The finding and recommendation remain unchanged.

With regard to EPSDT revenues, as stated in the finding above, the county's records did not provide an accounting of the number of Medi-Cal units of service applicable to the mandate. The worksheets submitted by the county with its response represent only a percentage estimate of AB 3632 services rather than amounts supportable by the county's records.

The county agreed with the SCO's adjustment for AB 599 funding, and did not address the misallocation of SEP funds.

**FINDING 4—
Medi-Cal revenue
offsets overstated**

The county properly offset its claimed costs by the amount of Medi-Cal funding received that was applicable to the mental health treatment services provided. However, since the SCO auditor reduced the amount of allowable treatment costs in Finding 2 above, the county's Medi-Cal revenue offsets are overstated as follows:

	Audit Adjustment			Total
	FY 1996-97	FY 1997-98	FY 1998-99	
Treatment costs:				
Medi-Cal offsets claimed	\$ 1,228,776	\$ 1,138,384	\$ 884,990	\$ 3,252,150
Medi-Cal offsets allowed	(1,083,266)	(1,034,991)	(738,399)	(2,856,656)
Difference	\$ 145,510	\$ 103,393	\$ 146,591	\$ 395,494

Recommendation

No recommendation is necessary because the county properly offset Medi-Cal funding received against claimed costs.

Auditee's Response

The State Controller credited the County with the federal share of Medi-Cal revenue that was received for services found to be ineligible for SB 90 reimbursement. This credit should be adjusted accordingly if the State Controller restores disallowed services or costs outlined in this response.

SCO's Comments

No adjustment to Medi-Cal revenue offsets is required because no revisions have been made to Findings 1 through 3 of the draft report.

**FINDING 5—
Fiscal effect of
Assembly Bill 2781
on net treatment
costs**

The county claimed 100% of net mental health treatment costs incurred rather than the 10% of net allowable treatment costs reimbursable under this program.

Parameters and Guidelines specifies that only 10% of mental health treatment costs covered by the state's Short-Doyle Act are reimbursable. Therefore, the SCO auditor computed the required offset to net allowable treatment costs claimed as follows:

	Audit Adjustment			Total
	FY 1996-97	FY 1997-98	FY 1998-99	
Net treatment costs claimed	\$ 2,108,585	\$ 2,207,218	\$ 2,794,411	\$ 7,110,214
Less treatment costs adjusted in Findings 1 through 4 above	(958,039)	(1,236,420)	(1,420,825)	(3,615,284)
Allowable net treatment costs	1,150,546	970,798	1,373,586	3,494,930
Less reimbursable costs (10%)	(115,055)	(97,080)	(137,359)	(349,494)
Non-reimbursable costs (90%) ¹	<u>\$ (1,035,491)</u>	<u>\$ (873,718)</u>	<u>\$ (1,236,227)</u>	<u>\$ (3,145,436)</u>

¹ The audit adjustment for understated funding of non-reimbursable costs was increased by \$230,318 from \$2,915,118, to \$3,145,436, because of the elimination of the finding relating to claimed unit rates exceeding the state maximum rate allowable.

On September 30, 2002, (subsequent to the issuance of the draft report) AB 2781 (Chapter 1167, Statutes of 2002) changed the *Parameters and Guidelines*' regulatory criteria. The legislation states that the percentage of treatment costs claimed by counties for FY 2000-01 and prior fiscal years is not subject to dispute by the SCO. As a result, unallowable costs totaling \$2,915,118 are no longer valid.

Recommendation

The county should ensure that only reimbursable treatment costs are claimed in accordance with program guidelines.

Auditee's Response

The State Controller allowed only 10% of treatment costs related to this program, while the County claimed these costs at 100%. Since this issue is being clarified in budget trailer bill legislation (AB 2999), the County will reserve comment and discussion on this matter pending the outcome of this legislative effort.

SCO's Comments

This finding has been adjusted to reflect the fiscal effect of AB 2781. AB 2781 increased net reimbursable costs by \$3,145,436 (\$1,035,491 for FY 1996-97, \$873,718 for FY 1997-98, and \$1,236,227 for FY 1998-99).

**Schedule 1—
Summary of Program Costs
July 1, 1996, through June 30, 1999**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference
<u>July 1, 1996, through June 30, 1997</u>				
Assessment/case management costs	\$ 253,922	\$ 253,699	\$ (223)	Finding 1
Offsetting revenues:				
State categorical funds	—	(80,701)	(80,701)	Finding 3
Short-Doyle/Medi-Cal funds	(65,344)	(65,344)	—	
Net assessment/case management costs	<u>188,578</u>	<u>107,654</u>	<u>(80,924)</u>	
Treatment costs	3,906,295	3,261,226	(645,069)	Findings 1,
Offsetting revenues:				
State categorical funds	(568,934)	(1,027,414)	(458,480)	Finding 3
Short-Doyle/Medi-Cal funds	(1,228,776)	(1,083,266)	145,510	Finding 4
Net treatment costs	<u>2,108,585</u>	<u>1,150,546</u>	<u>(958,039)</u>	
Total costs	<u>\$2,297,163</u>	<u>1,258,200</u>	<u>\$ (1,038,963)</u>	
Less amount paid by the State		<u>(2,297,163)</u>		
Amount paid in excess of allowable costs		<u>\$1,038,963</u>		
<u>July 1, 1997, through June 30, 1998</u>				
Assessment/case management costs	\$ 302,231	\$ 301,702	\$ (529)	Finding 1
Offsetting revenues:				
State categorical funds	—	(114,455)	(114,455)	Finding 3
Short-Doyle/Medi-Cal funds	(79,662)	(79,662)	—	
Net assessment/case management costs	<u>222,569</u>	<u>107,585</u>	<u>(114,984)</u>	
Treatment costs	3,914,536	3,287,107	(627,429)	Findings 1,
Offsetting revenues:				
State categorical funds	(568,934)	(1,281,318)	(712,384)	Finding 3
Short-Doyle/Medi-Cal funds	(1,138,384)	(1,034,991)	103,393	Finding 4
Net treatment costs	<u>2,207,218</u>	<u>970,798</u>	<u>(1,236,420)</u>	
Total costs	<u>\$2,429,787</u>	<u>1,078,383</u>	<u>\$ (1,351,404)</u>	
Less amount paid by the State		<u>(2,429,787)</u>		
Amount paid in excess of allowable costs		<u>\$1,351,404</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 1998, through June 30, 1999</u>				
Assessment/case management costs	\$ 332,334	\$ 331,301	\$ (1,033)	Finding 1
Offsetting revenues:				
State categorical funds	—	(128,024)	(128,024)	Finding 3
Short-Doyle/Medi-Cal funds	(85,532)	(85,532)	—	
Net assessment/case management costs	246,802	117,745	(129,057)	
Treatment costs	4,248,335	3,632,555	(615,780)	Findings 1, 2
Offsetting revenues:				
State categorical funds	(568,934)	(1,520,570)	(951,636)	Finding 3
Short-Doyle/Medi-Cal funds	(884,990)	(738,399)	146,591	Finding 4
Net treatment costs	2,794,411	1,373,586	(1,420,825)	
Total costs	3,041,213	1,491,331	(1,549,882)	
Less late penalty	(1,000)	(1,000)	—	
Net costs	<u>\$3,040,213</u>	1,490,331	<u>\$ (1,549,882)</u>	
Less amount paid by the State		(3,040,213)		
Amount paid in excess of allowable costs		<u>\$1,549,882</u>		
<u>Summary: July 1, 1996, through June 30, 1999</u>				
Assessment/case management costs	\$ 888,487	\$ 886,702	\$ (1,785)	Finding 1
Offsetting revenues:				
State categorical funds	—	(323,180)	(323,180)	Finding 3
Short-Doyle/Medi-Cal funds	(230,538)	(230,538)	—	
Net assessment/case management costs	657,949	332,984	(324,965)	
Treatment costs	12,069,166	10,180,888	(1,888,278)	Findings 1, 2
Offsetting revenues:				
State categorical funds	(1,706,802)	(3,829,302)	(2,122,500)	Finding 3
Short-Doyle/Medi-Cal funds	(3,252,150)	(2,856,656)	395,494	Finding 4
Net treatment costs	7,110,214	3,494,930	(3,615,284)	
Total costs	7,768,163	3,827,914	(3,940,249)	
Less late penalty	(1,000)	(1,000)	—	
Net costs	<u>\$7,767,163</u>	3,826,914	<u>\$ (3,940,249)</u>	
Less amount paid by the State		(7,767,163)		
Amount paid in excess of allowable costs		<u>\$3,940,249</u>		

¹ See Schedule 2.

**Schedule 2—
Summary of Audit Adjustments
July 1, 1996, through June 30, 1999**

Cost Elements	Audit Adjustments ¹					Total
	Finding 1	Finding 2	Finding 3	Finding 4	Finding 5	
July 1, 1996, through June 30, 1997						
Assessment/case management costs	\$ (223)	\$ —	\$ —	\$ —	\$ —	\$ (223)
Offsetting revenues:						
State categorical funds	—	—	(80,701)	—	—	(80,701)
Net assessment/case management costs	(223)	—	(80,701)	—	—	(80,924)
Treatment costs	(171,208)	(473,861)	—	—	—	(645,069)
Offsetting revenues:						
State categorical funds	—	—	(458,480)	—	—	(458,480)
Short-Doyle/Medi-Cal funds	—	—	—	145,510	—	145,510
Net treatment costs	(171,208)	(473,861)	(458,480)	145,510	—	(958,039)
Total adjustment for FY 1996-97	(171,431)	(473,861)	(539,181)	145,510	—	(1,038,963)
July 1, 1997, through June 30, 1998						
Assessment/case management costs	(529)	—	—	—	—	(529)
Offsetting revenues:						
State categorical funds	—	—	(114,455)	—	—	(114,455)
Net assessment/case management costs	(529)	—	(114,455)	—	—	(114,984)
Treatment costs	(218,886)	(408,543)	—	—	—	(627,429)
Offsetting revenues:						
State categorical funds	—	—	(712,384)	—	—	(712,384)
Short-Doyle/Medi-Cal funds	—	—	—	103,393	—	103,393
Net treatment costs	(218,886)	(408,543)	(712,384)	103,393	—	(1,236,420)
Total adjustment for FY 1997-98	(219,415)	(408,543)	(826,839)	103,393	—	(1,351,404)
July 1, 1998, through June 30, 1999						
Assessment/case management costs	(1,033)	—	—	—	—	(1,033)
Offsetting revenues:						
State categorical funds	—	—	(128,024)	—	—	(128,024)
Net assessment/case management costs	(1,033)	—	(128,024)	—	—	(129,057)
Treatment costs	(126,458)	(489,322)	—	—	—	(615,780)
Offsetting revenues:						
State categorical funds	—	—	(951,636)	—	—	(951,636)
Short-Doyle/Medi-Cal funds	—	—	—	146,591	—	146,591
Net treatment costs	(126,458)	(489,322)	(951,636)	146,591	—	(1,420,825)
Total adjustment for FY 1998-99	(127,491)	(489,322)	(1,079,660)	146,591	—	(1,549,882)
Totals	<u>\$ (518,337)</u>	<u>\$ (1,371,726)</u>	<u>\$ (2,445,680)</u>	<u>\$ 395,494</u>	<u>\$ —</u>	<u>\$ (3,940,249)</u>

¹ See Findings and Recommendations section.

**Attachment—
Auditee's Response to
Draft Audit Report**

HEALTH SERVICES AGENCY

September 24, 2002

Mr. Walter Barnes
Chief Deputy State Controller, Finance
P.O. Box 942850
Sacramento, CA 94250

Re: Handicapped and Disabled Students Draft Audit Report

Dear Mr. Barnes:

Enclosed is San Mateo County's response to the draft audit report for the Handicapped and Disabled Students Claim. We have submitted our response within 30 days of adoption of the State's FY 02-03 budget.

Please contact Louise Rogers, Deputy Director, Mental Health Division at 650 573-2531 if you have any questions regarding our response.

Sincerely,



Tom Huening
Controller

Enclosure: As stated

cc: Jim Spano, Compliance Audits Bureau, State Controller's Office
Gale Bataille, Health Services Agency, Mental Health Services

RECEIVED

SEP 25 2002

STATE CONTROLLERS OFFICE
SACRAMENTO

MENTAL HEALTH SERVICES DIVISION

Supervisors: Mark Church • Rose Jacobs Gibson • Richard S. Gordon • Jerry Hill • Michael D. Nevin • Health Services Director: Margaret J.

San Mateo County Mental Health Services
Response to SB 90 Audit by California State Controller
Handicapped and Disabled Students
Chapter 1747, Statutes of 1984
Chapter 1274, Statutes of 1985

The State Controller's Office conducted a field audit of the Handicapped and Disabled Students state mandated program for the San Mateo County Mental Health Division. This audit covered three fiscal years: 1996-97, 1997-98 and 1998-99. The total net disallowance stated in the draft audit report totaled \$7,768,485.

The County of San Mateo has carefully examined the issues raised in the State Controller's draft findings and wishes to respond to each issue individually. It is hoped that upon review of the County's responses the State Controller will issue a fair and equitable final audit report.

FINDING 1: Claimed costs exceeded amounts paid to Service Providers (Disallowance Amount: \$518,337)

RESPONSE: The County concurs with this finding.

FINDING 2: Ineligible treatment costs claimed by County (Disallowance Amount: \$1,371,726)

RESPONSE: The following services disallowed by the State Controller are shown by mode and service function code:

- 05/10 Hospital Inpatient – This activity was claimed in error. The County concurs with this finding. Reduction amount: \$38,894.
- 05/60 Residential, Other – The County does not concur with this finding. Costs included in this category were actually eligible, allowable day treatment service costs that were miscoded. Reduction amount: \$76,223.
- 10/20 Crisis Stabilization – This cost was claimed in error. The County concurs with this finding. Reduction amount: \$3,251.
- 10/60 Skilled Nursing – The County does not concur with this finding. Costs included in this category were actually eligible, allowable day treatment service costs that were miscoded. Reduction amount: \$21,708.
- 15/60 Medication Visits – The County strenuously objects to the State Controller's findings and disallowances in this area. Physician and nursing

activities related to assessment and prescribing psychiatric medications, otherwise known as medication management, is an eligible component of this mandated program. Note that the County did not claim costs for the actual medications, which are specifically unallowable AB 3632 costs. State mandated cost claiming for medication support activities is supported by the applicable regulations: Title 2, Division 9, Chapter 1 of California Code of Regulations, Section 60020; Government Code 7576; and Interagency Responsibilities Code of Regulations. Reduction amount: \$1,007,332.

- 15/70 Crisis Intervention – This is another instance of the State Controller's field auditor misinterpreting the types of costs categorized under this service function code. These services are mental health outpatient services provided in the normal course of mental health treatment and are included as a subfunction of the "mental health services" function code. Under no circumstances are these services analogous to hospital psychiatric emergency visits, which the County agrees would not be an eligible cost. Reduction amount: \$224,318.

FINDING 3: Claimed unit rates exceed the maximum allowable rates (Disallowance amount: \$308,661)

RESPONSE: This finding by the State Controller is fundamentally flawed in three respects. The first relates to the County's right to reimbursement of the costs of performing the mandated activity. The second relates to an existing interpretation by the Commission on State mandates relating to capitated rates relating to SB 90 program. The third relates to the State Controller's misrepresentation of the *Parameters and Guidelines* for this program.

1. Article XIII B, Section 6 of the State Constitution allows for the reimbursement of the costs of state mandates passed down to local agencies:

CALIFORNIA CONSTITUTION
ARTICLE 13B: GOVERNMENT SPENDING LIMITATION

SEC. 6. 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 program or increased level of service...

2. The Commission on State Mandates has contemplated the issue of capitated rates vs. full-cost rates in their revised parameters and guidelines for the program known as Prisoner Parental Rights (Chapter 1376, Statutes of 1976, Welfare and Institutions Code, Sections 366.26 and 300 c, e, f, I and j). The Commission ruled that the mandated costs associated with Article XIII B, Section 6 of the State Constitution could not be capitated at a state-wide level. They ruled that the State was required to reimburse local agencies for the full cost rate, and required local governments to provide additional documentation if they used a rate higher than the average daily jail

rate. This situation is identical. The Department of Justice, just like the California Department of Mental Health, annually establishes statewide reimbursement rates, otherwise referred to as statewide maximum allowances (SMAs). These SMAs or capitated rates are applicable to many purposes, but they are not to be applied to state mandated costs covered under Article XIII B.

3. In the draft audit findings, the State Controller materially misrepresents what is stated in the *Parameters and Guidelines* by saying, "Parameters and Guidelines states that reimbursable costs are governed by the Short-Doyle/Medi-Cal Program." The *Parameters and Guidelines* refer to the Short-Doyle/Medi-Cal Program in the following contexts:
- IEP participation is not subject to the Short-Doyle Act (Summary of the Mandate)
 - Provisions of WIC section 5651, subdivision (g), result in a higher level of service within the county Short-Doyle program (Summary of the Mandate)
 - Such mental health services are subject to the current cost sharing formula of the Short-Doyle Act (90-10 cost sharing). (Summary of the Mandate)
 - Any mental health treatment required by an IEP is subject to the Short-Doyle cost sharing formula. (Commission on State Mandates' Decision)
 - Reimbursable activities not subject to the Short-Doyle Act (IEP costs, et al). (Reimbursable Costs)
 - The scope of the mandate is 100% reimbursement, except that for individuals billed to Medi-Cal only, the Federal Financing Participation portion (FFP) for these activities should be deducted from the reimbursable activities not subject to the Short-Doyle Act. (Reimbursable Costs)
 - Reimbursable activities subject to the Short-Doyle Act, or Mental Health Treatment Services. (Reimbursable Costs)
 - Scope of mandate is 10% reimbursement
 - Provision of mental health services when required by child's IEP are 10% reimbursable: Individual therapy, Collateral therapy and contacts, Group therapy, Day treatment, and Mental Health portion of residential treatment in excess of the Department of Social Services payment for the residential placement.
 - Any other reimbursement for this mandate (excluding Short-Doyle funding, private insurance payments and Medi-Cal payments), which is received from any source, e.g. federal, state, etc.

Those are the sum total of references to the term "Short-Doyle" in the *Parameters and Guidelines* for this program. At no point is it stated or implied that the Short-Doyle program governs the definition of reimbursable costs as the State Controller notes in the audit finding.

The conclusions reached by the State Controller in Finding 3 are without basis or merit.

FINDING 4: Treatment costs claimed at 100% instead of 10% (Disallowance amount: \$8,932,480)

RESPONSE - The State Controller allowed only 10% of treatment costs related to this program, while the County claimed these costs at 100%. Since this issue is being clarified in budget trailer bill legislation (AB 2999), the County will reserve comment and discussion on this matter pending the outcome of this legislative effort.

FINDING 5: State categorical revenues were not properly deducted from claim costs (Disallowance amount: \$2,445,570)

RESPONSE: The County concurs with the finding that AB 599 revenue should have been offset from the claimed SB 90 costs. The County does not concur with the finding that \$2 million EPSDT State Match should have been offset from the claimed SB 90 costs. The State Controller deducted all state general fund EPSDT Medi-Cal from the claimed SB 90 costs. The County had already offset the SB 90 reimbursement claim by the federal share of EPSDT Medi-Cal, but failed to deduct the state general fund EPSDT match. The State Controller incorrectly deducted all EPSDT state general fund revenues, even though a significant portion of EPSDT revenue was not linked to the AB 3632 population. The County estimates based on the attached methodology that the correct amount that should be disallowed by the State is as follows:

Revenue Source	County Amount	State Disallowance	Difference
State EPSDT Match	166,352	2,069,194	1,902,842

Based on the recent field audit, we are updating the MIS system to provide better tracking of AB 3632 linked clients, services and costs. We have most likely overstated the Medi-Cal revenue linked to AB 3632 services and thus, we have actually understated our net SB 90 claimable costs in contrast to the State Controller's findings that insufficient Medi-Cal revenues were offset. Only a small percentage of AB 3632 students are Medi-Cal beneficiaries, and thus, the actual state EPSDT revenue offset is likely to be quite small; perhaps 10% or less.

Medi-Cal revenue offsets overstated (Restoration amount from the State: \$2,966,485)

RESPONSE – The State Controller credited the County with the federal share of Medi-Cal revenue that was received for services found to be ineligible for SB 90 reimbursement. This credit should be adjusted accordingly if the State Controller restores disallowed services or costs outlined in this response.

Data to Future Finding # 5, EPSDT Offset

San Mateo County Mental Health, FY 94-95, 95-96, 96-97, 97-98

IEP 3632 Youth Med-Cal Units Above the Baseline as Percentage of all <21 Medi-Cal Units Above the Baseline Same Percentage Applied to State General Fund EPSDT Match \$ Produces Correct EPSDT Offset of SB 90 Claim

	Units Above Base IEP3632 MC	Units Above Base All MC <21	% 3632 Related	SGFEPSDT Growth \$	SGFEPSDT (OFFSET) Growth \$ Related to 3632 Youth
94-95 Baseline*	0	0			
95-96	218,454	962,985	22.69%	\$479,000	\$108,662
96-97	64,139	571,621	11.22%	\$611,441	\$68,607
97-98	-5,125	459,476	-1.12%	\$978,753	-\$10,917
TOTAL				\$2,069,194	\$166,352

* The baseline Medi-Cal units of service for IEP/3632 youth was 863,354.

The baseline Medi-Cal units of service for Medi-Cal beneficiaries was 2,372,274.

The State Controller's Office deducted all state general fund EPSDT Medi-Cal match from the claimed SB 90 costs. San Mateo County Mental Health contends only the match corresponding to services for the IEP/3632 youth should be deducted, and only that portion above the "baseline" year FY 94-95 established by the State.

Date of data run: 8/22/02 "IEP_Medical_Billed

Data includes all Medi-Cal services for <21 clients.

From client episodes it was determined if a client was 3632 ("IEP").

If client = IEP, then all Medi-Cal services were defined as "IEP Medical".

Units of services are units of time (per CSI)

94-95 is baseline year for State EPSDT cost settlement (cost of service to <21 Medi-Cal clients).
Columns in spreadsheet:

IEP3632 MC	Total Medi-Cal units for 3632 <21 clients.
All MC <21	Total Medi-Cal units for all <21 clients (3632 and non-3632).
% 3632 Related	% of total <21 Mcal units accounted for by 3632 clients
SGFEPSDT\$	Total state general fund EPSDT match deposits in IFAS for each fiscal year (regardless of year earned) EPSDT\$ settled from the state represent costs for <21 Mcal clients above \$ spent in 94-95 (baseline year).

SGFEPSDT

Growth \$ Related to 3632 Youth

Portion of EPSDT revenue ascribed to 3632 clients.

Method:

Calculates the proportion of state EPSDT revenue for 3632 clients, based on total % of <21 Medi-Cal units that year for 3632 clients

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>

S01-MCC-005



EPSDT Offset Calculations for SB 90
Audit Years 95-96 through 97-98

	<u>Recalculated EPSDT Offset*</u>	<u>Rosemary's Recalculation</u>
96-97	\$217,395	\$166,969
97-98	\$362,439	\$243,758
98-99	-\$55,446	\$255,248
Total	\$524,389	\$665,975

*Using new methodology developed by DMH

To Janet Crist Witzel
 From Rosemary M. SCO
 650 573 - 2110

San Mateo County
 Services to Handicapped and Disabled Students
 FISCAL YEARS 1998-97 THROUGH 1998-99
 SO1MCC 005

WP 1 Page
 Prep REM Date 08/12/2003
 Rev. Date

Year	Eligible Services		Percent AB 3632	DMH EPSDT	EPSDT AB 3632	Prior	Difference
	Total Youth Medical	Ab3632 Medi-Cal					
1996-97	2,588,353	787,230	30.41%	\$548,983	\$166,969	\$479,000	\$312,031
1997-98	2,711,443	813,944	30.02%	\$812,015	\$243,758	\$611,441	\$367,683
1998-99*	2079133	438,273	21.08%	\$1,210,879	\$255,248	\$978,753	\$723,505
				\$2,571,877	\$665,976	\$2,069,194	\$1,403,218

*Used Average 96/97 and 97/ 98 FY

Reconcile Finding 3	Prior	Current	Allowable Increase
EPSDT	\$2,069,194	\$665,976	\$1,403,218
AB577	\$376,376	\$376,376	\$0
	<u>\$2,445,570</u>	<u>\$1,042,352</u>	<u>\$1,403,218</u>

Report	Prior	Current	
Allowed	\$3,826,914	\$1,403,218	\$5,230,132
Disallowe	\$3,940,249	(\$1,403,218)	\$2,537,031
	<u>\$7,767,163</u>	<u>\$0</u>	<u>\$7,767,163</u>

Post-it* Fax Note	7671	Date	# of pages 1
To Janet Crist Witzel		From	R. Maron
Co./dept. San Mateo		Co.	
Phone #		Phone #	
Fax # 650 573 - 2110		Fax #	

3632 Worksheet for DMH
96-97 SB 90 Audit

	1994-95		1996-97	Growth
SEP Costs (M-Cal) (w/o) admin*	\$2,061,948	Per Emy	\$2,581,894	\$519,946
EPSDT Actual Cost	\$2,525,528 **	state est.	\$3,838,536***	\$1,313,008
TBS Program Cost****				\$0
Net EPSDT Total Growth				\$1,313,008
Ratio SEP Grwth/EPSDT Grwth				39.6%
EPSDT Revenue (MH 1992, Line 19)				\$548,983
TBS Portion of EPSDT Revenue				\$0
Net EPSDT Revenue Est.				\$548,983
SEP State Share of EPSDT				\$217,395
Total Medi-Cal SEP Cost per Emy's SB90 worksheet				\$2,581,894
% of Total M-Cal Cost that is State EPSDT Share				8.4200%

Calculations based on DMH methodology developed for 03-04 3632 cost report.

*per Emy. From spreadsheet titled SEP Medi-Cal Costs by FY 9596 to FY 0203.

**State number. Spreadsheet titled "Attachment 2: Fiscal Year 1997-99 Baselines. Column titled FY 94-95 Amount. This spreadsheet was referenced by DMH training for 03-04 3632 cost report training.

***SD/MC Paid Claims for EPSDT FY's 94-95 to 00-01 - DMH spreadsheet dated 12/5/01

****No TBS services 96-97

3632 Worksheet for DMH
97-98 SB 90 Audit

	1994-95		1997-98	Growth
SEP Costs (M-Cal) (w/o) admin*	\$2,061,948	Per Emy	\$2,423,370	\$361,422
EPSDT Actual Cost	\$2,525,528 **		\$4,193,250 ***	\$1,667,722
TBS Program Cost****				\$0
Net EPSDT Total Growth				\$1,667,722
Ratio SEP Grwth/EPSDT Grwth				21.7%
EPSDT Revenue (MH 1992, Line 19)				\$1,672,417
TBS Portion of EPSDT Revenue				\$0
Net EPSDT Revenue Est.				\$1,672,417
SEP State Share of EPSDT				\$362,439
Total Medi-Cal SEP Cost per Emy's SB90 worksheet				\$2,423,370
% of Total M-Cal Cost that is State EPSDT Share				14.9560%

Calculations based on DMH methodology developed for 03-04 3632 cost report.

*per Emy. From spreadsheet titled SEP Medi-Cal Costs by FY 9596 to FY 0203.

**State number. Spreadsheet titled "Attachment 2: Fiscal Year 1997-99 Baselines. Column titled FY 94-95 Amount. This spreadsheet was referenced by DMH training for 03-04 3632 cost report training.

***SD/MC Paid Claims for EPSDT FY's 94-95 to 00-01 - DMH spreadsheet dated 12/5/01

****No TBS services 97-98.

3632 Worksheet for DMH
98-99 SB 90 Audit

	1994-95	1998-99	Growth
SEP Costs (M-Cal) (w/o) admin*	\$2,061,948	Per Emy \$1,943,094	-\$118,854
EPSDT Actual Cost	\$2,525,528 ** state figure	\$5,121,182 ***	\$2,595,654
TBS Program Cost****			\$0
Net EPSDT Total Growth			\$2,595,654
Ratio SEP Grwth/EPSDT Grwth			-4.6%
EPSDT Revenue (MH 1992, Line 19)			\$1,210,879
TBS Portion of EPSDT Revenue			\$0
Net EPSDT Revenue Est.			\$1,210,879
SEP State Share of EPSDT			-\$55,446
Total Medi-Cal SEP Cost per Emy's SB90 worksheet			\$2,112,090
% of Total M-Cal Cost that is State EPSDT Share			-2.6252%

Calculations based on DMH methodology developed for 03-04 3632 cost report.

*per Emy, a decrease. From spreadsheet titled SEP Medi-Cal Costs by FY 9596 to FY 0203.

**State number. Spreadsheet titled "Attachment 2: Fiscal Year 1997-99 Baselines. Column titled FY 94-95 Amount. This spreadsheet was referenced by DMH training for 03-04 3632 cost report training.

***DMH spreadsheet "San Mateo Mental Health Plan EPSDT Approved Claims Estimate, with letter dated 2/26/04.

****TBS billed as part of case rate.

SEP MEDICAL COSTS FY 95/96 to FY 02/03										
This worksheet to be used for EPSDT compilation for MH1909 SEP Cost Reports										
date prepared: 11/03/05										
Lotus spreadsheet could not be found from the pc. source=hardcopies only										
<div style="border: 1px solid black; padding: 2px; display: inline-block;"> mhaurora\mcd\data\EPSDT REVENUE.xls </div>										
FY	A Medical Gross Revenue from SB 90 claim	B Med-Cal Revenue @ 50%	C SEP Revenue Only	D SEP Med-Cal Costs (C X 2)	TBS Program Costs PER EOB	EPSDT Revenue MH1992 Line 19	Med-Cal SEP Cost per Emly's WIS			
FY 94/95	7,794,723	3,897,362	1,030,974	2,061,848			2,061,848	no SEP mcal units	not audited	
FY 95/96	12,054,345	6,027,173	1,461,471	2,922,942		717,519	2,922,942		Col A Med Gross Rev includes 15% adm rev from Nestor's S890 hardcopies; not audited	
FY 96/97	9,870,199	4,935,100	1,290,947	2,581,894		548,983	2,581,894	Per Audit	11.02.05	
FY 97/98	9,207,213	4,693,837	1,211,685	2,423,370		812,015	2,423,370	Per Audit	11.03.05	
FY 98/99	9,598,795	4,893,466	971,547	1,943,094		1,210,879	1,943,094	Per Audit	11.02.05	
FY 99/00	*No more Medical Gross - see footnote			1,202,654		1,127,414	1,120,737	see sheet "claimfy9900"		
FY 00/01				994,457	157,878	1,546,024	937,385	see mhemy\sb90\sb90\fy0001\sb90 fy0001 952703 sheet "paraudit\MAIN\WS041305		
FY 01/02				1,566,808	370,565	2,262,145	1,526,475	mhemy\sb90\sb90\fy0102\sb90\fy0102 revised110503.xls see sheet paraudit\MAIN\WS041505		
FY 02/03				1,998,816	203,836	1,128,307	1,788,649	mhemy\sb90\sb90 fy0203\sb90\fy0203Dec2004.xls sheet forMH1909\MAIN\WS041505		



*FY9900-FY0203 = actual SEP Mcal units provided by MIS
 **TBS Program Costs-EOB data available from FY0001 only

**CALCULATION OF SPECIAL EDUCATION PROGRAM
SHARE OF EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT
FISCAL YEAR 2003-2004
MH 1909_SEP**

The following procedures will aid you to calculate the SEP share of the EPSDT estimated revenue that is above the baseline for FY 2003-04 before the application of SEP ratio to EPSDT estimated Revenue.

- Step 1. Obtain both SEP and EPSDT FY 1994-95 base year costs.
- 2 Obtain both EPSDT and SEP actual costs based on current year cost report submission.
- 3 Compute the difference between the current year cost report as submitted December 31 and FY 1994-95 base year costs for both EPSDT and SEP services (a), (b).
- 4 Adjust total EPSDT Growth (b) for TBS program cost to determine Net EPSDT total growth (c),(d).
If Mode of Service and Service Function 15-58 is reported on MH 1909_SEP, you do not need to adjust the EPSDT estimated Revenue to eliminate the TBS program portion. However, if Mode of Service and Service Function 15-58 is not reported on MH 1909_SEP, you will need to adjust the EPSDT estimated Revenue to eliminate TBS program Revenue portion before the computation of SEP estimated share of EPSDT estimated Revenue.
- 5 Divide SEP Growth (a) by Net EPSDT total Growth (d) to determine SEP to EPSDT Ratio.
- 6 Obtain county EPSDT Revenue for the current year (MH 1992, Line 19) (f-1).
- 7 Adjust county EPSDT Revenue for the current year for TBS portion of the EPSDT Revenue (f-2).
- 8 Compute the difference between the EPSDT estimated Revenue and TBS portion of EPSDT Revenue (f).
- 9 Multiply the ratio of SEP growth to EPSDT growth by Net EPSDT Revenue (e by f).
- 10 SEP State Share to be reported on MH 1909 Column G is g (\$372,195).

	(Base Year) FY 1994-95	FY 2003-04	SEP & EPSDT Growth
SEP costs (Excludes Non Medi-Cal SEP)	1,252,946	2,340,856 a	1,087,910
EPSDT Actual Cost	4,866,695*	12,702,672 b	7,835,977
TBS Program Cost (if applicable)		c	1,382,782
Net EPSDT Total Growth		d	6,453,195
Ratio SEP Growth to Net EPSDT Growth		e	16.86%
EPSDT Revenue (MH 1992, Line 19)		f-1	2,847,964
TBS portion of EPSDT Revenue (if applicable)		f-2	640,205
Net EPSDT SD/MC Revenue Estimate		f	2,207,759
SEP State Share of EPSDT SD/MC Estimate		g	372,195

Rationale:

The calculation of the SEP share of EPSDT growth is necessary to determine the amount of EPSDT revenue generated by the SEP program.

Since EPSDT revenue is calculated based on actual costs above the FY 94/95 baseline, the calculation starts by splitting out the EPSDT baseline attributable to SEP then and the portion of the FY 03/04 EPSDT services attributable to SEP. The difference between these two figures is the SEP Growth. The SEP Growth is then divided by the Net EPSDT Total Growth which may have been adjusted due to TBS program portion.

The ratio of SEP Growth to Net EPSDT Growth is then multiplied by the Net EPSDT Revenue for the fiscal year. The result is the EPSDT estimated revenue generated by the SEP program.

*DMH referenced attached EPSDT baseline for 1994-95

Attachment 2
Fiscal Year 1997-98 Baselines
(FFP and State Match)

County	Paid Claims Baseline			Cost Settled Baseline		
	FY 97-98 Amount	Phase II	Total	FY 97-98 Amount	Phase II	Total
1 Alameda	5,077,659	252,829	5,330,488	4,859,808	252,829	5,112,637
2 Alpine	261	46	307	275	46	321
3 Amador	64,539	1,165	65,704	100,396	1,165	101,561
4 Butte	392,042	12,099	404,141	476,252	12,099	488,351
5 Calaveras	105,592	813	106,405	79,916	813	80,729
6 Colusa	65,974	971	66,945	69,234	971	70,205
7 Contra Costa	4,000,749	58,154	4,058,903	3,826,509	58,154	3,884,663
8 Del Norte	324,457	1,676	326,133	275,110	1,676	276,786
9 El Dorado	300,560	1,424	301,984	320,516	1,424	321,940
10 Fresno	1,932,747	38,270	1,971,017	2,111,316	38,270	2,149,586
11 Glenn	52,044	1,532	53,576	58,427	1,532	59,959
12 Humboldt	322,605	13,823	336,428	257,133	13,823	270,956
13 Imperial	1,085,577	16,060	1,101,637	1,035,004	16,060	1,051,064
14 Inyo	28,179	884	29,063	30,135	884	31,019
15 Kern	2,407,077	79,541	2,486,618	1,913,809	79,541	1,993,350
16 Kings	811,220	4,836	816,056	576,410	4,836	581,246
17 Lake	114,497	4,622	119,119	96,426	4,622	101,048
18 Lassen	69,104	2,375	71,479	93,979	2,375	96,354
19 Los Angeles (1)	25,617,869	701,627	27,174,551	25,669,421	701,627	27,226,103
20 Madera	487,149	2,576	489,724	372,892	2,576	375,467
21 Marin	356,810	14,558	370,368	306,329	14,558	320,887
22 Mariposa	37,554	967	38,521	42,242	967	43,209
23 Mendocino	246,733	21,615	268,348	352,035	21,615	373,650
24 Merced	1,369,177	12,152	1,381,329	1,499,230	12,152	1,511,382
25 Modoc	13,403	293	13,786	12,197	293	12,494
26 Mono	4,541	128	4,669	4,766	128	4,894
27 Monterey	1,075,064	20,538	1,095,602	1,110,600	20,538	1,131,138
28 Napa	492,651	23,326	515,977	549,018	23,326	572,344
29 Nevada	117,763	1,644	119,407	143,337	1,644	144,981
30 Orange	2,389,275	367,404	2,756,679	2,316,745	367,404	2,683,149

Includes \$955,065 associated with funding for expanded access.

Attachment 2
Fiscal Year 1997-98 Baselines
(FFP and State Match)

County	Paid Claims Baseline			Cost Settled Baseline		
	FY 97-98 Amount	Phase II	Total	FY 97-98 Amount	Phase II	Total
31 Placer	532,061	27,474	579,535	620,819	27,474	648,293
32 Plumas	51,934	582	52,516	40,141	582	40,723
33 Riverside	4,201,363	545,737	4,747,100	4,866,695	545,737	5,412,432
34 Sacramento	1,658,665	9,085	1,667,750	1,599,504	9,085	1,608,589
35 San Benito	173,304	2,260	175,564	120,527	2,260	122,787
36 San Bernardino	4,911,039	232,663	5,143,702	4,544,723	232,663	4,777,386
37 San Diego	5,665,312	0	5,665,312	5,015,872	0	5,015,872
38 San Francisco	4,520,345	57,502	4,577,847	4,156,758	57,502	4,214,260
39 San Joaquin	1,891,620	96,768	1,988,388	1,502,604	96,768	1,599,372
40 San Luis Obispo	943,950	12,509	956,459	823,861	12,509	836,370
41 San Mateo	2,735,911	100,540	2,836,451	2,525,528	100,540	2,626,068
42 Santa Barbara	792,858	19,329	812,187	821,854	19,329	841,183
43 Santa Clara	9,268,930	14,273	9,283,203	7,874,766	14,273	7,889,039
44 Santa Cruz	2,381,992	5,448	2,387,440	2,021,673	5,448	2,027,121
45 Shasta	1,014,723	12,168	1,026,891	865,140	12,168	877,308
46 Sierra	1,859	301	2,160	1,169	301	1,470
47 Siskiyou	209,688	5,319	214,987	157,090	5,319	162,409
48 Solano (2)	1,431,541	75,000	1,506,541	1,308,176	75,000	1,383,176
49 Sonoma	1,629,242	21,095	1,550,337	849,580	21,095	869,675
50 Stanislaus	2,727,262	51,350	2,778,612	1,863,282	51,350	1,914,632
51 Sutter/Yuba	301,762	3,910	305,672	278,224	3,910	282,134
52 Tehama	203,446	1,343	204,789	202,388	1,343	203,731
53 Trinity	50,540	25	50,565	35,868	25	35,893
54 Tulare	3,137,756	11,748	3,149,504	2,713,651	11,748	2,725,399
55 Tuolumne	79,499	543	80,042	82,487	543	83,030
56 Ventura	3,235,599	32,477	3,268,076	3,129,727	32,477	3,162,204
57 Yolo	532,182	8,530	540,712	439,600	8,530	448,130
Total	103,479,325	3,005,926	107,440,306	96,638,299	3,005,926	100,599,280

FY 2003-04 San Mateo Early and Periodic Screening, Diagnosis and Treatment (EPSDT) State General Fund (SGF) Distribution

San Mateo EPSDT Monthly SGF Distribution	155,501	933,006
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*The San Mateo distribution for EPSDT 2003-04 comprises the first six months of estimated State General Fund (SGF) disbursements per month (\$155,501) X 6.

San Mateo Mental Health Plan (MHP) EPSDT Approved Claims Estimate
FY 2003-04

Year	San Mateo Early EPSDT Claims Total Fund (SGF)	San Mateo Monthly EPSDT Claims Total (Funds, SGF, FFP)	San Mateo EPSDT Approved Claims Monthly	SGF FMAP	Baseline Adjustments	County Match	Firo Adjustments
1998-99 ²	5,121,182	426,765		46.70%			95.00%
1999-00 ²	5,111,422	425,952					
2000-01 ²	6,053,189	504,432					
2001-02	6,355,848	529,654					
2002-03	6,673,641	556,137					
2003-04	6,913,892	585,133	201,650	29.00%	170,983	163,688	155,501
2004-05	7,162,792	596,899					

¹ The estimated approved claims for 2001-02 were determined by increasing the 2000-01 Cost Settled Claims by 5%. The 2002-03 estimated approved claims were determined by increasing the 2001-02 calculated estimated claims by 5%. The 2003-04 estimated approved claims were determined by increasing the 2002-03 calculated estimated claims by 3.6%. The percentage increase adjustments utilized to determine the estimated claims for the corresponding years above reflect the percentage increases applied to the Case Rates for the corresponding years.

Information source for Case Rate percent increases:

Medi-Cal Mental Health Care Field Test (San Mateo County) Section 1915(b) Request for Waiver Renewal April 2003, page 48, Table 1-Case Rates.

² Cost settled EPSDT Short-Doyle / Medi-Cal (SD/MC) claims

** FFP = Federal Financial Participation

FMAP = Federal Medical Assistance Percentage

Short-Doyle/Medi-Cal Paid Claims for
Early Periodic Screening, Diagnosis & Treatment (EPSDT) Services
Fiscal Years 1994-95 through 2000-01
(FFP and State Match)

County	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	FFP %	State %	Total %	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	FFP %	State %	Total %
31 Placer	575,643	760,995	944,314	1,111,087	1,185,577	1,385,577	2,012,010	32.20%	24.09%	28.14%	1,111,087	1,385,577	1,856,392	2,012,010	2,341,960	3,318,191	3,318,191	32.20%	24.09%	28.14%
32 Plumas	59,042	59,741	93,788	143,678	143,678	143,678	370,860	1.18%	56.99%	58.17%	93,788	143,678	143,678	370,860	493,651	837,529	837,529	1.18%	56.99%	58.17%
33 Riverside	4,303,248	5,787,272	6,114,921	8,448,865	8,448,865	9,210,247	8,399,693	34.49%	5.66%	30.15%	6,114,921	8,448,865	8,448,865	8,399,693	9,210,247	8,399,693	8,399,693	34.49%	5.66%	30.15%
34 Sacramento	1,809,363	3,037,091	8,287,023	15,677,693	21,592,864	32,821,920	38,957,668	67.85%	172.86%	89.18%	8,287,023	15,677,693	21,592,864	32,821,920	38,957,668	38,957,668	38,957,668	67.85%	172.86%	89.18%
35 San Benito	183,374	188,896	283,352	378,732	378,732	363,542	343,955	3.01%	6.19%	4.01%	283,352	378,732	363,542	343,955	363,542	343,955	343,955	3.01%	6.19%	4.01%
36 San Bernardino	4,999,252	5,308,496	6,728,394	7,749,661	9,569,392	10,418,673	10,418,673	26.75%	7.41%	19.03%	6,728,394	7,749,661	9,569,392	10,418,673	10,418,673	10,418,673	10,418,673	26.75%	7.41%	19.03%
37 San Diego	5,896,860	7,138,322	7,667,395	13,156,947	17,771,585	26,921,729	12,262,219	42.52%	11.65%	23.20%	7,667,395	13,156,947	17,771,585	26,921,729	26,921,729	26,921,729	26,921,729	42.52%	11.65%	23.20%
38 San Francisco	5,105,133	7,275,661	8,123,600	9,105,672	11,217,879	12,287,601	8,256,556	42.36%	18.34%	27.70%	8,123,600	9,105,672	11,217,879	12,287,601	12,287,601	12,287,601	12,287,601	42.36%	18.34%	27.70%
39 San Joaquin	1,945,089	2,768,965	3,276,895	4,819,320	5,065,394	7,473,659	8,256,556	36.06%	36.06%	36.06%	3,276,895	4,819,320	5,065,394	7,473,659	8,256,556	8,256,556	8,256,556	36.06%	36.06%	36.06%
40 San Luis Obispo	973,163	1,324,071	1,761,643	1,736,291	1,736,291	2,680,984	3,318,191	36.55%	0.79%	9.24%	1,761,643	1,736,291	1,736,291	2,680,984	3,318,191	3,318,191	3,318,191	36.55%	0.79%	9.24%
41 San Mateo	2,833,431	3,868,928	3,838,536	4,183,250	4,183,250	4,183,250	6,281,063	67.77%	186.41%	20.49%	3,838,536	4,183,250	4,183,250	6,281,063	6,281,063	6,281,063	6,281,063	67.77%	186.41%	20.49%
42 Santa Barbara	911,260	1,528,799	4,379,807	5,275,965	5,275,965	5,275,965	20,684,042	8.07%	19.25%	2.08%	1,528,799	4,379,807	5,275,965	5,275,965	5,275,965	5,275,965	5,275,965	8.07%	19.25%	2.08%
43 Santa Clara	9,608,956	10,384,712	12,384,078	12,642,260	14,584,559	17,158,063	20,684,042	21.22%	27.87%	35.50%	10,384,712	12,384,078	12,642,260	14,584,559	17,158,063	20,684,042	20,684,042	21.22%	27.87%	35.50%
44 Santa Cruz	2,445,792	2,964,760	3,791,107	5,138,917	5,674,129	6,423,804	6,649,955	2.30%	0.56%	17.38%	3,791,107	5,138,917	5,674,129	6,423,804	6,649,955	6,649,955	6,649,955	2.30%	0.56%	17.38%
45 Shasta	1,038,989	1,052,843	1,068,840	1,254,578	1,254,578	2,104,558	2,440,920	21.22%	21.22%	21.22%	1,068,840	1,254,578	1,254,578	2,104,558	2,440,920	2,440,920	2,440,920	21.22%	21.22%	21.22%
46 Sierra	1,859	1,447	5,221	11,764	5,743	3,289	4,899	-22.16%	260.82%	113.83%	5,221	11,764	5,743	3,289	4,899	4,899	4,899	-22.16%	260.82%	113.83%
47 Siskiyou	224,830	272,834	543,621	817,918	1,406,752	1,937,571	2,432,647	21.35%	99.25%	50.46%	272,834	543,621	817,918	1,406,752	1,937,571	2,432,647	2,432,647	21.35%	99.25%	50.46%
48 Solano	1,730,378	2,824,321	3,509,231	4,027,797	4,818,092	6,172,036	6,927,477	63.22%	24.25%	14.78%	2,824,321	3,509,231	4,027,797	4,818,092	6,172,036	6,927,477	6,927,477	63.22%	24.25%	14.78%
49 Sonoma	1,574,339	2,300,343	3,138,380	2,986,324	4,490,638	5,096,804	5,518,026	46.11%	36.43%	14.85%	3,138,380	2,986,324	4,490,638	5,096,804	5,518,026	5,518,026	5,518,026	46.11%	36.43%	14.85%
50 Stanislaus	2,779,597	2,996,195	4,038,823	4,630,574	5,048,691	6,541,615	8,818,452	7.79%	34.80%	14.65%	4,038,823	4,630,574	5,048,691	6,541,615	8,818,452	8,818,452	8,818,452	7.79%	34.80%	14.65%
51 Sutter/Yuba	309,808	463,803	1,178,249	1,425,223	1,425,223	2,021,009	2,306,661	49.71%	153.61%	2.31%	1,178,249	1,425,223	1,425,223	2,021,009	2,306,661	2,306,661	2,306,661	49.71%	153.61%	2.31%
52 Tehama	210,056	208,453	383,647	367,060	436,613	613,534	419,436	-0.76%	84.04%	4.32%	208,453	383,647	367,060	436,613	419,436	419,436	419,436	-0.76%	84.04%	4.32%
53 Trinity	51,503	76,531	51,536	82,569	157,115	159,868	324,483	48.60%	32.66%	60.22%	76,531	51,536	82,569	157,115	159,868	324,483	324,483	48.60%	32.66%	60.22%
54 Tulare	3,186,273	3,542,745	4,059,215	4,541,122	6,071,591	8,100,660	9,346,322	11.12%	14.58%	11.87%	3,542,745	4,059,215	4,541,122	6,071,591	8,100,660	9,346,322	9,346,322	11.12%	14.58%	11.87%
55 Tuolumne	81,530	122,576	220,920	578,403	691,692	821,685	830,332	50.34%	80.23%	161.8%	122,576	220,920	578,403	691,692	821,685	830,332	830,332	50.34%	80.23%	161.8%
56 Ventura	3,278,273	4,609,149	4,924,661	4,478,858	5,018,653	4,628,733	5,448,662	6.85%	40.60%	9.05%	4,609,149	4,924,661	4,478,858	5,018,653	4,628,733	5,448,662	5,448,662	6.85%	40.60%	9.05%
57 Yolo	555,565	577,220	834,590	1,440,099	2,279,844	3,953,368	4,440,337	3.89%	44.59%	72.55%	577,220	834,590	1,440,099	2,279,844	3,953,368	4,440,337	4,440,337	3.89%	44.59%	72.55%
Total	107,842,154	134,848,199	181,835,487	300,049,787	395,956,166	510,265,740	510,265,740	25.04%	34.84%	29.91%	181,835,487	236,227,631	300,049,787	395,956,166	510,265,740	510,265,740	510,265,740	25.04%	34.84%	29.91%

(a) In FY98-99, became a case-rate county. Data no longer available.
(b) As of FY97-98, includes services provided under contract WFPHP except for FY00-01
Indicates estimates.

Short-Doyle/M
Early Periodic Screening, Dia
Fiscal Years 1994-1999
(FFP)

County of Beneficiary	Payments				
	1994-95	1995-96	1996-97	1997-98	1998-99
31 Placer	575,643	760,995	944,314	926,975	1,111,087
32 Plumas	59,042	59,741	93,788	96,195	143,678
33 Riverside	4,303,249	5,787,272	6,114,921	8,048,891	8,448,865
34 Sacramento	1,809,363	3,037,091	8,287,023	15,677,693	21,592,864
35 San Benito	183,374	188,896	283,352	284,394	378,732
36 San Bernardino	4,999,252	5,308,496	6,728,394	6,998,497	7,749,661
37 San Diego	5,896,860	7,138,322	7,667,395	9,126,472	13,156,947
38 San Francisco	5,105,133	7,275,661	8,123,600	9,105,672	11,217,879
39 San Joaquin	1,945,089	2,768,965	3,276,895	4,819,320	5,065,394
40 San Luis Obispo	973,163	1,324,071	1,761,643	1,736,291	2,341,960
41 San Mateo (a)	2,833,431	3,868,928	5,838,536	4,193,250	
42 Santa Barbara	911,260	1,528,799	4,378,607	5,275,965	7,275,372
43 Santa Clara	9,608,956	10,384,712	12,384,078	12,642,260	14,584,559
44 Santa Cruz	2,445,792	2,964,760	3,791,107	5,136,917	5,674,129
45 Shasta	1,038,969	1,062,843	1,068,840	1,254,578	1,697,956
46 Sierra	1,859	1,447	5,221	11,164	5,743
47 Siskiyou	224,830	272,834	543,621	817,918	1,406,752
48 Solano (b)	1,730,378	2,824,321	3,509,231	4,027,797	4,818,092
49 Sonoma	1,574,339	2,300,343	3,138,380	2,986,324	4,490,638
50 Stanislaus	2,779,597	2,996,195	4,038,823	4,630,574	5,048,691
51 Sutter/Yuba	309,808	463,803	1,176,249	1,203,430	1,425,223
52 Tehama	210,056	208,453	383,647	367,060	436,613
53 Trinity	51,503	76,531	51,536	82,569	157,115
54 Tulare	3,188,273	3,542,745	4,059,215	4,541,122	6,071,591
55 Tuolumne	81,530	122,576	220,920	578,403	691,692
56 Ventura	3,278,273	4,609,149	4,924,691	4,478,858	5,018,853
57 Yolo	555,585	577,220	834,590	1,440,099	2,279,844
Total	107,842,154	134,848,199	181,835,487	236,227,631	300,049,787

(a) In FY98-99, became a case-rate county. Data no longer available.

(b) As of FY97-98, includes services provided under contract w/PHP except for FY00-01
Indicates estimates.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 5)

Response to Final Draft Audit Report Sept 2002

SB90 96-99 AUDIT

Office of Controller

**TOM HUENING
CONTROLLER**

ROBERT G. ADLER
ASSISTANT CONTROLLER

KANCHAN K. CHARAN
DEPUTY CONTROLLER



COUNTY OF SAN MATEO

555 COUNTY CENTER, 4TH FLOOR • REDWOOD CITY • CALIFORNIA 94063

TELEPHONE: (650) 363-4777

FAX: (650) 363-7888

www.co.sanmateo.ca.us/controller/

COUNTY RESPONSE
FR: AURORA 4.15.05

February 20, 2003

Richard J. Chivaro, Chief Counsel
California State Controller
P.O. Box 942850
Sacramento, California 94250-0001

Dear Mr. Chivaro:

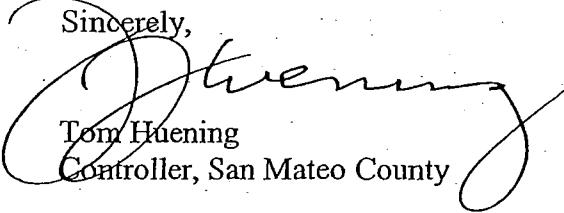
Enclosed is San Mateo County's response to the State Controller's Office letter dated December 26, 2002 (received on January 3, 2003,) regarding an audit of our claims for the costs of the legislatively mandated *Handicapped and Disabled Students Program* (Chapter 1747, Statutes of 1984, and Chapter 1274, Statutes of 1985) for the period of July 1, 1996 through June 30, 1999.

Pursuant to the audit process offered in your letter, San Mateo County is not in agreement with many of the audit findings and requests an informal audit review meeting with the State Controllers Office. San Mateo's response to the AB 3632 audit findings is appended to this letter.

In addition, San Mateo, as well as other counties who are also in the final audit review process, will be attending a February 26, 2003 pre-hearing conference meeting in Sacramento for discussion of a Proposed Parameters and Guidelines Amendment to the *Handicapped and Disabled Students* program. We would like to know whether you and/or other appropriate members of your staff could be available for an informal audit review meeting to discuss several findings—crisis intervention and medication support, that are consistent and disputed by all audited counties.

Please contact Gale Bataille, Mental Health Director at (650) 573-2544 or e-mail gbataille@co.sanmateo.ca.us regarding your availability for the requested February 26 meeting and for the San Mateo specific informal audit reviewhgf.

Sincerely,



Tom Huening
Controller, San Mateo County

cc: Jim Spano, SCO
Walter Barnes, SCO
Gale Bataille, Mental Health Director
Susan Tumang, San Mateo County Controllers Office

**SAN MATEO COUNTY
HANDICAPPED AND DISABLED STUDENTS PROGRAM
RESPONSES TO FINAL AUDIT REPORT**

July 1, 1996 through June 30, 1999

The State Controller's Office conducted a field audit of the Handicapped and Disabled Students state mandated program for the San Mateo County Mental Health Division. This audit covered three fiscal years: 1996-97, 1997-98 and 1998-99. The total net disallowance stated in the draft audit report totaled \$7,768,163.

The County of San Mateo submitted an appeal of the audit findings. The SCO subsequently found that \$3,826,914 of the costs were allowable and the remaining \$3,940,249 was unallowable. The County has again carefully examined the remaining issues raised in the State Controller's findings of December 2002 and wishes to respond to each issue individually. It is hoped that upon review of the County's responses, the State Controller will issue a fair and equitable final audit report.

FINDING 2 – Ineligible treatment costs claimed

(Total = \$1,371,726)

- Treatment
 - \$1,007,332 is for Medication Monitoring (15/60)
 - \$224,318 is for Crisis Intervention (15/70)
 - \$76,223 is for Residential, Other (05/60)
 - \$21,708 is for Skilled Nursing (10/60)
 - \$38,894 is for Hospital Inpatient (05/10) ~~OK~~
 - \$3,251 is for Crisis Stabilization (10/20)

SCO Recommendation: *The county should ensure that costs claimed are eligible increased costs incurred as a result of the mandate.*

County Response:

Again, the County concurs with the disallowance of mode 05, function 10 (hospital inpatient) and mode 10, function 20 (hospital-based crisis stabilization). However, we appeal the disallowances of the following: 15/60, Medication Support Services; 15/70, Crisis Intervention; a portion of the 05/60 services that were, in fact, day treatment or mental health services that happened to be miscoded as residential, other; and services erroneously coded as 10/60 (SNF augmentation) that were, in fact, intensive day treatment (10/85).

- **15/60 Medication Visits**

The California Code of Regulations in Section 60020(i) defines Mental Health services as such: "Mental Health services" means mental health assessments and the

following services when delineated on an IEP in accordance with Section 7572(d) of the Government Code; psychotherapy as defined in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, *medication monitoring*, intensive day treatment, day rehabilitation, and case management. "Medication monitoring" is clearly defined in 60020(f) as including all medication support services including prescribing, administering, dispensing, and monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness. The cost of the medications is not a covered service and has not been billed in the SB 90 claiming process.

By citing the above code sections that clearly mandate medication monitoring as a service provided under Chapter 26.5, the Parameters and Guidelines (Ps and Gs) includes medication monitoring by direct reference. The County appeals \$1,006,672 of the total disallowance of \$1,007,332, less a \$660 adjustment (discussed later), which should be an approved claim of eligible services.

- **15/70 Crisis Intervention**

It was the intent of AB 3632 and later amendments not to include mental health services designed to respond to "psychiatric emergencies or other situations requiring an immediate response" (Article 2, section 60040(e)). This language was related primarily to inpatient hospitalization. The services currently in dispute were not provided as psychiatric emergency services leading to hospitalization or other emergency care but rather were provided in the normal course of mental health treatment. These services were provided as defined in the California Code of Regulations, Title 9, Section 543, and designed to alleviate problems, which, if left untreated, presented imminent threat to the pupil.

The State Controller's auditor claimed that treatment costs associated with medication monitoring and crisis intervention are ineligible, stating that these costs are not specified in the Parameters and Guidelines.

In their response to the County's objections to this area of disallowance in the draft audit report, the SCO stated the following:

"Each treatment service above is defined under Title 9, Section 543 of the California Administrative Code. Since medication monitoring and crisis intervention were both defined in regulation at the time the Parameters and Guidelines were adopted and were not included as reimbursable costs, the only reasonable conclusion is that they were intentionally excluded and therefore, not reimbursable."

The Parameters and Guidelines, Summary of Mandates references California Code of Regulations, Division 9, Sections 60000-60200, Title 2; as well as Division 7, Title 1 of the Government Code commencing with Section 7570. The Parameters and Guidelines specifically cite Government Code sections 7571 and 7576 and their implementing regulations as governance. The "implementing regulations" for the

provision of Chapter 25.6 of the Government Code are found in the California Code of Regulations, Title 2, Division 9, the Joint Regulations for Handicapped Children.

Section 7576 (amended in 1996) of the Government Code identifies the Department of Mental Health's responsibility for the provision of Mental Health services and states, in part, that the Department of Mental Health "shall be responsible for the provision of mental health services as defined in regulations by the State Department of Mental Health, developed in connection with the State Department of Education, when required in the pupil's individualized education plan".

Additionally, the Parameters and Guidelines references Section 5651 of the Welfare and Institutions code assures, in part, that "the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirement of that chapter".

Given the broad and general construction of the Parameters and Guidelines which were passed during the late 1980's and early 1990's, it's not surprising that medication monitoring and crisis intervention were not specifically mentioned as a reimbursable components. The Commission on State Mandates during this era consciously crafted Ps and Gs that were neither exhaustive nor complete. Rather, it was generally believed by Commission, State, local agencies and the State Controller, that the mandate would be implemented differently in virtually every county in the state. The Ps and Gs were meant to be an inclusive document, not exclusive.

In short, if the activity fell into the referenced mandate regulations or statutes, all parties understood that the associated costs would be eligible to claim and would be subject to State audit for reasonability.

Over time, the Ps and Gs have become much more detailed, lengthy, legalistic and exhaustive. Looking at the Ps and Gs from the earlier eras, they appear overly broad, general and almost quaint in their lack of detail. Neither format is inherently superior, however, the difference reflects the paradigm shift at the Commission on State Mandates over the past decade.

Since 1991, the State Controller, the Department of Mental Health and California counties have agreed that medication monitoring and crisis intervention were eligible cost components for the AB 3632 program. Every year, the State Controller has desk reviewed every AB 3632 claim individually and regularly consulted DMH for their advice in determining eligibility. Without fail, the State has consistently reimbursed counties for these two components, and did so fully realizing what was in the Ps and Gs for this program.

The County agrees that if the State Controller now believes that this service is ineligible because it is not specifically listed in the guidelines that the Parameters and

Guidelines need to be amended accordingly. That's a reasonable prospective fix, however, it fails to address the fiscal years covered by this field audit.

In short, the State Controller is basing this significant disallowance on nothing more than an "assumption" on their part. It is not reasonable for the State Controller to disallow costs associated with these state mandated services when they are clearly included in the implementing regulations which are included in the Parameters and Guidelines for this program.

The County appeals the disallowance of \$224,318, which should be an approved claim.

- **Miscoded but Eligible Services**
 - **05/60 Residential, Other** -- \$76,223 disallowed
 - **10/60 Skilled Nursing** -- \$21,708 disallowed

In our earlier appeal, we mentioned that some of the disallowance of claimed amounts were due to the miscoding of services in our MIS system. This occurred in 1996-97 for Victor (provider 4194), Edgewood (provider 9215) and St. Vincent's School (provider 9224). Likewise, this occurred for Victor (provider 4194) and Quality Group Home (provider 9232) in 1997-98. The situation continued for Victor (provider 4194) in 1998-99.

Victor and St. Vincent's were erroneously coded in MIS as MOS 5, service function 60 (residential, other), even though they both provided SB90 billable treatment services, which is what we contracted for. Our mistake was that, since the pupils receiving these services were in a residential setting, we coded the services as residential, while they were, in fact, either day treatment (Victor) or outpatient mental health services (St. Vincent's). Victor provided billable rehabilitative day treatment (10/95) on weekdays, supplemented by non-billable residential days on weekends. St. Vincent's had been also coded 05/60, residential. The actual services provided were Mental Health Services, 15/45, all claimable under SB 90.

The following table shows the correct recoding of services and the consequent reallocation of costs. Similar data are provided to show the correct service recoding for 1997-98 (Victor and Quality Group Home) and 1998-99 (Victor). Backup detail is provided in Exhibit A.

Based on the corrected coding of services that were disallowed, San Mateo appeals the following disallowances (column titled "Amount Disallowed") and claims a revised "Amount to be Allowed":

• 1996-97

Provider	Original Coding	IEP*Units/ Tot. Units	Amount Disallowed	Corrected Coding	IEPUnits/ Tot. Units	Amount to be Allowed
Victor	05/60	124/1091	\$9,720	05/60	140/308	
"				10/95	352/783	\$27,592
Edgewood	10/60	335/335	\$21,708	10/85	335/335	\$21,708
St. Vincent's	05/60	108/381	\$7,000	15/45	3,996/14,097	\$7,000
Net			\$38,428			\$56,300

*IEP (individualized education plan) = 3622

• 1997-98

Provider	Original Coding	IEPUnits/ Tot. Units	Amount Disallowed	Corrected Coding	IEPUnits/ Tot. Units	Amount to be Allowed
Victor	05/60	405/832	\$25,569	05/60	115/237	
				10/95	290/595	\$21,750
Quality Grp. Home	05/60	65/65	\$5,850	15/45	3055/3055	\$5,850
San Mateo Co.	05/60		\$12,305			\$0
Net			\$43,724			\$27,600

• 1998-99

Provider	Original Coding	IEPUnits/ Tot. Units	Amount Disallowed	Corrected Coding	IEPUnits/ Tot. Units	Amount to be Allowed
Victor	05/60	317/1231	\$15,779	05/60	129/550	
	10/85	188/681	*	10/95	188/681	\$7,232
	15/60	330/1275	\$1,122**		330/1275	462**
Net			\$15,779***			\$7,232***

* Original amount allowed = \$17,573. Upon recoding and reallocation, the amount to be allowed dropped to \$7,232.

**15/60: Original 15/60 claimed amount (\$1,122) should be reduced by \$660 (new total allowed = \$462). Thus 15/60 disallowance should be reduced by same amount.

***Total does not include 15/60.

• Total 3 Years

	Original Coding	IEPUnits/ Tot. Units	Amount Disallowed	Corrected Coding	IEPUnits/ Tot. Units	Amount to be Allowed
Net			\$97,931**			\$91,132**

**Does not include 15/60 from 1998-99. See above. The -\$660 for 15/60 should be deducted from the 15/60 total: new total claim = \$1,006,672, rather than \$1,007,332.

The County appeals the full disallowance of \$97,931 for these services. In actuality, \$91,132 should have been approved claims for services recoded to reflect provided service, and we dispute that amount of the disallowance. We do not dispute the remainder.

FINDING 3 --- State categorical revenues not properly deducted from claimed costs

- SEP (3632) revenue not equitably offset from assessment, case management and treatment costs
- EPSDT \$2,069,194

SCO Recommendation: The county should ensure that all applicable reimbursements received are offset against costs claimed.

County Response

First, concerning SEP (3632) revenue, the County offset the state AB3632 allocated funds from treatment costs instead of allocating to the other categories because it was determined that there were enough treatment costs to absorb the revenue. Allocating it to all categories would result in the same net claim amount.

Second, the County still does not concur with the finding that over \$2 million in EPSDT state revenue should have been offset from the claimed SB 90 costs. We do concur that an appropriate amount of this revenue should be offset. The issue is to determine how much is appropriate. The following is the methodology used to determine the correct and reasonable amount to offset in each of the three audited years.

Calculating Appropriate Share of State EPSDT to Offset SB 90 Claims

EPSDT is a state share to match federal Medi-Cal for full-scope Medi-Cal beneficiaries **under age 21**. The EPSDT settlement we get yearly from the state is calculated as the cost of **non-inpatient** services to these beneficiaries that is **above** the amount of service provided to such clients in FY 1994-95 (called the **baseline**). Each year the baseline is adjusted for inflation, and the state EPSDT match is calculated as the amount spent on services for the EPSDT population above that adjusted baseline.

The SB 90 auditor has offset the entire state EPSDT settlement amounts for each year audited. Thus, the state controller's offset has attributed the entire amount of EPSDT state funds to 3632 services. In fact the majority of services for which we receive the EPSDT funds are **not** 3632 services. Many Medi-Cal beneficiaries under 21 are not 3632 youth. We developed a methodology to determine the amount of the state EPSDT match that should be attributed to 3632 services in each of the audited years. The calculation requires data that are not found in the SB 90 claim

Methodology

First, we determined, for the baseline year (1994-95), the total non-inpatient Medi-Cal units for all youth under 21 (the EPSDT "Universe"), along with the subset of SB 90-eligible non-inpatient Medi-Cal units for 3632 youth under 21. For each year of the audit (1996-97, 1997-98, 1998-99), we determined, again, the total Medi-Cal units for all Medi-Cal youth under 21 and the number of Medi-Cal units of service for 3632 youth under 21.

We then calculated the increases over 1994-95 baseline units for 3632 under-21 Medi-Cal and total under-21 Medi-Cal units. Then we derived the percent of total under-21 Medi-Cal increase that was attributable to 3632 units. In 1998-99, for an unknown reason, there was a decrease in 3632 units and total units from baseline. We have been trying to determine the reason for this. Since we have no reason to think that the pattern of services would differ from the prior few years, we agreed that the percent of increase in EPSDT services that were 3632 in 1998-99 would be approximately the same as the prior year. With this method, the revised **amount of EPSDT settlement attributable to 3632 over the three audit years was \$55,407**. This small amount is due to small changes from baseline for 3632 under-age-21 Medi-Cal services, with most increases in under-21 Medi-Cal services occurring for non-3632 youth. We have spent considerable time analyzing and refining the EPSDT units of service. Summary detail is included in Exhibit B.

Since the above calculations are related to the way the EPSDT settlement is determined (i.e., the cost of under-21 Medi-Cal services **over and above the 1994-95 baseline**), this is a true and fair way to determine how much of that increase over baseline in each of the three years of the audit should be attributed to AB 3632. Therefore, we appeal the total \$2,069,194 offset, which should have been \$55,407, and we should have the original disallowance decreased by \$2,013,787.

Summary of Appeal

In summary, we appeal the following disallowances, which should have been approved costs in our claims over the three years.

- \$1,006,672 for 15/60 – Medication Monitoring
- \$224,318 for 15/70 – Crisis Intervention as part of ordinary mental health services
- \$91,132 for the following corrected services:
 - 10/85 (intensive day treatment) -- \$21,708
 - 10/95 (rehabilitative day treatment) -- \$56,574
 - 15/45 (mental health services) -- \$12,851

The above totals \$1,322,122 in claims that should not be disallowed.

In addition, the revenue offset by SCO should be reduced.

- \$2,013,787 -- EPSDT

In total, our cumulative disallowances should be reduced by \$3,335,909, as delineated above. These represent legitimate AB 3632 services claimed to SB 90 and revenue offsets by SCO that are above and beyond revenue attributable to 3632 services.

Exhibit A

**Corrected Coding and Costs
For Three Years**

Summary of Units of Service 96-97, 97-98, 98-99 for SB 90 Audit Appeal
Corrected Services

	Original Coding			Corrected Coding			
	IEP Units	MCUnits	Tot Units	% IEP	IEP Units	MCUnits	
<u>1996-97</u>							
Victor							
05/60	124		1091	11.37%	140	0	308
10/95					352	0	783
St. Vincent's							
05/60	108		381	28.35%	3,996	0	14,097
15/45							
Edgewood							
10/60	335		335	100.00%	335	0	335
10/85							
<u>1997-98</u>							
Victor							
05/60	405		832	48.68%	115	0	237
10/95					290	0	595
Quality Grp Home							
05/60	65		65	100.00%	3,055	0	3,055
15/45							
<u>1998-99</u>							
Victor							
05/60	317		1231	25.75%	129		550
15/60	330		1275	25.88%	330	330	1,275
10/85	188		681	27.61%	188	188	681
10/95							

Only some days at Residential, Other, with no Day Tx.
Rehabilitative Day Tx provided (weekdays): miscoded as 05/60

Mental Health Services provided, not Residential, Other
(we paid for treatment patch): miscoded as 05/60

Intensive Day Tx provided, not SNF Augmentation:
miscoded as 10/60

Only some days at Residential, Other, with no Day Tx.
Rehabilitative Day Tx provided (weekdays): miscoded as 05/60

Mental Health Services provided, not Residential, Other
(we paid for treatment patch): miscoded as 05/60

Day Tx Rehabilitative provided, not Day Tx Intensive

PROVIDER NAME	LEGAL ENTITY NO.	MODE	SFC	SEP UNITS	TOTAL UOS	C (A/B)		D	I (C)	J	K (J x 15%)	L (J+K)	M (L x 50%)	N (M x C)	SEP REVENUE ONLY	MEDI-CAL REVENUE @ 50%	TOTAL REVENUE	GROSS REVENUE	MEDICAL REVENUE	ADD ADMIN REVENUE	TOTAL REVENUE	NET AMOUNT per MH	Amount Allowable		
						PERCENT OF SEP TO TOTAL	TOTAL COST W/OUT ADMIN																		
VICTOR RESIDENTIAL	00198	5	60	140	308	45.45%	24,143	10,974	0	0	0	0	0	0	0	0	0	0	0	0	0	10,974	0	0	
VICTOR RESIDENTIAL	00198	10	95	352	783	44.96%	61,377	27,592	0	0	0	0	0	0	0	0	0	0	0	0	0	0	27,592	27,592	0
ST VINCENT'S SCHOOL	00421	15	45	3,996	14,097	28.35%	24,696	7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7,000	7,000	0
EDGEWOOD	00273	10	85	335	335	100.00%	21,708	21,708	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Totals				4,823	15,523		131,924	67,275															21,708	21,708	56,301

FISCAL YEAR 1997 - 98		A	B	C	D	I	J	K	L	M	O	
483632 / SB90				(A - B)	er ledg	(C X D)	MH 1966	(J x 15%)	(J+K)	(L x 50.98%)	(I - N)	
02.20.03					JTAL							
LEGAL ENTITY NO.	MODE	SFC	SEP UNITS	TOTAL UOS	PERCENT OF SEP TO TOTAL	TOTAL GROSS SEP	MEDI-CAL REVENUE GROSS	ADD ADMIN REVENUE	TOTAL REVENUE	MEDI-CAL REVENUE @ 50.98%	SEP REVENUE ONLY	AMOUNT ALLOWABLE
VICTOR RESIDENTIAL	5	60	115	237	48.52%	8,624	0	0	0	0	0	0
VICTOR RESIDENTIAL	10	95	290	595	48.74%	21,750	44,625	0	0	0	0	0
QUALITY GROUP HOME	15	45	3,055	3,055	100.00%	5,850	5,850	0	0	0	0	21,750
			3,460	3,887		68,250						5,850
						36,225						27,601

Tracing of Disallowed and Disputed Costs
 SB 90 Audit

	Disallowed			Total	Disputed			Total	Revised Allowed			Total
	96-97	97-98	98-99		96-97	97-98	98-99		96-97	97-98	98-99	
05/10	24,848	14,046	0	38,894	0	0	0	0	0	0	0	0
10/20	3,251	0	0	3,251	0	0	0	0	0	0	0	0
05/60	16,720	43,724	15,779	76,223	16,720	31,419	15,779	63,918	0	0	0	0
10/60	21,708	0	0	21,708	21,708	0	0	21,708	0	0	0	0
10/85												
10/95									21,708	0	0	21,708
15/45									27,592	21,750	7,232	56,574
15/60	331,014	267,479	408,839	1,007,332	331,014	267,479	408,839	1,007,332	7,000	5,850	0	12,850
15/70	76,320	83,294	64,704	224,318	76,320	83,294	64,704	224,318	331,014	267,479	408,179	1,006,672
Total	473,861	408,543	489,322	1,371,726	445,762	382,192	489,322	1,317,276	76,320	83,294	64,704	224,318
									463,634	378,373	480,115	1,322,122
									-10,227	-30,170	-9,207	-49,604

Victor (Provider 4194) Units 1996-97 Corrected

Client	Provider	Episode	Special Unit	Dis Date	POS	Fund	S Date	OS	MC	Flag	1995	Units	95	60	Units	Rev.	Rev
	4194	11	1	12/11/96	7/12/97	05	60	12/31/96	21			15			6		
	4194	11	1	12/11/96	7/12/97	05	60	1/31/97	31			23			8		
	4194	11	1	12/11/96	7/12/97	05	60	2/28/97	28			20			8		
	4194	11	1	12/11/96	7/12/97	05	60	3/31/97	31			21			10		
	4194	11	1	12/11/96	7/12/97	05	60	4/30/97	30			22			8		
	4194	11	1	12/11/96	7/12/97	05	60	5/31/97	31			22			9		
	4194	11	1	12/11/96	7/12/97	05	60	6/30/97	30			21			9		
	4194	8	1	7/1/93	7/12/96	05	60	7/12/96	11			9			2		
	4194	28		8/14/96	8/15/97	05	60	8/31/96	18			13			5		
	4194	28		8/14/96	8/15/97	05	60	9/30/96	30			21			9		
	4194	28		8/14/96	8/15/97	05	60	10/31/96	31			23			8		
	4194	28		8/14/96	8/15/97	05	60	11/30/96	30			21			9		
	4194	28		8/14/96	8/15/97	05	60	12/31/96	31			22			9		
	4194	28		8/14/96	8/15/97	05	60	1/31/97	31			23			8		
	4194	28		8/14/96	8/15/97	05	60	2/28/97	28			20			8		
	4194	28		8/14/96	8/15/97	05	60	3/31/97	31			21			10		
	4194	28		8/14/96	8/15/97	05	60	4/30/97	30			22			8		
	4194	28		8/14/96	8/15/97	05	60	5/31/97	31			22			9		
	4194	28		8/14/96	8/15/97	05	60	6/30/97	30			21			9		
	4194	9		7/1/93	7/17/96	05	60	7/17/96	16			12			4		
	4194	17		6/12/95	8/19/96	05	60	7/31/96	31			23			8		
	4194	17		6/12/95	8/19/96	05	60	8/19/96	18			12			6		
	4194	22		9/24/96	11/23/96	05	60	9/30/96	7			5			2		
	4194	22		9/24/96	11/23/96	05	60	10/31/96	31			23			8		
	4194	22		9/24/96	11/23/96	05	60	11/23/96	22			16			6		
	4194	28		12/4/96	12/7/96	05	60	12/7/96	3			3			0		
	4194	19		1/19/96	9/25/96	05	60	7/31/96	31			23			8		
	4194	19		1/19/96	9/25/96	05	60	8/31/96	31			22			9		
	4194	19		1/19/96	9/25/96	05	60	9/25/96	24			17			7		
	4194	4		6/21/96	9/3/96	05	60	7/31/96	31			23			8		
	4194	4		6/21/96	9/3/96	05	60	8/31/96	31			22			8		
	4194	4		6/21/96	9/3/96	05	60	9/3/96	2			1			1		
	4194	13	1	9/25/96	5/21/98	05	60	9/30/96	6			4			2		

Client	Provider	Episode	Spec	AdmIDat	DischDat	MOS	Funct	SvcDat	UOS	NCAFlag	1095 Units	05/90 Units
	4194	13	1	9/25/96	5/21/98	05	60	10/31/96	31		23	8
	4194	13	1	9/25/96	5/21/98	05	60	11/30/96	30		21	9
	4194	13	1	9/25/96	5/21/98	05	60	12/31/96	31		22	9
	4194	13	1	9/25/96	5/21/98	05	60	1/31/97	31		23	8
	4194	13	1	9/25/96	5/21/98	05	60	2/28/97	28		20	8
	4194	13	1	9/25/96	5/21/98	05	60	3/31/97	31		21	10
	4194	13	1	9/25/96	5/21/98	05	60	4/30/97	30		22	8
	4194	13	1	9/25/96	5/21/98	05	60	5/31/97	31		22	9
	4194	13	1	9/25/96	5/21/98	05	60	6/30/97	30		21	9
								Total	1091		783	308
								26.5	492		352	140
												1091
												492

St. Vincent's (Provider 9224) 1996-97 Units of Service Correction

Client	Episode	Specd	Provider	Team	Admit Date	Disch Date	MO	MID	MOS	Function	Original	Revised
											UOS	MCAI Flag
	12		9224	0	6/20/96	10/17/96	7	31	96	05	60	
	12		9224	0	6/20/96	10/17/96	8	31	96	05	60	1,147
	12		9224	0	6/20/96	10/17/96	9	30	96	05	60	1,147
	12		9224	0	6/20/96	10/17/96	10	17	96	05	60	1,110
	3		9224	0	10/1/96	11/13/97	10	31	96	05	60	592
	3		9224	0	10/1/96	11/13/97	11	30	96	05	60	1,147
	3		9224	0	10/1/96	11/13/97	12	31	96	05	60	1,110
	3		9224	0	10/1/96	11/13/97	1	31	97	05	60	1,147
	3		9224	0	10/1/96	11/13/97	2	28	97	05	60	1,147
	3		9224	0	10/1/96	11/13/97	3	31	97	05	60	1,036
	3		9224	0	10/1/96	11/13/97	4	30	97	05	60	1,147
	3		9224	0	10/1/96	11/13/97	5	31	97	05	60	1,110
	3		9224	0	10/1/96	11/13/97	6	30	97	05	60	1,147
SEP											381	14,097
											108	3,996
Total Cost	25,958.0											
# Units	381											
\$ Per Unit	68.13											
SMA	1.86											
Mins/Day	36.63											
Use	37.00											

Summary Edgewood Services 1996-97											
Original Miscoding and Corrected Coding											
Client	Episode	Provider	Team	Admit Date	Disch Date	Svc Dates	MOS	Function	UOS	Original Miscoding	Corrected Coding
	6	9215	1	7/1/96	6/1/97	7/1/96-5/31/97	10	60		335	335
										1	10/85
											335
											335

Quality Group Home Corrected Coding 1997-98

Client	Provider	Team	Episode	Spec'd	Admit Date	Disch Date	MMID	MOS	Function	UOS	MCA	Reg	Corrected
	9232	0	14	1	8/28/97	11/1/97	8/31/97	05	60	4			188
	9232	0	14	1	8/28/97	11/1/97	9/30/97	05	60	30			1410
	9232	0	14	1	8/28/97	11/1/97	10/31/97	05	60	31			1457
										65			3055
Total Units													
Cost/Day													
SMA													
Mins/Day													
Use													

Victor (Provider 4194) Units 1998-99 Corrected

Summary by Client by Month

Client	Episodes	Specified	Provider	Year	Admit Date	Discharge Date	By Mo.	Orig.	Mins.	Mo. Tot.
	21	1	4194	0	12/18/98	9/10/99	12/31/98			
	22	1	4194	1	1/5/99	6/30/99	1/31/99	18	31	18
	22	1	4194	1	1/5/99	6/30/99	2/28/99	17	28	17
	22	1	4194	1	1/5/99	6/30/99	3/31/99	22	31	22
	22	1	4194	1	1/5/99	6/30/99	4/31/99		30	0
	22	1	4194	1	1/5/99	6/30/99	5/31/99	9	31	9
	18	1	4194	1	1/5/99	6/30/99	6/30/99	17	30	17
	18	1	4194	1	8/7/98	6/30/99	8/31/98	11	60	11
	18	1	4194	1	8/7/98	6/30/99	9/30/98	20	45	20
	18	1	4194	1	8/7/98	6/30/99	10/31/98	21	45	21
	18	1	4194	1	8/7/98	6/30/99	11/30/98	17	45	17
	18	1	4194	1	8/7/98	6/30/99	12/31/98	14	45	14
	18	1	4194	1	8/7/98	6/30/99	1/31/99	11	45	11
	18	1	4194	1	8/7/98	6/30/99	2/28/99	16	45	16
	18	1	4194	1	8/7/98	6/30/99	3/31/99	21	45	21
	18	1	4194	1	8/7/98	6/30/99	4/30/99	15	45	15
	18	1	4194	1	8/7/98	6/30/99	5/31/99	19	45	19
	13	1	4194	1	11/12/98	6/30/99	6/30/99	17	45	17
	13	1	4194	1	11/12/98	6/30/99	11/30/98	10	60	10
	13	1	4194	1	11/12/98	6/30/99	12/31/98	14	45	14
	13	1	4194	1	11/12/98	6/30/99	1/31/99	18	45	18
	13	1	4194	1	11/12/98	6/30/99	2/28/99	17	45	17
	13	1	4194	1	11/12/98	6/30/99	3/31/99	22	45	22
	13	1	4194	1	11/12/98	6/30/99	4/30/99	15	45	15
	13	1	4194	1	11/12/98	6/30/99	5/31/99	19	45	19
	17	1	4194	1	7/1/98	12/7/98	7/31/98	20	45	20
	17	1	4194	1	7/1/98	12/7/98	8/31/98	13	45	13
	17	1	4194	1	7/1/98	12/7/98	9/30/98	20	45	20
	17	1	4194	1	7/1/98	12/7/98	10/31/98	21	45	21
	17	1	4194	1	7/1/98	12/7/98	11/30/98	17	45	17
	15	2	4194	1	7/1/98	12/7/98	12/7/98	5	45	5
					5/14/99	7/31/98	1	19	75	19
									31	31

Client	Episode	SpesEd	Provider	Team	Unit	Date	Discipline	MM	DD	YY	05/99	06/99	07/99	08/99	09/99	Days	Mo	Re	5/99
	15	2	4194	1	7/1/98	5/14/99	8/31/99	1			16				16	31		15	
	15	2	4194	1	7/1/98	5/14/99	9/30/98	1			20			45	20	30		10	
	15	2	4194	1	7/1/98	5/14/99	10/31/98	1			21				21	31		10	
	15	2	4194	1	7/1/98	5/14/99	11/30/98	1			17			45	17	30		13	
	15	2	4194	1	7/1/98	5/14/99	12/31/98	1			14			45	14	31		17	
	15	2	4194	1	7/1/98	5/14/99	1/31/99	1			18				18	31		13	
	15	2	4194	1	7/1/98	5/14/99	2/28/99	1			17			30	17	28		11	
	15	2	4194	1	7/1/98	5/14/99	3/31/99	1			22			45	22	31		9	
	15	2	4194	1	7/1/98	5/14/99	4/30/99	1			15			45	15	30		15	
	15	2	4194	1	7/1/98	5/14/99	5/14/99	1			10				10	13		3	
Special											681	1231	1275	681	1231			550	
Ed.											188	317	330	188	317			129	
															all MC				

Exhibit B

**State EPSDT Revenue
Offsets for Three Years**

Med-Cal Units of Service Summary
 AB 3632 vs. All <21 Medi-Cal (3632 units are claimable to SB 90)

A. 3632 and Total Medi-Cal Units for Youth Under 21

	3632 MC	All MC
94-95 Baseline	843,207	2,255,605
96-97	849,714	2,759,431
97-98	863,002	2,895,133
98-99*	473,633	2,227,307

B. 3632 % of Increase Over Baseline Units and Portion of Settlement \$

	3632 MC	All MC	3632 % of All	EPSDT \$	3632 % of Settlement
94-95 Baseline	0	0			
96-97	6,507	503,926	1.29%	\$479,000	\$6,186
97-98	19,795	639,528	3.10%	\$611,441	\$18,926
98-99*	-369,574	-28,298	3.10% *	\$978,753	\$30,295
Total					\$55,407

*Since 98-99 AB 3632 and total < 21 Medi-Cal units actually decreased in MIS, compared to the 94-95 baseline, and we are assuming that there is some problem in MIS flagging of services, due to the institution of case rates this year, that of the prior year, as there was no change in pattern of services to warrant otherwise.

Note: Above data are not available in the SB 90 cost report. Thus, this separate analysis is required.

- 1) SB 90 cost report does not delineate those under age 21.
- 2) SB 90 cost report does not contain data for non-3632 services. The total Medi-Cal for non-inpatient services for under-21 Medi-Cal clients is the basis for calculating EPSDT state settlement amounts.

IEP Units of Service Report
 IEP Units / Medi-Cal Total Units
 IEP Grand Totals Page
 Report Period : 07/01/94 to 06/30/95

IEP MOS	IEP SF	IEP Total
10	85	7,241
15	01	33,708
15	10	263,721
15	30	29,556
15	40	203,851
15	45	211,766
15	50	38,198
15	60	48,806
15	70	10,110
-----		846,957

MOS
15

4197 - 3,750 wt IEP

IEP Units of Service Report
 IEP Units / Medi-Cal Total Units.
 Medi-Cal Grand Totals Page
 Report Period : 07/01/94 to 06/30/95

Medi-cal MOS	Medi-cal SF	Medi-cal Total
05	10	472
05	19	1
05	45	202
05	65	930
10	20	1,684
10	85	7,278
15	01	190,050
15	10	651,566
15	30	99,405
15	40	514,378
15	45	543,391
15	50	132,719
15	60	80,318
15	70	34,816

05 not IEP

2,257,218

- 1,613

IEP Units of Service Re:
 IEP Units / Medi-Cal Total Units
 IEP Grand Totals Page
 Report Period : 07/01/96 to 06/30/97

IEP MOS	IEP SF	IEP Total
10	20	13
10	85	6,154
15	01	31,996
15	10	215,577
15	30	21,439
15	40	176,982
15	45	299,142
15	50	34,927
15	60	47,989
15	70	15,495

		849,714

ok

IEP Units of Service Ref
 IEP Units / Medi-Cal Total Units
 Medi-Cal Grand Totals Page
 Report Period : 07/01/96 to 06/30/97

MOS	Medi-cal SF	Medi-cal Total
05	10	1,296
05	19	36
05	45	137
05	65	463
10	20	2,261
10	85	7,040
15	01	144,886
15	10	621,950
15	30	126,753
15	40	508,962
15	45	1,033,169
15	50	133,532
15	60	124,244
15	70	56,634

		2,761,363

-1,932
 Mode 05 not EPSDT

IEP Units of Service Rep
 IEP Units / Medi-Cal Total Units
 IEP Grand Totals Page
 Report Period : 07/01/97 to 06/30/98

IEP MOS	IEP SF	IEP Total
10	85	5,065
15	01	45,319
15	10	245,217
15	30	19,621
15	40	178,171
15	45	172,578
15	50	147,933
15	60	31,574
15	70	17,524

		863,002

e/k

IEP Units of Service Re
IEP Units / Medi-Cal Tota. its
Medi-Cal Grand Totals Page
Report Period : 07/01/97 to 06/30/98

05 not EPST

Medi-cal MOS	Medi-cal SF	Medi-cal Total
05	10	820
05	19	104
05	45	634
05	65	1,063
10	20	1,760
10	85	6,526
15	01	189,500
15	10	747,696
15	30	139,410
15	40	630,483
15	45	791,506
15	50	228,562
15	60	106,382
15	70	53,308

		2,897,754

-2,621

IEP Units of Service Re.
 IEP Units / Medi-Cal Total Units
 IEP Grand Totals Page
 Report Period : 07/01/98 to 06/30/99

IEP MOS	IEP SF	IEP Total
10	85	2,172
10	95	15
15	01	30,640
15	10	110,072
15	30	8,450
15	40	108,201
15	45	91,165
15	50	87,603
15	60	27,902
15	70	7,458

		473,678

- 45 Prov. 4177 (not IEP prov.)

IEP Units of Service Rep
 IEP Units / Medi-Cal Total units
 Medi-Cal Grand Totals Page
 Report Period : 07/01/98 to 06/30/99

Medi-cal MOS	Medi-cal SF	Medi-cal Total
05	10	918
05	19	222
05	45	584
05	65	1,094
10	20	2,117
10	85	3,686
10	95	15
15	01	228,494
15	10	499,637
15	30	128,899
15	40	496,232
15	45	571,136
15	50	148,917
15	60	113,960
15	70	34,214

		2,230,125

2,818

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 6)

Statement of Decision April 1990

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim of)

COUNTY OF SANTA CLARA,)

Claimant)

No. CSM-4282

PROPOSED DECISION

On December 1, 1988, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter. Harlan E. Van Wye, Deputy Attorney General, represented the California State Departments of Finance, Education, and Mental Health. Susan A. Chapman, Deputy County Counsel, represented the County of Santa Clara.

Evidence was received and the record remained open for the submission of post hearing briefs. The opening brief from the State of California was received on January 30, 1989. The opening brief from the County of Santa Clara was received on January 30, 1989. Reply briefs were received from the State of California and the County of Santa Clara on February 27, 1989. The matter was thereupon submitted.

On November 30, 1989, in Sacramento, California, the Commission on State Mandates ("Commission") heard this matter. Harlan E. Van Wye, Deputy Attorney General, represented the California State Departments of Finance, Education, and Mental Health. Susan A. Chapman, Deputy County Counsel, represented the County of Santa Clara.

I. ISSUES

Do the provisions of Chapter 1747, Statutes of 1984, Chapter 1274, Statutes of 1985, and Title 2, Division 9, sections 60000 through 60200, of the California Code of Regulations, require counties to implement a new program or provide a higher level of service in an existing program within the meaning of Government Code section 17514 and section 6, article XIII B of the California Constitution? If so, are the counties entitled to reimbursement under the provisions of section 6, article XIII B of the California Constitution?

II. FACTS

A. Background

The County of Santa Clara filed a Test Claim with the Commission under the provisions of the Government Code commencing with section 17500. Santa Clara County alleges that Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985, and Title 2, Division 9, sections 60000 through 60200, of the California Code of Regulations, relating to the provision of certain mental health services for handicapped and disabled students, impose a reimbursable state mandated program on the County within the meaning of section 6, Article XIII B of the California Constitution and Government Code section 17514.

On January 28, 1988, this matter was referred to the Office of Administrative Hearings by the Commission for a hearing.

After a prehearing conference, the parties, at the suggestion of the Administrative Law Judge, arrived at a "Joint Statement of Facts??, by which the matter was submitted.

The following facts are based upon the "Joint Statement of Facts" to extent that they are pertinent in the Commission's determination of a reimbursable state mandated program.

The fundamental component of federal law prohibiting discrimination against handicapped individuals in any program receiving federal funds was enacted by Congress in 1973 as Public Law 93-112, Title V, section 504 (codified at Title 29 U.S. Code section 794). "Section 504" requires the promulgation of regulations by each agency of the federal government as may be necessary to carry out the provisions of section 504 and other laws providing protection to the handicapped. At least 23 federal agencies and departments have promulgated "504 regulations."

In 1976, the "Education for All Handicapped Children Act", 20 U.S.C. section 1400 et seq. ("EHA") was enacted. Shortly thereafter, "504 regulations" were enacted (now recodified as 34 Code of Federal Regulations, Part 104) which require that recipients of federal funding which operate a public or elementary or secondary education program "...provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the persons handicap." 34 C.F.R. Part 104.33. The EHA and its implementing regulations, 34 C.F.R. section 300.1 et seq., establish procedural and substantive standards for educating handicapped students. The EHA also incorporates by reference state substantive and procedural standards concerning the education of handicapped students. 20 U.S.C. section 1401(18); 34 C.F.R. section 300.4. In order to receive federal funds, a state must adopt a plan specifying how it will comply with federal requirements. 20 U.S.C. sections 1412 and 1414(a).

Under the EHA, handicapped children are guaranteed the right to receive a free appropriate public education which emphasizes special education, and related services designed to meet their unique educational needs. 20 U.S.C. sections 1400(c) and 1412.

"Special education" means specially designated instruction to meet the unique needs of a handicapped child, including classroom instruction and instruction in physical education, as well as home instruction and instruction in hospitals and institutions. 20 U.S.C. section 1401(a)(16).

"Related services" are defined by statute to include transportation and such developmental, corrective, and other supportive supplemental services as may be required to assist a handicapped child to benefit from special education. 20 U.S.C. section 1401(a)(17). Supportive services include speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services, and limited medical services. Related services are to be provided at no cost to parents or children. If placement in a public or private residential program is necessary to provide special education and related services to a handicapped child, the program, including non-medical care and room and board, must be at no cost to the parents of the child. 34 C.F.R. section 300.302.

"Handicapped children" are defined as children who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or health impaired, or children with specific learning disabilities, who by reason thereof require special education and related services. 20 U.S.C. section 1401(1).

The EHA provides a specific mechanism for insuring that handicapped children receive a free appropriate public education: the Individualized Education Program ("IEP"). The IEP is a written statement for a handicapped child that is developed and implemented in accordance with federal IEP regulations. 34 C.F.R. section 300.340; 34 C.F.R. section 300.346. The state educational agency of a state receiving federal funding must insure that each public agency develops and implements an IEP for each of its handicapped children. 34 C.F.R. section 300.341.

The IEP process begins when a child is identified as possibly being handicapped. He or she must be evaluated in all areas of suspected handicaps by a multidisciplinary team, which includes a teacher or specialist with knowledge in the area of suspected disability. Parents also have the right to obtain an independent assessment of their child by a qualified professional. School districts are required to consider the independent assessment as part of their educational planning for the pupil.

If it is determined that the child is handicapped within the meaning of EHA, an IEP meeting must take place. Participants in the IEP meeting (the "IEP team") include a representative of the local educational agency ("LEA"), the child's teacher, one or both of the child's parents, the child if appropriate, and other individuals, at the discretion of the parent or agency. 34 C.F.R. section 300.344.

The written IEP is an educational prescription which includes statements of the child's present levels of educational performance, annual goals (including short term instructional objectives), and specific special education and related services to be provided to the child and the setting in which the services will be provided, along with the projected dates for initiation of services and the anticipated duration of the services. It also includes appropriate objective criteria, evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved. 20 U.S.C. section 1414(a) (5); 34 C.F.R. sections 300.340-349. This document serves as a commitment of resources necessary to enable a handicapped child to receive needed special education and related services, and becomes -- a management tool, a compliance and monitoring document, and an evaluation device to determine the extent of the child's progress.

Each public agency must have an IEP in effect at the beginning of each school year for every handicapped child who is receiving special education from that agency. The IEP must be in effect before special education and related services are

provided, and special education and related services set out in a child's IEP must be provided as soon as possible after the IEP is finalized. 34 C.F.R. section 300.342. Meetings must be conducted at least once a year to review and, if necessary, to revise each handicapped child's IEP. More frequent meetings may take place if needed.

In response to the EHA, California adopted a state plan and enacted a series of statutes and regulations designed to comply with federal law. Education Code section 56000 et seq.; Government Code section 7570 et seq.; Title 2, California: Code of Regulations section 60000 et seq.; and Title 5 California Code of Regulations section 3000 et seq.

The responsibility for supervising education and related services for handicapped children was delegated to the Superintendent of Public Education. Government Code section 7561; Education Code section 56135.

In California, public education services are directly delivered through LEAs throughout the state. The legislation that is the subject of this Test Claim shifted certain IEP responsibilities from LEAs to county mental health programs.

Chapter 797 of the Statutes of 1980 added Part 30 (commencing with section 56000) to Division 4 of Title 2 of the Education Code to set forth the basic California IEP process for identifying special education children and providing special education and related services necessary for an "individual with exceptional needs" to benefit from a free appropriate public education.

An "individual with exceptional needs" is defined in Education Code section 56026 and includes those individuals in need of mental health services.

Before July 1, 1986, LEAs, i.e., school districts and county offices of education, were responsible for the education of special education students, including the provision of related services necessary for the individual to benefit from education. These responsibilities for identifying and assessing individuals with suspected handicaps, as well as the responsibility for providing related services, includes mental health services required in individual IEPs. LEAs were financially responsible for the provision of mental health services required in the IEP.

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B. Legislation That Is The Subject To This Test Claim and Other Relevant Statutes

Chapter 1747 of the Statutes of 1984 added Chapter 26, commencing with section 7570, to Division 7 of Title 1 of the Government Code and amended section 11401 of the Welfare and Institutions Code, relating to minors.

Chapter 1274 of the Statutes of 1985 amended sections 7572, 7572.5, 7575, 7576, 7579, 7582, and 7587 of, amended and repealed 7583 of, added section 7586.5 and 7586.7 to, and repealed 7574 of, the Government Code, amended sections 5651, 10950, and 11401 and added Chapter 6, commencing with section 18350, to Part 6 of Division 9 of the Welfare and Institutions Code, relating to minors, and made an appropriation therefor.

Government Code section 7571 requires the Secretary of Health and Welfare to designate a single agency in each county to coordinate the service responsibilities described in Government Code section 7572.

Government Code section 7576 provides that any community mental health service designated by the State Department of Mental Health shall be responsible for the provision of psychotherapy or other mental health services, as defined by Division 9, Title 2, California Code of Regulations, when required in an individual's IEP.

Section 60040, Title 2, California Code of Regulations, implements Government Code section 7572 and states that a responsible LEA preparing an initial assessment plan in accordance with section 56320 et seq. of the Education Code may, with parental consent, refer the person suspected of being an "individual with exceptional needs" to the local mental health program to determine the need for mental health services when certain conditions have been satisfied. Following that referral, the local mental health program shall be responsible for reviewing the educational information, observing, if necessary, the individual in the school environment, and determining if mental health assessments are needed. The local mental health program shall provide to the IEP team a written **assessment** report in accordance with Education Code section 56327.

If the written assessment report in accordance with Education Code section 56327 indicates that mental health services are to be provided in an individual's IEP, section 60050, Title 2, Code of California Regulations, requires that the following shall be included in the individual's IEP: a description of

the mental health services to be provided: the goals and objectives of the mental health services, with appropriate objective criteria and evaluation procedures to determine whether objectives are being achieved: and initiation, frequency, and duration of the mental health services to be provided to the individual.

If the written assessment report in accordance with Education Code section 56327 indicates that the "individual with exceptional needs" is classified as "seriously emotionally disturbed" and any member of the IEP team recommends residential placement based on relevant assessment information, Government Code section 7572.5, subdivision (a), requires the expansion of the IEP team to include a representative of the county mental health department.

The expanded IEP team, pursuant to Government Code section 7572.5, subdivision (b), requires the expanded IEP team to review the mental health assessment and determine whether the individual's needs can be reasonably met through any combination of nonresidential services, and whether residential services will enable the individual to benefit from educational services, and whether residential services are available which will address the individual's needs and ameliorate the conditions leading to the "seriously emotionally disturbed" designation. The provisions of Government Code section 7572.5, subdivisions (a) and (b), required, for the first time, the expansion of the IEP team to include county personnel as a member.

Section 60100, Title 2, California Code of Regulations, implements Government Code section 7572.5, subdivisions (a) and (b).

Government Code section 7572.5, subdivision (c)(1), provides that if the IEP requires residential placement, the county mental health department shall be designated as the lead case manager. Lead case management responsibility may be delegated to the county welfare department by agreement between the county welfare department and the county mental health department. However, the county mental health department shall retain financial responsibility for provision of case management services. The provisions of Government Code section 7572.5, subdivision (c)(2), require the IEP to include provisions for review of case progress, of the continuing need for residential placement, of the compliance with the IEP, of the progress toward ameliorating the "seriously emotionally disturbed" condition, and identification of an appropriate residential facility for placement. There must be a review by the full IEP team every six months. The provisions of Government Code section 7572.5, subdivision (c)(1), required

the county personnel department, for the first time, to assume a lead case management role in the IEP process when it is determined that the "individual with exceptional needs" is "seriously emotionally disturbed" and requires residential placement.

Section 60110, Title 2, California Code of Regulations, implements section 7572.5, subdivision (c), of the Government Code.

The law pertaining to the funding, organization, and operation of community mental health services in California, known as the "Short-Doyle Act", is contained almost exclusively in Part 2 (commencing with section 5600) of Division 5 of the Welfare and Institutions Code. The Short-Doyle Act was enacted in 1979 to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Before that time, state hospitals played a large role in the provision of mental health services. The Short-Doyle Act was a step in the de-institutionalization of the mentally ill.

The Short-Doyle Act was intended to efficiently utilize state and local resources, to integrate state-operated and community programs into a unified mental health system, to ensure appropriate utilization of all mental health professions, to provide a means for local government participation in determining the need for and allocation of mental health resources, to establish a uniform ratio of local and state government responsibility for financing mental health services, and to provide a means for allocating state mental health funds according to community needs.

The goals of Short-Doyle community mental health programs are threefold: to assist persons who are institutionalized because of mental disorder, or who have a high risk of becoming so, to lead lives which are as normal and independent as possible; to assist persons who experience temporary psychological problems which disrupt normal living to return as quickly as possible to a level of functioning which enables them to cope with their problems; and to prevent serious mental disorders and psychological problems. Welfare and Institutions Code section 5600.

Short-Doyle services are to be provided through community mental health services covering an entire county, or counties, established by the Board of Supervisors of each county. Welfare and Institutions Code section 5602. In most counties, the community mental health service area is the county, and the local mental health agency is an agency of the county.

Generally, each county is required under the Short-Doyle Act to develop and adopt a mental health plan annually specifying services to be provided in county facilities, in state hospitals, and through private agencies. Welfare and Institutions Code section 5650.

Welfare and Institutions Code section 5651 requires a programmatic description of each of the services to be provided in a county's annual Short-Doyle plan. Welfare and Institutions Code section 5651, subdivision (g), requires the county Short-Doyle annual plan to include a description of the services required by Government Code sections 7571 and 7576, including the cost of those services.

Welfare and Institutions Code section 5705 states that the net cost of all services specified in the approved county Short-Doyle plan shall be financed under the Short-Doyle program on the basis of ninety (90) percent state funds and ten (10) percent county funds; and the cost of the services shall be the actual cost or a negotiated net amount or rates approved by the Director of the Department of Mental Health.

The Budget Act of 1986 allocated \$2,000,000 to the State Department of Mental Health for assessments, treatment, and case management services, and made available for transfer from the State Department of Education to the State Department of Mental Health an additional \$2,700,000 for assessments and mental health treatment services for IEP individuals. Item 4440-131-001, Chapter 186, section 2.00, Statutes of 1986; Chapter 1133, section 3, Statutes 1986.

Additional amounts were to be transferred from the State Department of Education to the State Department of Mental Health if reports of LEAs indicated higher costs during Fiscal Year 1985-86 for services that are the subject of this Test Claim. Relatively low figures were reported initially. The Auditor General's Report showed wide discrepancies among school districts in the manner in which they reported their costs, and it was determined by the State Auditor General that the figures submitted were unreliable. (Report by the Office of the Auditor General, April 1987, P-640)

County of Santa Clara alleged that it has incurred costs in excess-of \$200.00 as a result of the legislation that is the subject of this Test Claim.

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III. FINDINGS

Based upon the above facts and evidence both oral and documentary having been introduced, in order to determine whether the legislation that is the subject of this Test Claim imposes costs mandated by the state as defined by Government Code section 17514 and are subject to the reimbursement requirements of section 6, article XIII B, of the California Constitution, the Commission finds the following:

It was found that the legislation that is the subject of this test claim shifted certain IEP responsibilities, which were previously performed by LEAs, to local mental health programs.

It was found that section 60040, Title 2, California Code of Regulations, requires, for the first time, that the local mental health programs shall provide to the IEP team a written mental health assessment report, in accordance with Education Code section 56327, on the need for mental health services. The local mental health program is required to provide such report whenever an LEA refers an individual suspected of being an "individual with exceptional needs" to the local mental health department.

It was found that Government Code section 7572.5, subdivisions (a) and (b), requires, for the first time, that the IEP team be expanded to include mandatory participation by county personnel. This mandatory participation by county personnel is required when the written mental health assessment report provided by the local mental health program determines that an "individual with exceptional needs" is "seriously emotionally disturbed", and any member of the IEP team recommends residential placement based upon relevant assessment information.

It was found that Government Code section 7572.5, subdivision (c), designates, for the first time, that the local mental health program shall act as the lead case manager when the IEP prescribes residential placement for an "individual with exceptional needs" who is "seriously emotionally disturbed?"

It was found that the following requirements of a local mental health program are not subject to the provisions of the Short-Doyle Act, Welfare and Institution Code section 5600 et seq.:

- (i) the preparation of a written mental health assessment report pursuant to section 60040, Title 2, Code of California Regulations,

- (ii) the participation on the expanded IEP team pursuant to Government Code section 7572.5, subdivisions (a) and (b), and
- (iii) the role as lead case manager, pursuant to Government Code section 7572.5, subdivision (c), when residential placement is prescribed for an "individual with exceptional needs" who is "seriously emotionally disturbed/

Government Code section 7571 requires the Secretary of Health and Welfare to designate a single agency in each county to coordinate the service responsibilities described in Government Code section 7572.

Government Code section 7576 provides that the [county] community mental health service shall be responsible for the provision of psychotherapy or other mental health services as defined by Title 2, California Code of Regulations, commencing with section 60000, when required in an individual's IEP. It was found that such individuals are "individuals with exceptional needs," including those designated as "seriously emotionally disturbed."

Welfare and Institutions Code section 5651 requires a programmatic description of each of the services to be provided in a county's Short-Doyle annual plan. Welfare and Institutions Code section 5651, subdivision (g), requires, for the first time, the county Short-Doyle annual plan to include a description of the county mental health services required by Government Code sections 7571 and 7576, including the cost of those services. It was found that the provisions of Government Code sections 7571 and 7576 and their implementing regulations are mental health services provided pursuant to the county's Short-Doyle annual plan.

Welfare and Institutions Code section 5705 states that the net cost of all services specified in the approved county Short-Doyle annual plan shall be financed under the Short-Doyle program on the basis of ninety (90) percent state funds and ten (10) percent county funds, and the cost of the services shall be the actual cost or a negotiated net amount or rates approved by the Director of the Department of Mental Health. It was found that the mental health services provided, pursuant to Government Code sections 7571 and 7576, must be included in the county's Short-Doyle annual plan in accordance with Welfare and Institutions Code section 5651, subdivision (g). Therefore, such mental health services are subject to the financial provisions of the Short-Doyle Act.

The legislation that is the subject of this Test Claim does not implement a federal mandate contained in section 504 of the Rehabilitation Act of 1973. The provisions of section 504 of

the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974 (P.L. 93-516, 29 U.S.C. 794), together with the implementing regulations, prohibits discrimination against handicapped individuals in any program receiving federal funds. The section 504 regulation requirement that recipients of federal funding who operate educational programs ". . . provide a free appropriate public education to each qualified handicapped person . . ." does not apply to counties which do not operate a public or elementary or secondary education program. The responsibility of providing public education and related services is on educational agencies and not **the counties.**

The legislation that is the subject of this Test Claim is not state legislation implementing a federal mandate contained in The Education for All Handicapped Children Act of 1975 (EHA). Under the EHA, handicapped children are guaranteed the right to receive a free appropriate public education which emphasizes special education, and related services designed to meet their unique educational needs. The EHA does not apply to counties which do not operate a public or elementary or secondary education program. The responsibility of providing public education and related services is on educational agencies and not on the counties.

The legislation that is the subject of this Test Claim does not merely affirm for the State that which had been declared existing law by actions of the court. No court decisions impose on counties the responsibility of providing services which relate to the provision of educational services.

It was found that none of the requisites for denying a claim specified in Government Code section 17556 were applicable.

IV. APPLICABLE LAW RELEVANT TO THE DETERMINATION OF A REIMBURSABLE STATE MANDATED PROGRAM

Government Code section 17551, subdivision (a) provides:

"The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution."

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Government Code section 17514 provides:

"'Costs mandated by the state' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

Section 6, article XIII B of the California Constitution reads:

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 program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

V. CONCLUSION

The Commission determines that it has the authority to decide this claim under the provisions of Government Code section 17551, subdivision (a).

The Commission concludes that, to the extent that the provisions of Government Code section 7572 and section 60040, Title 2, Code of California Regulations, require county participation in the mental health assessment for "individuals with exceptional needs," such legislation and regulations impose a new program or higher level of service upon a county.

Moreover, the Commission concludes that any related participation on the expanded IEP team and case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed," pursuant to subdivisions (a), (b), and (c) of Government Code section 7572.5 and their implementing regulations, impose a new program or higher level of service upon a county. Furthermore, the Commission concludes that the aforementioned mandatory county participation in the IEP process is not subject to the Short-Doyle Act, commencing with Welfare and Institutions Code section 5600. Accordingly, such costs related thereto are costs mandated by the state and are fully reimbursable within the meaning of section 6, article XIII B of the California Constitution.

The Commission concludes that the provisions of Welfare and Institutions Code section 5651, subdivision (g), result in a higher level of service within the county Short-Doyle program because the mental health services, pursuant to Government Code sections 7571 and 7576 and their implementing regulations, must be included in the county Short-Doyle annual plan. In addition, such services includes psychotherapy and other mental health services provided to "individuals with exceptional needs," including those designated as "seriously emotionally disturbed," and required in such individual's IEP. However, such mental health services are subject to the current cost sharing formula of the Short-Doyle Act, through which the state provides ninety (90) percent of the total costs of the Short-Doyle program, and the county is required to provide the remaining ten (10) percent of the funds. Accordingly, only ten (10) percent of such program costs are reimbursable within the meaning of section 6, article XIII B of the California Constitution as costs mandated by the state, because the Short-Doyle Act currently provides counties ninety (90) percent of the costs of providing those mental health services set forth in Government Code sections 7571 and 7576 and their implementing regulations, and described in the county's Short-Doyle annual plan pursuant to Welfare and Institutions Code section 5651, subdivision (g).

The claimant is directed to submit parameters and guidelines, pursuant to Government Code section 17557 and Title 2, California Code of Regulations section 1183.1, to the Commission for its consideration.

The foregoing determinations are subject to the following conditions:

The determination of a reimbursable state mandate does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to Commission approval of parameters and

guidelines for reimbursement of the mandated program: approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 7)

Amended Parameters & Guidelines August 1996

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Claim Of:

County of San Bernardino

Claimant

No. CSM-4282

Title 2, Cal. Code Regs., Div. 9,

Sections 60000-60200

Chapter 1747, Statutes of 1984

Chapter 1274, Statutes of 1985

Handicapped and Disabled Students

PARAMETERS AND GUIDELINES

The attached *amended* Parameters and Guidelines of the Commission on State Mandates are hereby adopted by the Commission on State Mandates in the above entitled matter.

IT IS SO ORDERED August 29, 1996.

Kirk G. Stewart

Kirk G. Stewart, Executive Director
Commission on State Mandates

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FILE COPY

Hearing Date: August 29, 1996
File Number: CSM-4282
Commission Staff: Lucila Ledesma
LL\4282\RevP&G.Amd

Original Adopted: 8/22/91
Revised: 8/29/96

PARAMETERS AND GUIDELINES

Sections 60000-60200
Title 2, California Code of Regulations, Division 9
Chapter 1747, Statutes of 1984
Chapter 1274, Statutes of 1985
Handicapped and Disabled Students

I. SUMMARY OF MANDATE

Chapter 1747 of the Statutes of 1984 added Chapter 26, commencing with section 7570, to Division 7 of Title 1 of the Government Code (Gov. Code).

Chapter 1274 of the Statutes of 1985 amended sections 7572, 7572.5, 7575, 7576, 7579, 7582, and 7587 of, amended and repealed 7583 of, added section 7586.5 and 7586.7 to, and repealed 7574 of, the Gov. Code, and amended section 5651 of the Welfare and Institutions Code.

To the extent that Gov. Code section 7572 and section 60040, Title 2, Code of California Regulations, require county participation in the mental health assessment for "individuals with exceptional needs," such legislation and regulations impose a new program or higher level of service upon a county. Furthermore, any related county participation on the expanded "Individualized Education Program" (IEP) team and case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed," pursuant to subdivisions (a), (b), and (c) of Gov. Code section 7572.5 and their implementing regulations, impose a new program or higher level of service upon a county.

The aforementioned mandatory county participation in the IEP process is not subject to the Short-Doyle Act, and accordingly, such costs related thereto are costs mandated by the state and are fully reimbursable within the meaning of section 6, article XIII B of the California Constitution.

The provisions of Welfare and Institutions Code section 5651, subdivision (g), result in a higher level of service within the county Short-Doyle program because the mental health services, pursuant to Gov. Code sections 7571 and 7576 and their implementing regulations, must be included in the county Short-Doyle annual plan. Such services include psychotherapy and other mental health services provided to "individuals with exceptional needs," including those designated as "seriously emotionally disturbed," and required in such individual's IEP.

Such mental health services are subject to the current cost sharing formula of the Short-Doyle Act, through which the state provides ninety (90) percent of the total costs of the Short-Doyle program, and the county is required to provide the remaining ten (10) percent of the funds. Accordingly, only ten (10) percent of such program costs are reimbursable within the meaning of section 6, article XIII B of the California Constitution as costs mandated by the state, because the Short-Doyle Act currently provides counties ninety (90) percent of the costs of furnishing those mental health services set forth in Gov. Code section 757 1 and 7576 and their implementing regulations, and described in the county's Short-Doyle annual plan pursuant to Welfare and Institutions Code section 565 1, subdivision (g).

II. COMMISSION ON STATE MANDATES' DECISION

The Commission on State Mandates, at its April 26, 1990 hearing, adopted a Statement of Decision that determined that County participation in the IEP process is a state mandated program and any costs related thereto are fully reimbursable. Furthermore, any mental health treatment required by an IEP is subject to the Short-Doyle cost sharing formula. Consequently, only the county's Short-Doyle share (i.e., ten percent) of the mental health treatment costs will be reimbursed as costs mandated by the state.

III. ELIGIBLE CLAIMANTS

All counties

IV. PERIOD OF REIMBURSEMENT

Section 17557 of the Gov. Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. The test claim for this mandate was filed on August 17, 1987, all costs incurred on or after July 1, 1986, are reimbursable.

Actual costs for one fiscal year should be included in each claim, and estimated costs for the subsequent year may be included on the same claim, if applicable, pursuant to Government Code section 17561.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Gov. Code section 17564.

V. REIMBURSABLE COSTS

A. One Hundred (100) percent of any costs related to IEP Participation, Assessment, and Case Management:

1. The scope of the mandate is one hundred (100) percent reimbursement, except that for individuals billed to Medi-Cal only, the Federal Financing Participation portion (FFP) for these activities should be deducted from reimbursable activities not subject to the Short-Doyle Act.
2. For each eligible claimant, the following cost items are one hundred (100) percent reimbursable (Gov. Code, section 7572, subd. (d)(1)):
 - a. Whenever an LEA refers an individual suspected of being an 'individual with exceptional needs' to the local mental health department, mental health assessment and recommendation by qualified mental health professionals in conformance with assessment procedures set forth in Article 2 (commencing with section 56320) of Chapter 4 of part 30 of Division 4 of the Education Code, and regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, including but not limited to the following mandated services:
 - i. interview with the child and family,
 - ii. collateral interviews, as necessary,
 - iii. review of the records,
 - iv. observation of the child at school, and
 - v. psychological testing and/or psychiatric assessment, as necessary.
 - b. Review and discussion of mental health assessment and recommendation with parent and appropriate IEP team members. (Government Code section 7572, subd. (d)(1)).
 - c. Attendance by the mental health professional who conducted the assessment at IEP meetings, when requested. (Government Code section 7572, subd. (d)(1)).
 - d. Review by claimant's mental health professional of any independent assessment(s) submitted by the IEP team. (Government Code section 7572, subd. (d)(2)).
 - e. When the written mental health assessment report provided by the local mental health program determines that an "individual with special needs" is 'seriously emotionally disturbed', and any member of the IEP team recommends residential placement based upon relevant assessment information, inclusion of

the claimant's mental health professional on that individual's expanded IEP team.

- f. When the IEP prescribes residential placement for an 'individual with exceptional needs' who is 'seriously emotionally disturbed,' claimant's mental health personnel's identification of out-of-home placement, case management, six month review of IEP, and expanded IEP responsibilities. (Government Code section 7572.5).
 - g. Required participation in due process procedures, including but not limited to due process hearings.
3. One hundred (100) percent of any administrative costs related to IEP Participation, Assessment, and Case Management, whether direct or indirect.
- B. Ten (10) percent of any costs related to mental health treatment services rendered under the Short-Doyle Act :
1. The scope of the mandate is ten (10) percent reimbursement.
 2. For each eligible claimant, the following cost items, for the provision of mental health services when required by a child's individualized education program, are ten (10) percent reimbursable (Government Code 7576):
 - a. Individual therapy,
 - b. Collateral therapy and contacts,
 - c. Group therapy,
 - d. Day treatment, and
 - e. Mental health portion of residential treatment in excess of the State Department of Social Services payment for the residential placement.
 3. Ten (10) percent of any administrative costs related to mental health treatment services rendered under the Short-Doyle Act, whether direct or indirect.

Vi. CLAIM PREPARATION

There are two satisfactory methods of submitting claims for reimbursement of increased costs incurred to comply with the mandate:

A. Actual Increased Costs Method. To claim under the Actual Increased Costs Method, report actual increased costs incurred for each of the following expense categories in the format specified by the State Controller's claiming instructions. Attach supporting schedules as necessary:

1. Employee Salaries and Benefits: Show the classification of the employees involved, mandated functions performed, number of hours devoted to the function, and hourly rates and benefits.
2. Services and supplies: Include only expenditures which can be identified as a direct cost resulting from the mandate. List cost of materials acquired which have been consumed or expended specifically for the purpose of this mandate.
3. Direct Administrative Costs:
 - a. One hundred (100) percent of any direct administrative costs related to IEP Participation, Assessment, and Case Management.
 - b. Ten (10) percent of any direct administrative costs related to mental health treatment rendered under the Short-Doyle Act.
4. Indirect Administrative and Overhead Costs: To the extent that reimbursable indirect costs have not already been reimbursed by DMH from categorical funding sources, they may be claimed under this method in either of the two following ways prescribed in the State Controller's claiming instructions:
 - a. Ten (10) percent of related direct labor, excluding fringe benefits. This method may not result in a total combined reimbursement from DMH and SCO for program indirect costs which exceeds ten (10) percent of total program direct labor costs, excluding fringe benefits.

OR if an indirect cost rate greater than ten (10) percent is being claimed,

- b. By preparation of an "Indirect Cost Rate Proposal" (ICRP) in full compliance with Office of Management and Budget Circular No. A-87 (OMB A-87). Note that OMB A-87 was revised as of May 17, 1995, and that while OMB A-87 is based on the concept of full allocation of indirect costs, it recognizes that in addition to its restrictions, there may be state laws or state regulations which further restrict allowability of costs. Additionally, if more than one department is involved in the mandated program; each department must have its own ICRP. Under this method, total reimbursement for program indirect costs from combined DMH and SCO sources must not exceed the total for those items as computed in the ICRP(s).

B. Cost Report Method. Under this claiming method the mandate reimbursement claim is still submitted on the State Controller's claiming forms in accordance with the claiming instructions. A complete copy of the annual cost report including all supporting schedules attached to the cost report as filed with DMH must also be filed with the claim forms submitted to the State Controller.

1. To the extent that reimbursable indirect costs have not already been reimbursed by DMH from categorical funding sources, they may be claimed under this method in either of the two following ways prescribed in the State Controller's claiming instructions :

a. Ten (10) percent of related direct labor, excluding fringe benefits. This method may not result in a total combined reimbursement from DMH and SCO for program indirect costs which exceeds ten (10) percent of total program direct labor costs, excluding fringe benefits.

OR if an indirect cost rate greater than ten (10) percent is being claimed,

b. By preparation of an "Indirect Cost Rate Proposal" (ICRP) in full compliance with Office of Management and Budget Circular No. A-87 (OMB A-87). Note that OMB A-87 was revised as of May 17, 1995, and that while OMB A-87 is based on the concept of full allocation of indirect costs, it recognizes that in addition to its restrictions, there may be state laws or state regulations which further restrict allowability of costs. Additionally, if more than one department is involved in the mandated program; each department must have its own ICRP. Under this method, total reimbursement for program indirect costs from combined DMH and SCO sources must not exceed the total for those items as computed in the ICRP(s).

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the State Controller to initiate an audit shall commence to run from the date of initial payment of the claim.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

- A. Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed.
- B. The following reimbursements for this mandate shall be deducted from the claim:
 - 1. Any direct payments (categorical funding) received from the State which are specifically allocated to this program; and
 - 2. Any other reimbursement for this mandate (excluding Short-Doyle funding, private insurance payments, and Medi-Cal payments), which is received from any source, e.g. federal, state, etc.

IX. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 8)

**State Controller's Claiming Instructions March
1997**

SERVICES TO HANDICAPPED STUDENTS

1. Summary of Chapters 1747/84 and 1274/85

Chapter 1747, Statutes of 1984, added Chapter 26, commencing with § 7570, to Division 7 of Title 1 of the Government Code.

Chapter 1274, Statutes of 1985, amended Government Code §§ 7572, 7572.5, 7575, 7576, 7579, 7582, and 7587; amended and repealed § 7583; added § 7586.5 and 7586.7; repealed § 7574 and amended § 5651 of the Welfare and Institutions Code. To the extent that Government Code § 7572 and § 60040, Title 2, Code of California Regulations, require county participation in the mental health assessment for "individuals with exceptional needs," such legislation and regulations impose a new program or higher level of service upon a county. Furthermore, any related county participation in the expanded "Individualized Education Program" (IEP) team and case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed", pursuant to Subdivisions (a), (b), and (c) of Government Code § 7572.5 and their implementing regulations.

The aforementioned mandatory county participation in the IEP process is not subject to the Short Doyle Act, and accordingly, such costs related thereto, are costs mandated by the state and are fully reimbursable within the meaning of § 6, Article XIII B of the California Constitution.

The provisions of Welfare and Institutions Code § 5651, Subdivision (g), result in a higher level of service within the county Short-Doyle program because pursuant to Government Code §§ 7571 and 7576 and their implementing regulations, the mental health services must be included in the county Short-Doyle annual plan. Such services include psychotherapy and other mental health services provided to "individuals with exceptional needs", including those designated as "seriously emotionally disturbed", and required in such individual's IEP.

Such mental health services are subject to the current cost sharing formula of the Short-Doyle Act, through which the state provides ninety (90) percent of the total costs of the Short-Doyle program, and the county is required to provide the remaining ten (10) percent of the funds. Accordingly, only ten (10) percent of such program costs are reimbursable within the meaning of § 6, Article XIII B of the California Constitution as costs mandated by the state, because the Short-Doyle Act currently provides counties ninety (90) percent of the costs of furnishing those mental health services set forth in Government Code §§ 7571 and 7576 and their implementing regulations, and described in the county's Short-Doyle annual plan pursuant to Welfare and Institutions Code § 5651, Subdivision (g).

On April 26, 1990, the Commission on State Mandates determined that Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 resulted in state mandated costs that are reimbursable pursuant to Part 7 (commencing with Government Code § 17500) of Division 4 of Title 2. The Commission determined that county participation in the IEP process is a state mandated program and any related cost is fully reimbursable. Furthermore, any mental health treatment required by an IEP is subject to the Short-Doyle cost sharing formula. Consequently, only the county's Short-Doyle share (i.e., ten percent) of the mental health treatment costs will be reimbursed as costs mandated by the state.

2. Eligible Claimants

Any county incurring increased costs as a result of this mandate is eligible to claim reimbursement of these costs.

3. Appropriations

These claiming instructions are issued following the adoption of the program's amended parameters and guidelines by the Commission on State Mandates. Funds for payment of the 1994/95, 1995/96, 1996/97 costs are made available in state budget acts of these fiscal years.

To determine if this program is funded in subsequent fiscal years, refer to the schedule "Appropriations for State Mandated Cost Programs" in the "Annual Claiming Instructions for State Mandated Costs" issued in September of each year to county auditors.

4. Types of Claims**A. Reimbursement and Estimated Claims**

A claimant may file a reimbursement and/or an estimated claim. A reimbursement claim details the costs actually incurred for a prior fiscal year. An estimated claim shows the costs to be incurred for the current fiscal year.

B. Minimum Claim

Government Code § 17564(a) provides that no claim shall be filed pursuant to Government Code § 17561 unless such a claim exceeds \$200 per program per fiscal year.

5. Filing Deadline**A. Initial Claims**

Initial claims must be filed within 120 days from the issuance date of claiming instructions. Accordingly:

- (1) Reimbursement claims detailing the actual costs incurred for the 1994/95 and 1995/96 fiscal years must be filed with the State Controller's Office and post-marked by July 28, 1997. If the reimbursement claim is filed after the deadline of July 28, 1997, the approved claim must be reduced by a late penalty of 10%, not to exceed \$1,000. Claims filed more than one year after the deadline will not be accepted.
- (2) Estimated claims for costs to be incurred during the 1996/97 fiscal year must be filed with the State Controller's Office and postmarked by July 28, 1997. Timely filed estimated claims are paid before late claims. If a payment is received for the estimated claim, a 1996/97 reimbursement claim must be filed by November 30, 1997.

B. Annually Thereafter

Refer to the item "Reimbursable State Mandated Cost Programs" contained in the annual cover letter for mandated cost programs issued annually in September, which identifies the fiscal years for which claims may be filed. If an "x" is shown for the program listed under "19__/19__ Reimbursement Claim," and/or "19__/19__ Estimated Claim," claims may be filed as follows:

- (1) An estimated claim must be filed with the State Controller's Office and postmarked by November 30 of the fiscal year in which costs are to be incurred. Timely filed estimated claims will be paid before late claims.

After having received payment for an estimated claim, the claimant must file a reimbursement claim by November 30 of the following fiscal year. If the local agency fails to file a reimbursement claim, monies received for the estimated claim must be returned to the State. If no estimated claim was filed, the agency may file a reimbursement claim detailing the actual costs incurred for the fiscal year, provided there was an appropriation for the program for that fiscal year. For information regarding appropriations for reimbursement claims, refer to the "Appropriation for State Mandated Cost Programs" in the previous fiscal year's annual claiming instructions.

- (2) A reimbursement claim detailing the actual costs must be filed with the State Controller's Office and postmarked by November 30 following the fiscal year in which costs were incurred. If the claim is filed after the deadline but by November 30 of the succeeding fiscal year, the approved claim must be reduced by a late penalty of 10%, not to exceed \$1,000. Claims filed more than one year after the deadline will not be accepted.

6. Reimbursable Components

Eligible claimants will be reimbursed for the direct and indirect cost of labor, supplies, and services incurred for the following mandated components:

A. Assessment, IEP Participation, Case Management

- (1) The scope of the mandate is one hundred percent (100) percent reimbursement of any costs related to IEP Participation, Assessment, and Case Management, except for individuals billed to Medi-Cal only. The Federal Financing Participation portion (FFP) for these activities should be deducted from reimbursable activities not subject to the Short-Doyle Act.
- (2) For each eligible claimant, the following cost items are one hundred (100%) percent reimbursable (G. C. § 7572, subd. (d)(1)):
 - (a) Whenever an LEA refers an individual suspected of being an "individual with exceptional needs" to the local mental health department, mental health assessment and recommendation by qualified mental health professionals in conformance with assessment procedures set forth in Article 2 (commencing with § 56320) of Chapter 4 of part 30 of Division 4 of the Education Code, and regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, including but not limited to the following mandated services:
 - i. Interview with the child and family
 - ii. Collateral interviews as necessary
 - iii. Review of the records
 - iv. Observation of the child at school
 - v. Psychological testing and/or psychiatric assessment, as necessary.
 - (b) Review and discussion of mental health assessment and recommendations with parent and appropriate IEP team members. (G. C. § 7572, subd. (d)(1)).
 - (c) Attendance by the mental health professional who conducted the assessment at IEP meetings, when requested. (G. C. § 7572, subd. (d)(1)).
 - (d) Review by claimant's mental health professional of any independent assessment(s) submitted by the IEP team. (G. C. 7572, subd. (d)(2)).
 - (e) When the written mental health assessment report provided by the local mental health program determines that an "individual with special needs" is seriously

emotionally disturbed", and any member of the IEP team recommends residential placement based upon relevant assessment information, inclusion of the claimant's mental health professional on that individual's expanded IEP team.

- (f) When the IEP prescribes residential placement for an "individual with exceptional needs" who is "seriously emotionally disturbed," claimant's mental health personnel's identification of out-of-home placement, case management, six month review of IEP, and expanded IEP responsibilities. (G. C. § 7572.5).
- (g) Required participation in due process procedures, including but not limited to due process hearings.
- (b) One hundred (100%) percent of any administrative costs related to IEP Participation, Assessment, and Case Management, whether direct or indirect.

B. Treatment Services

Any costs related to mental health treatment services rendered under the Short-Doyle Act:

- (1) The scope of the mandate is ten (10%) percent reimbursement.
- (2) For each eligible claimant, the following cost items for the provision of mental health services when required by a child's individualized education program are ten (10%) percent reimbursable (G. C. § 7576):
 - (a) Individual therapy
 - (b) Collateral therapy and contacts
 - (c) Group therapy
 - (d) Day treatment
 - (e) Mental health portion of residential treatment in excess of the State Department of Social Services payment for the residential placement.
- (b) Ten (10%) percent of any administrative costs related to mental health treatment services rendered under the Short-Doyle Act, whether direct or indirect.

7. Reimbursement Limitations

- A. Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed.
- B. The following reimbursements for this mandate shall be deducted from the claim:
 - 1. Any direct payments (categorical funding) received from the State which are specifically allocated to this program.
 - 2. Any other reimbursement for this mandate (excluding Short-Doyle funding, private insurance payments, and Medi-Cal payments), which is received from any source, e.g., federal, state, etc.

8. Claiming Forms and Instructions

The diagram "Illustration of Claim Forms" provides a graphical presentation of forms required to be filed with a claim. A claimant may submit a computer generated report in substitution for forms HDS-1, HDS-2, HDS-3, HDS-4, HDS-5, and HDS-6 provided the format of the report and data fields contained within the report are identical to the claim forms included in these instructions. The claim forms provided with these instructions should be duplicated and used by the claimant to file estimated or reimbursement claims. The State Controller's Office will revise the manual and claim forms as necessary. In such instances, new replacement forms will be mailed to claimants.

9. Claim Preparation

There are two satisfactory methods of submitting claims for reimbursement of increased costs incurred to comply with the mandate:

A. Cost Report Method

Under this claiming method a complete copy of the annual cost report including all supporting schedules attached to the cost report as filed with DMH must also be filed with the claim forms submitted to the State Controller.

To the extent that reimbursable indirect costs have not already been reimbursed by DMH from categorical funding sources, they may be claimed under this method in either of the two following ways prescribed in the State Controller's claiming instructions:

Ten (10%) percent of related direct labor, excluding fringe benefits. This method may not result in a total combined reimbursement from DMH and SCO for program indirect costs that exceed ten (10%) percent of total program direct labor costs, excluding fringe benefits.

OR if an indirect cost rate greater than ten (10%) is being claimed:

By preparation of an "Indirect Cost Rate Proposal" (ICRP) in full compliance with Office of Management and Budget Circular A-87 (OMB A-87). Note that OMB A-87 was revised as of May 17, 1995, and that while OMB A-87 is based on the concept of full allocation of indirect costs, it recognizes that in addition to its restrictions, there may be state laws or state regulations that further restrict allowability of costs. Additionally, if more than one department is involved in the mandated program, each department must have its own ICRP. Under this method, total reimbursement for program indirect costs from combined DMH and SCO sources must not exceed the total for those items as computed in the ICRP's.

1. Form HDS-6, Component/Activity Cost Detail

This form is used to detail the cost of administration for Assessment, IEP Participation, Case Management and Mental Health Treatment. The indirect costs summarized on this form must be carried forward to HDS-3, line (03)(e) or HDS-3, line (03)(g), as appropriate.

Indirect costs may be computed as ten (10%) of direct labor costs, excluding fringe benefits. If an indirect cost rate greater than ten (10%) is used, include the Indirect Cost Proposal (ICRP) with the claim. If more than one department is involved in the mandated costs program, each department must have their own ICRP.

2. Form HDS-5, Component/Activity Cost Detail

This form is used to detail the cost of due process proceedings. Claim statistics shall identify the amount of work performed during the period in which costs are claimed. The claimant must provide the number of due process proceedings. The cost summarized on this form must be carried forward to HDS-3, line (03)(d).

Indirect costs may be computed as ten (10%) of direct labor costs, excluding fringe benefits. If an indirect cost rate greater than ten (10%) is used, include the Indirect Cost Proposal (ICRP) with the claim. If more than one department is involved in the mandated costs program, each department must have their own ICRP.

3. Form HDS-4, Component/Activity Cost Detail

This form is used to segregate the detailed cost by claim component. Information required to complete this form: (a) Name of Providers, (b) Provider I.D. Numbers, (c) Service Function Codes, (d) Units of Service, and (e) Rate Per

Unit. Carry forward the total from line (05) column (f) to form HDS-3, block (03) in the appropriate line.

4. Form HDS-3, Claim Summary

This form is used to summarize the cost from forms HDS-4, HDS-5, and HDS-6. The cost must be reduced by the amount of funds received from Non-Categorical State General/Realignment Funds, State Categorical Funds, Short-Doyle/Medi Cal (FFP only), and other funds that reimburse any portion of the mandate. The total claimed amount on this form is carried forward to form FAM-27.

B. Actual Increased Cost Method

Report actual increased costs incurred for each of the following expense categories in the format specified by the State Controller's claiming instructions. Attach supporting schedules as necessary.

1. Form HDS-2, Component/Activity Cost Detail

This form is used to segregate the detailed cost by claim component. A separate form HDS-2 must be completed for each cost component being claimed. Costs reported on this form must be supported as follows:

(a) Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the mandated functions performed by each employee and specify the actual time spent, the productive hourly rate and related fringe benefits.

Source documents required to be maintained by the claimant may include, but are not limited to, employee time records that show the employee's actual time spent on this mandate.

(b) Materials and Supplies

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of materials consumed or expended specifically for the purpose of this mandate.

Source documents required to be maintained by the claimant may include, but are not limited to, invoices, receipts, purchase orders and other documents evidencing the validity of the expenditures.

(c) Contracted Services

Contracting costs are reimbursable to the extent that the function to be performed requires special skill or knowledge that is not readily available from the claimant's staff or the service to be provided by the contractor is cost effective. Use of contract services must be justified by the claimant.

Give the name(s) of the contractor(s) who performed the services. Describe the activities performed by each named contractor, actual time spent on this mandate, inclusive dates when services were performed, and itemize all costs for services performed. Attach consultant invoices with the claim.

Source documents required to be maintained by the claimant may include, but are not limited to, contracts, invoices, and other documents evidencing the validity of the expenditures.

For audit purposes, all supporting documents must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

2. Form HDS-1, Claim Summary

This form is used to summarize direct costs by cost component and compute allowable indirect costs for the mandate. Direct costs summarized on this form are derived from form HDS-2 and carried forward to form FAM-27.

One hundred (100%) of any indirect administrative costs related to IEP participation, assessment, case management, and ten percent (10%) of mental health treatment rendered under the Short-Doyle Act may be claimed to the extent that reimbursable indirect costs have not already been reimbursed by the DMH. Indirect costs may be claimed using either of two methods:

- (a) Ten (10) percent of related direct labor, excluding fringe benefits. This method may not result in a total combined reimbursement from DMH and SCO for program indirect costs which exceed ten (10) percent of total program direct labor costs, excluding fringe benefits.

OR if an indirect cost rate greater than ten (10) percent is being claimed,

- (b) By preparation of an "Indirect Cost Rate Proposal" (ICRP) in full compliance with Office of Management and Budget Circular No. A-87 (OMB A-87). Note that OMB A-87 was revised as of May 17, 1995, and that while OMB A-87 is based on the concept of full allocation of indirect costs, it recognizes that in addition to its restrictions, there may be state laws or state regulations which further restrict allowability of costs. Additionally, if more than one department is involved in the mandated program, each department must have its own ICRP. Under this method, total reimbursement for program indirect costs from combined DMH and SCO sources must not exceed the total for those items as computed in the ICRP's.

C. Form FAM-27, Claim for Payment

This form contains a certification that must be signed by an authorized representative of the local agency. All applicable information from form HDS-1 or HDS-3 must be carried forward to this form for the State Controller's Office to process the claim for payment.

Illustration of Claim Forms

A. Cost Report Method

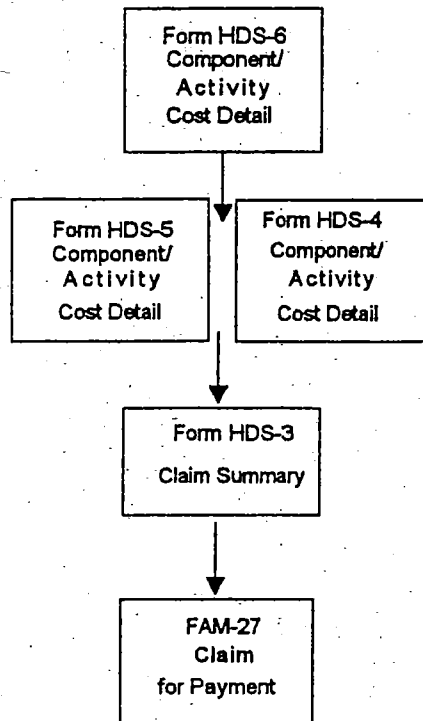
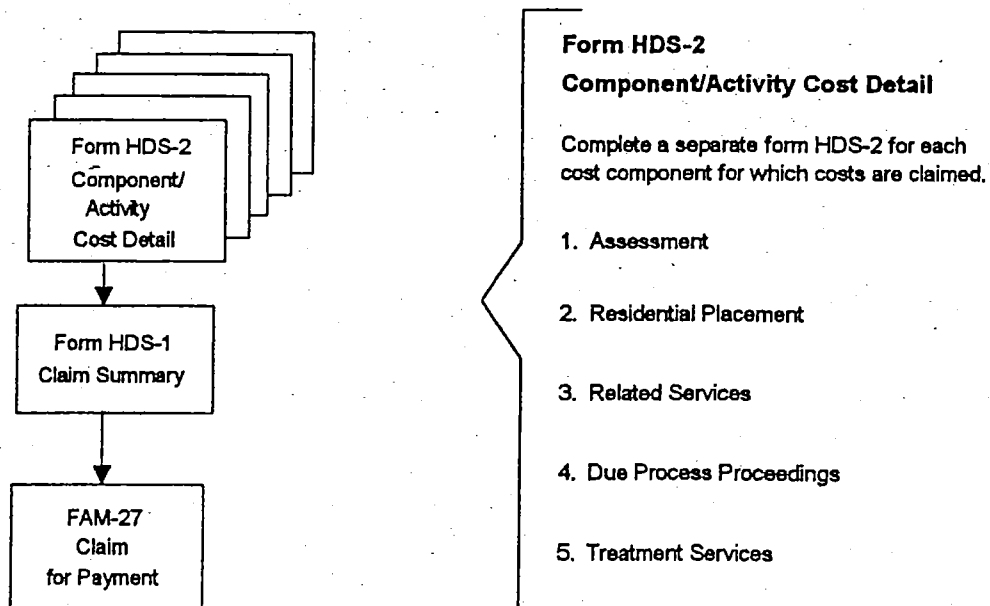


Illustration of Claim Forms

B. Actual Report Method



CLAIM FOR PAYMENT
 Pursuant to Government Code Section 17561
SERVICES TO HANDICAPPED STUDENTS

For State Controller Use Only

(19) Program Number 00111
 (20) Date File _____/_____/_____
 (21) LRS Input _____/_____/_____

L
A
B
E
L

H
E
R
E

(01) Claimant Identification Number _____
 (02) Mailing Address _____
 Claimant Name _____
 County of Location _____
 Street Address or P. O.. Box _____
 City _____ State _____ Zip Code _____

Reimbursement Claim Data	
(22) HDS-1, (03)(a)	
(23) HDS-1, (03)(b)	
(24) HDS-1, (03)(c)	
(25) HDS-1, (04)(1)(d)	
(26) HDS-1, (04)(2)(d)	
(27) HDS-1, (04)(3)(d)	
(28) HDS-1, (04)(4)(d)	
(29) HDS-1, (04)(5)(d)	
(30) HDS-1, (06)	
(31) HDS-3, (05)	
(32) HDS-3, (06)	
(33) HDS-3, (07)	
(34)	
(35)	
(36)	
(37)	

Type of Claim	Estimated Claim	Reimbursement Claim
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input type="checkbox"/>
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>
Fiscal Year of Cost	(06) 19__/19__	(12) 19__/19__
Total Claimed Amount	(07)	(13)
Less: 10% Late Penalty, not to exceed \$1,000		(14)
Less: Estimated Claim Payment Received		(15)
Net Claimed Amount		(16)
Due from State	(08)	(17)
Due to State		(18)

(38) CERTIFICATION OF CLAIM

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for costs mandated by Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1096, inclusive.

I further certify that there was no application other than from the claimant, nor any grant or payment received, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program mandated by Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985.

The amounts for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs for the mandated program of Chapter 1747, Statutes of 1984 and Chapter 1274, Statutes of 1985 set forth on the attached statements.

Signature of Authorized Representative _____ Date _____

Type or Print Name _____ Title _____

(39) Name of Contact Person for Claim _____ Telephone Number _____
 _____ Ext. _____

SERVICES TO HANDICAPPED STUDENTS
Certification Claim Form
Instructions

FORM
FAM-27

- (01) Leave blank.
- (02) A set of mailing labels with the claimant's I.D. number and address has been enclosed with the claiming instructions. The mailing labels are designed to speed processing and prevent common errors that delay payment. Affix a label in the space shown on form FAM-27. Cross out any errors and print the correct information on the label. Add any missing address items, except county of location and a person's name. If you did not receive labels, print or type your agency's mailing address.
- (03) If filing an original estimated claim, enter an "X" in the box on line (03) Estimated.
- (04) If filing an original estimated claim on behalf of districts within the county, enter an "X" in the box on line (04) Combined.
- (05) If filing an amended or combined claim, enter an "X" in the box on line (05) Amended. Leave boxes (03) and (04) blank.
- (06) Enter the fiscal year in which costs are to be incurred.
- (07) Enter the amount of estimated claim. If the estimate exceeds the previous year's actual costs by more than 10%, complete form HDS-1 and enter the amount from line (11) or complete form HDS-3 and enter the amount from line (15).
- (08) Enter the same amount as shown on line (07).
- (09) If filing an original reimbursement claim, enter an "X" in the box on line (09) Reimbursement.
- (10) If filing an original reimbursement claim on behalf of districts within the county, enter an "X" in the box on line (10) Combined.
- (11) If filing an amended or a combined claim on behalf of districts within the county, enter an "X" in the box on line (11) Amended.
- (12) Enter the fiscal year for which actual costs are being claimed. If actual costs for more than one fiscal year are being claimed, complete a separate form FAM-27 for each fiscal year.
- (13) Enter the amount of reimbursement claim from form HDS-1, line (11) or from form HDS-3, line (15), as appropriate.
- (14) Filing Deadline. Amended Claims of Ch.1747/84 and Ch.1274/85. If the reimbursement claim for the 1994/95 or 1995/96 fiscal year is filed after July 28, 1997, the additional amount over the original claim must be reduced by a late penalty. Enter either the product of multiplying line (13) by the factor 0.10 (10% penalty) or \$1,000, whichever is less.
- Filing Deadline. Annually Thereafter. If the reimbursement claim is filed after November 30 following the fiscal year in which costs were incurred, the claim must be reduced by a late penalty.
- (15) If filing a reimbursement claim and have previously filed an estimated claim for the same fiscal year, enter the amount received for the estimated claim. Otherwise, enter a zero.
- (16) Enter the result of subtracting line (14) and line (15) from line (13).
- (17) If line (16) Net Claimed Amount is positive, enter that amount on line (17) Due from State.
- (18) If line (16) Net Claimed Amount is negative, enter that amount in line (18) Due to State.
- (19) to (21) Leave blank.
- (22) to (37) **Reimbursement Claim Data.** Bring forward the cost information as specified on the left-hand column of lines (22) through (33) for the reimbursement claim [e.g., HDS-1 (03)(a), means the information is located on form HDS-1, line (03)(a). Enter the information on the same line but in the right-hand column. Cost information should be rounded to the nearest dollar; (i.e., no cents). Indirect costs percentage should be shown as a whole number and without the percent symbol (i.e., 35% should be shown as 35). The claim cannot be processed for payment unless this data block is correct and complete.
- (38) Read the statement "Certification of Claim." If it is true, the claim must be dated, signed by the agency's authorized representative and must include the person's name and title, typed or printed. Claims cannot be paid unless accompanied by a signed certification.
- (39) Enter the name of the person and telephone number that this office should contact if additional information is required.

SUBMIT A SIGNED ORIGINAL AND ONE COPY OF FORM FAM-27, AND ONE COPY OF ALL OTHER FORMS AND SUPPORTING DOCUMENTS TO:

Address, if delivered by:
U.S. Postal Service

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursement Section
Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94250

Address, if delivered by:
Other delivery service

OFFICE OF THE STATE CONTROLLER
ATTN: Local Reimbursement Section
Division of Accounting and Reporting
3301 C Street, Suite 501
Sacramento, CA 95816

**MANDATED COSTS
SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY**

**FORM
HDS-1**

(01) Claimant	(02) Type of Claim Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19__/19__
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Claim Statistics

(03)(a) Number of students who were suspected of being "individuals with exceptional needs," and were referred to the local mental health department for assessment and recommendation in the fiscal year of claim.	
(b) Number of students who required residential placements in the fiscal year of claim.	
(c) Number of due process proceedings that took place in the fiscal year of claim.	

Direct Costs

(04) Reimbursable Components:	(a) Salaries	(b) Benefits	(c) Services and Supplies	(d) Total
1. Assessment				
2. Residential Placement				
3. Related Services				
4. Due Process Proceedings				
5. Treatment Services				
(05) Total Direct Costs				

Indirect Costs

(06) Indirect Cost Rate	[From ICRP]	%
(07) Total Indirect Costs	[Line (06) x line (05)(a)] or [line (06) x {line (05)(a) + line (05)(b)}]	
(08) Total Direct and Indirect Costs	[Line (05)(d) + line (07)]	

Cost Reduction

(09) Less: Offsetting Savings, if applicable	
(10) Less: Other Reimbursements, (i.e., State General/Realignment Funds, State Categorical Funds, Short-Doyle/Medi-Cal (FFP only), etc.)	
(11) Total Claimed Amount	[Line (08) - (Line (09) + line (10))]

**SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY
Instructions**

FORM
HDS-1

- (01) Enter the name of the claimant. If more than one department has incurred costs for this mandate, give the name of each department. A form HDS-1 should be completed for each department.
- (02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year for which costs were incurred or are to be incurred.
- Form HDS-1 must be filed for a reimbursement claim. Do not complete form HDS-1 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form HDS-1 must be completed and a statement attached explaining the increased costs. Without this information the high estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.
- (03) (a) Enter the number of students who were suspected of being "individuals with exceptional needs," and were referred to the local mental health department for assessment and recommendation in the fiscal year of claim.
(b) Enter the number of students who required residential placements in the fiscal year of claim.
(c) Enter the number of due process proceedings that took place in the fiscal year of claim.
- (04) Reimbursable Components: For each reimbursable component, enter the totals from form HDS-2, line (05) columns (d), (e), and (f) to form HDS-1, block (04) columns (a), (b), and (c) in the appropriate row. Total each row.
- (05) Total Direct Costs. Total columns (a) through (d).
- (06) Indirect Cost Rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits. If an indirect cost rate of greater than 10% is used, include the Indirect Cost Rate Proposal (ICRP) with the claim. If more than one department is reporting costs, each must have their own ICRP for the program.
- (07) Total Indirect Costs. Multiply Total Salaries, line (05)(a) by the Indirect Cost Rate, line (06). If both salaries and benefits were used in the distribution base for the computation of the indirect cost rate, then multiply total Salaries and Benefits, line (05)(a) and line (05)(b) by the Indirect Cost Rate, line (06).
- (08) Total Direct and Indirect Costs. Enter the sum of Total Direct Costs, line (05)(d) and Total Indirect Costs, line (07).
- (09) Less: Offsetting Savings, if applicable. Enter the total savings experienced by the claimant as a direct result of this mandate. Submit a detailed schedule of savings with the claim.
- (10) Less: Other Reimbursements, if applicable. Enter the amount of other reimbursements received from any source, [i.e., State General/Realignment Funds, State Categorical Funds, Short-Doyle/Medi-Cal (FFP only), service fees collected, federal funds, other state funds, etc.] which reimbursed any portion of the mandated cost program. Submit a schedule detailing the reimbursement sources and amounts.
- (11) Total Claimed Amount. Subtract the sum of Offsetting Savings, line (09) and Other Reimbursements, line (10) from Total Direct and Indirect Costs, line (08). Enter the remainder on this line and carry the amount forward to form FAM-27, line (07) for the Estimated Claim or line (13) for the Reimbursement Claim.

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL	FORM HDS-2
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(01) Claimant	(02) Fiscal Year Costs Were Incurred
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(03) Reimbursable Components: Check **only one** box per form to identify the component being claimed

<input type="checkbox"/> Assessment	<input type="checkbox"/> Due Process Proceedings
<input type="checkbox"/> Residential Placement	<input type="checkbox"/> Treatment Services
<input type="checkbox"/> Related Services	

(04) Description of Expenses: Complete columns (a) through (f). **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	(e) Benefits	(f) Services and Supplies

(05) Total	<input type="text"/>	Subtotal	<input type="text"/>	Page: _____ of _____			
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SERVICES TO HANDICAPPED STUDENTS

COMPONENT/ACTIVITY COST DETAIL

Instructions

- (01) Enter the name of the claimant. If more than one department has incurred costs for ~~the~~ the name of each department. A form HDS-2 should be completed for each department.
- (02) Enter the fiscal year in which costs were incurred.
- (03) Reimbursable Components. Check the box which indicates the cost component being ~~only~~ only one box per form. A separate form HDS-2 shall be prepared for each component.
- (04) Description of Expenses. The following table identifies the type of information required ~~for~~ reimbursable costs. To detail costs for the component activity box "checked" in line (04) ~~enter~~ employee names, position titles, a brief description of their activities performed, actual ~~costs~~ each employee, productive hourly rates, fringe benefits, supplies used, contracted ~~services~~ descriptions required in column (4)(a) must be of sufficient detail to explain the ~~costs~~ or items being claimed. If the descriptions are incomplete, the claim cannot be ~~paid~~ payment. For audit purposes, all supporting documents must be retained by the claimant ~~for~~ two years after the end of the calendar year in which the reimbursement claim was filed ~~or~~ whichever is later. Such documents shall be made available to the State Controller's ~~office~~.

Object/ Sub-object Accounts	Columns					
	(a)	(b)	(c)	(d)	(e)	(f)
Salaries	Employee Name	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked		
Benefits	Title	Benefit Rate		Salaries	Benefits = Benefit Rate x Salaries	
	Activities Performed					
Services and Supplies						
Office Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cos x Quantity Consumed
Contracted Services	Name of Contractor	Hourly Rate	Hours Worked			Itemized Cos. of Service Performed
	Specific Tasks Performed		Inclusive Dates of Service			

- (05) Total line (04), columns (d), (e), and (f) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed for the component, enter the number each page. Enter totals from line (05), columns (d), (e), and (f) to form HDS-2 columns (a), (b), and (c) in the appropriate row.

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS CLAIM SUMMARY	FORM HDS-3
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(01) Claimant	(02) Type of Claim Reimbursement <input type="checkbox"/> Estimated <input type="checkbox"/>	Fiscal Year 19 ___/19 ___
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(03) Reimbursable Components

Assessment of Individuals With Exceptional Needs

(a) Assessment: Interviews, Review of Records, Observations, Testing, etc.	
(b) Residential Placement: IEP Reviews, Case Management, and Expanded IEP	
(c) Related Services: Attendance at IEP meetings, Meeting with IEP Members and Parents, and Review of Independent Assessment.	
(d) Due Process Proceedings	
(e) Administrative Costs	
<u>Mental Health Treatment</u>	
(f) Treatment Services: Short-Doyle Program	
(g) Administrative Costs	

(04) Sub-total for Assessment of Individual with Exceptional Needs [Sum of (03), lines (a) to (e)]	
(05) Less: Amount Received from Short-Doyle/Medi-Cal (FFP only)	
(06) Less: Amount Received from State Categorical Funding	
(07) Less: Amount Received from Other (Identify)	
(08) Total for Assessment of Individual with Exceptional Needs [Line (04) minus the sum of lines (05) to (07)]	

(09) Sub-Total for Mental Health Treatment [block (03), lines (f) and (g)]

(09) Sub-Total for Mental Health Treatment [block (03), lines (f) and (g)]	
(10) Less: Non-Categorical State General/Realignment Funds	
(11) Less: Amount Received from State Categorical Funds	
(12) Less: Amount Received from Short-Doyle/Medi-Cal (FFP only)	
(13) Less: Amount Received from Other (Identify)	
(14) Total Mental Health Treatment [Line (09) minus the sum of lines (10) to (13)]	

(15) Total Claimed Amount [Sum of line (08) and line (14)]

(15) Total Claimed Amount [Sum of line (08) and line (14)]	
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**SERVICES TO HANDICAPPED STUDENTS
CLAIM SUMMARY
Instructions**

**FORM
HDS-3**

- (01) Enter the name of the claimant.
- (02) Type of Claim. Check a box, Reimbursement or Estimated, to identify the type of claim being filed. Enter the fiscal year for which costs were incurred or are to be incurred.
- Form HDS-3 must be filed for a reimbursement claim. Do not complete form HDS-3 if you are filing an estimated claim and the estimate does not exceed the previous fiscal year's actual costs by more than 10%. Simply enter the amount of the estimated claim on form FAM-27, line (07). However, if the estimated claim exceeds the previous fiscal year's actual costs by more than 10%, form HDS-3 must be completed and a statement attached explaining the increased costs. Without this information the high estimated claim will automatically be reduced to 110% of the previous fiscal year's actual costs.
- (03) Reimbursable Components. For each reimbursable component under block (03), lines (a), (b), and (c), enter the totals from form HDS-4, line (05) column (f), as applicable. For block (03), line (d), enter the cost from form HDS-5, line (08), if applicable. For block (03), lines (e) and (g), enter the cost from HDS-6, line (08), as appropriate.
- (04) Sub-Total for Assessment of Individual with Exceptional Needs. Enter the sum of the amounts on block (03), lines (a), (b), (c), (d), and (e).
- (05) Less: Amount Received from Short-Doyle/Medi-Cal (Federal Financial Participation only). From line 72, "Medi-Cal Federal", the Department of Mental Health Cost Reporting/Data Collection System, "Local Services Cost Report", form MH 1944, enter the sum of amounts shown for providers listed on form HDS-4, block (04)(a).
- (06) Less: Amount Received from State Categorical Funding. Enter the total amount received from the State General Fund for special education.
- (07) Less: Amount Received from Other (Identify). Enter the total amount received from sources which reimbursed the cost of this mandate (e.g., Patient health insurance, etc.). Attach a separate schedule identifying those funding sources.
- (08) Total for Assessment of Individual with Exceptional Needs. Enter the result of subtracting the sum of lines (05), (06), and (07) from line (04).
- (09) Sub-Total for Mental Health Treatment. Enter the sum of the amount from block (03), lines (f) and (g).
- (10) Less: Non-Categorical State General/Realignment Funds.
- (11) Less: Amount Received from State Categorical Funds. Enter the total amount received from the State General Fund for special education.
- (12) Less: Amount Received from Short-Doyle/Medi-Cal (Federal Financial Participation only). From line 72, "Medi-Cal Federal", the Department of Mental Health Cost Reporting/Data Collection System, "Local Services Cost Report", form MH 1944, enter the sum of amounts shown for providers listed on form HDS-4, block (04)(a).
- (13) Less: Amount Received from Other (Identify). Enter the total amount received from sources which reimbursed the cost of this mandate (e.g., Patient health insurance). Attach a separate schedule identifying those funding.
- (14) Total Mental Health Treatment. Enter the result of subtracting the sum of lines (10) to (13) from line (09).
- (15) Total Claimed Amount. Enter the sum of line (08) and line (14). Carry forward the amount on this line to form FAM-27, line (07) for the Estimated Claim or line (13) for the Reimbursement Claim.

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL	FORM HDS-4
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(01) Claimant	(02) Fiscal Year Costs Were Incurred
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(03) Reimbursable Components: Check only one box per form to identify the component being claimed

<input type="checkbox"/> Assessment	<input type="checkbox"/> Treatment Services
<input type="checkbox"/> Residential Placement	<input type="checkbox"/> Other (Identify)

(04) Description of Expenses: Complete columns (a) through (f).

(a) Name of Providers	(b) Provider I. D. Numbers	(c) Service Function Codes	(d) Units of Service	(e) Rate per Unit	(f) Total

(05) Total	<input type="text"/>	Subtotal	<input type="text"/>	Page: _____ of _____
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SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL Instructions	FORM HDS-4
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year of claim in which costs were incurred.
- (03) Reimbursable Components. Check the box which indicates the cost component being claimed. Check only one box per form. A separate form HDS-4 shall be prepared for each component which applies.
- (04) Description of Expenses. For each "checked" component/activity box in block (03), enter the detailed costs for each case claimed.
- (a) Enter the name of the provider.
 - (b) Enter the provider identification number.
 - (c) Enter the service function codes.
 - (d) Enter the number of units of service.
 - (e) Enter the rate per unit.
 - (f) Enter the total [multiply column (d) times column (e)]

A copy of that portion of the county's Short-Doyle fiscal year end report relating to the amounts claimed must be submitted with the claim.

For audit purposes, all supporting documents must be retained for a period of two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

- (05) Total line (04) column (f) and enter the sum on this line. Check the appropriate box to indicate if the amount is a total or subtotal. If more than one form is needed to detail the component/activity costs, number each page. Carry forward the total from line (05) column (f) to form HDS-3, block (03) in the appropriate line.

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL	FORM HDS-5
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(01) Claimant	(02) Fiscal Year Costs Were Incurred
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(03) Reimbursable Components: Due Process Proceedings

(04) Description of Expenses: Complete columns (a) through (g). **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	(e) Benefits	(f) Office Supplies	(g) Contracted Services

Totals

(05) Total Direct Costs

Indirect Costs

(06) Indirect Cost Rate	[From ICRP]	%
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(07) Total Indirect Costs	[Line (06) x line (05)(d)] or [Line (06) x {(05)(d) + (05)(e)}]	
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(08) Total Direct and Indirect Costs	[Line (05) + line (07)]
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SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL Instructions	FORM HDS-5
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year in which costs were incurred.
- (03) Reimbursable Components. Due Process Proceedings.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the component activity box "checked" in line (03), enter the employee names, position titles, a brief description of their activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contracted services, etc. Total each column (d) through (g). **The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed. If the descriptions are incomplete, the claim cannot be processed for payment.** For audit purposes, all supporting documents must be retained by the claimant for a period of not less than two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

Object/ Subobject Accounts	Columns							Submit these supporting documents with the claim
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	
Salaries	Employee Name	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked				
Benefits	Title Activities Performed	Benefit Rate		Salaries	Benefits = Benefit Rate x Salaries			
Services and Supplies Office Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cost x Quantity Consumed		
Contracted Services	Name of Contractor Specific Tasks Performed	Hourly Rate	Hours Worked Inclusive Dates of Service				Itemized Cost of Services Performed	Invoice

- (05) Total Direct Costs. Enter the total for columns (d) to (g).
- (06) Indirect Cost Rate. Enter the indirect cost rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits. If an indirect cost rate of greater than 10% is used, include the department's Indirect Cost Rate Proposal (ICRP) for the program with the claim. If more than one department is reporting costs, each must have their own ICRP for the program.
- (07) Total Indirect Costs. Multiply Total Salaries, line (04)(d) by the Indirect Cost Rate, line (06). If both salaries and benefits are used in the distribution base for the computation of the indirect cost rate, then multiply Total Salaries, line (04)(d) and Total Benefits, line (04)(e) by the Indirect Cost Rate, line (06).
- (08) Total Direct and Indirect Costs. Enter the sum of line (05) and line (07). Forward the amount to form HDS-1, line (03)(d).

MANDATED COSTS SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL	FORM HDS-6
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(01) Claimant	(02) Fiscal Year Costs Were Incurred
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(03) Reimbursable Components: Administrative Costs

Assessment of Individual
 Mental Health Treatment

(04) Description of Expenses: Complete columns (a) through (g). **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	(e) Benefits	(f) Office Supplies	(g) Contracted Services

Totals						
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(05) Total Direct Costs						
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Indirect Costs

(06) Indirect Cost Rate	[From ICRP]	%
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(07) Total Indirect Costs	[Line (06) x line (04)(d)] or [Line (06) x {(04)(d) + (04)(e)}]	
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SERVICES TO HANDICAPPED STUDENTS COMPONENT/ACTIVITY COST DETAIL Instructions	FORM HDS-6
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- (01) Enter the name of the claimant.
- (02) Enter the fiscal year in which costs were incurred.
- (03) Reimbursable Components. Check the box which indicates the administrative cost component (i.e., Assessment of Individuals or Mental Treatment) claimed. A separate form HDS-6 shall be prepared for administrative costs associated with the assessment of individuals with exceptional needs, and for mental health treatment. Do not include indirect costs for line (03)(d), since the cost should be recorded on form HDS-5.
- (04) Description of Expenses. The following table identifies the type of information required to support reimbursable costs. To detail costs for the component activity box "checked" in line (03), enter the employee names, position titles, a brief description of their activities performed, actual time spent by each employee, productive hourly rates, fringe benefits, supplies used, contracted services, etc. Total each column (d) through (g). The descriptions required in column (4)(a) must be of sufficient detail to explain the cost of activities or items being claimed. If the descriptions are incomplete, the claim cannot be processed for payment. For audit purposes, all supporting documents must be retained by the claimant for a period of not less than two years after the end of the calendar year in which the reimbursement claim was filed or last amended, whichever is later. Such documents shall be made available to the State Controller's Office on request.

Object/ Subobject Accounts	Columns							Submit these supporting documents
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	
Salaries	Employee Name	Hourly Rate	Hours Worked	Salaries = Hourly Rate x Hours Worked				
Benefits	Title	Benefit Rate		Salaries	Benefits = Benefit Rate x			
Services and Supplies Office Supplies	Description of Supplies Used	Unit Cost	Quantity Used			Cost = Unit Cost x Quantity		
Contracted Services	Name of Contractor Specific Tasks	Hourly Rate	Hours Worked Inclusive Dates of				Itemized Cost of Services Performed	Invoice

- (05) Total Direct Costs. Enter the total for columns (d) to (g).
- (06) Indirect Cost Rate. Enter the indirect cost rate. Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits. If an indirect cost rate of greater than 10% is used, include the department's Indirect Cost Rate Proposal (ICRP) for the program with the claim. If more than one department is reporting costs, each must have their own ICRP for the program.
- (07) Total Indirect Costs. Multiply Total Salaries, line (04)(d) by the Indirect Cost Rate, line (06). If both salaries and benefits are used in the distribution base for the computation of the indirect cost rate, then multiply Total Salaries, line (04)(d) and Total Benefits, line (04)(e) by the Indirect Cost Rate, line (06). Forward the amount of indirect costs to form HDS-3, line (03)(e) or line (03)(g) as appropriate.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 9)

Government Code Sections 17500-17630

GOVERNMENT CODE
TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA
DIVISION 4. FISCAL AFFAIRS
PART 7. STATE-MANDATED LOCAL COSTS
CHAPTER 1. LEGISLATIVE INTENT

§ 17500. Legislative findings and declarations

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs. It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIII B of the California Constitution.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 2.)

CHAPTER 2. GENERAL PROVISIONS

§ 17510. Definitions; construction of part; singular tense including plural

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this part. The definition of a word applies to any variants thereof and the singular tense of a word includes the plural.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17511. City

“City” means any city whether general law or charter, except a city and county.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17512. Commission

“Commission” means the Commission on State Mandates.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17513. Costs mandated by the federal government

“Costs mandated by the federal government” means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. “Costs mandated by the federal government” includes costs resulting from enactment of a

state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 3.)

§17514. Costs mandated by the state

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Test claim filing, see 2 Cal. Code of Regs. § 1183.

§ 17515. County

"County" means any chartered or general law county. "County" includes a city and county.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17516. Executive order

"Executive order" means any order, plan, requirement, rule, or regulation issued by any of the following:

- (a) The Governor.
- (b) Any officer or official serving at the pleasure of the Governor.
- (c) Any agency, department, board, or commission of state government.

"Executive order" does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. "Major" means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17517 Repealed by Stats. 2004, ch. 890 (A.B. 2856), § 4.)

(The repealed section, added by Stats. 1984, ch. 1459, § 1, related to "fund" defined as the State Mandates Claim Fund.)

§ 17517.5 Costs savings authorized by the state

“Cost savings authorized by the state” means any decreased costs that a local agency or school district realizes as a result of any statute enacted or any executive order adopted that permits or requires the discontinuance of or a reduction in the level of service of an existing program that was mandated before January 1, 1975.

(Added by Stats. 2004, ch. 890 (A.B. 2856), § 5.)

§ 17518. Local agency

“Local agency” means any city, county, special district, authority, or other political subdivision of the state.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17518.5 Reasonable reimbursement methodology

(a) “Reasonable reimbursement methodology” means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(c) A reasonable reimbursement methodology may be developed by any of the following:

(1) The Department of Finance.

(2) The Controller.

(3) An affected state agency.

(4) A claimant.

(5) An interested party.

(Added by Stats. 2004, ch. 890 (A.B. 2856), § 6.)

§ 17519. School district

“School district” means any school district, community college district, or county superintendent of schools.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17520. Special district

“Special district” means any agency of the state that performs governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. “Special district” does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code, areas receiving county fire protection services pursuant to Section 25643 of the Government Code, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered “special districts” for all purposes of this part.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 7.)

§ 17521. Test claim

“Test claim” means the first claim filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1999, ch. 643 (A.B. 1679), § 2; Stats. 2004, ch. 890 (A.B. 2856), § 8.)

(Stats. 1999, ch. 643, § 1 (A.B. 1679), provides: “This act shall be known, and may be cited, as the Local Government Omnibus Act of 1999.”)

CODE OF REGULATIONS REFERENCES

Definitions, see 2 Cal. Code of Regs. § 1187.

Test claim filing, see 2 Cal. Code of Regs. § 1183.

§17522. Initial reimbursement claim; annual reimbursement claim; estimated reimbursement claim; entitlement claim

(a) “Initial reimbursement claim” means a claim filed with the Controller by a local agency or school district for costs to be reimbursed for the fiscal years specified in the first claiming instructions issued by the Controller pursuant to subdivision (b) of Section 17558.

(b) “Annual reimbursement claim” means a claim for actual costs incurred in a prior fiscal year filed with the Controller by a local agency or school district for which appropriations are made to the Controller for this purpose.

(c) “Estimated reimbursement claim” means a claim filed with the Controller by a local agency or school district in conjunction with an initial reimbursement claim, annual reimbursement claim, or at other times, for estimated costs to be reimbursed during the current or future fiscal years, for which appropriations are made to the Controller for this purpose.

(d) “Entitlement claim” means a claim filed by a local agency or school district with the Controller for the purpose of establishing or adjusting a base year entitlement. All entitlement claims are subject to Section 17616.

(Added by Stats. 1985, ch. 1534, § 1, eff. Oct. 2, 1985. Amended by Stats. 1986, ch. 879, § 1.7; Stats. 1992, ch. 1041 (A.B. 1690), § 1; Stats. 2004, ch. 890 (A.B. 2856), § 9.)

§ 17523. Deflator defined

“Deflator” means the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as determined by the Department of Finance.

(Added by Stats. 1985, ch. 1534, § 2, eff. Oct. 2, 1985.)

§ 17524. Base year entitlement defined

“Base year entitlement” means that amount determined to be the average for the approved reimbursement claims of each local agency or school district for the three preceding fiscal years, adjusted by the change in the deflator. A base year entitlement shall not include any nonrecurring or initial startup costs incurred by a local agency or school district in any of those three fiscal years. For those mandates which become operative on January 1 of any year, the amount of the “approved reimbursement claim” for the first of the three years may be computed by annualizing the amount claimed for the six-month period of January through June in that first year, excluding nonrecurring or startup costs.

(Added by Stats. 1985, ch. 1534, § 3, eff. Oct. 2, 1985.)

CHAPTER 3. COMMISSION ON STATE MANDATES

§ 17525. Creation; membership; term; per diem

(a) There is hereby created the Commission on State Mandates, which shall consist of seven members as follows:

(1) The Controller.

(2) The Treasurer.

(3) The Director of Finance.

(4) The Director of the Office of Planning and Research.

(5) A public member with experience in public finance, appointed by the Governor and approved by the Senate.

(6) Two members from the following three categories appointed by the Governor and approved by the Senate, provided that no more than one member shall come from the same category:

(A) A city council member.

(B) A member of a county or city and county board of supervisors.

(C) A governing board member of a school district as defined in Section 17519.

(b) Each member appointed pursuant to paragraph (5) or (6) of subdivision (a) shall be subject to both of the following:

(1) The member shall serve for a term of four years subject to renewal.

(2) The member shall receive per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of duties as a member of the commission.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1985, ch. 179, § 4, eff. July 8, 1985, operative Jan. 1, 1985. Amended by Stats. 1996, ch. 154 (S.B. 805), § 1.)

§ 17526. Public meetings; executive sessions; frequency; time and place

(a) All meetings of the commission shall be open to the public, except that the commission may meet in executive session to consider the appointment or dismissal of officers or employees of the commission or to hear complaints or charges brought against a member, officer, or employee of the commission.

(b) The commission shall meet at least once every two months.

(c) The time and place of meetings may be set by resolution of the commission, by written petition of a majority of the members, or by written call of the chairperson. The chairperson may, for good cause, change the starting time or place, reschedule, or cancel any meeting.

(d) This section shall become operative on July 1, 1996.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 3, operative July 1, 1996. Amended by Stats. 2003, ch. 228 (A.B. 1756), § 17, eff. Aug. 11, 2003; Stats. 2004, ch. 890 (A.B. 2856), § 10.)

(Stats. 1995, ch. 945, § 1 (S.B. 11), provides: "This act shall be known and may be cited as the Ayala-Monteith-Johannessen Mandate Relief and Reform Act of 1995.")

(For Legislative findings and declarations and urgency provisions relating to Stats. 2003, ch. 228 (A.B. 1756), see Historical and Statutory Notes under Gov. Code, § 935.7, in West's California Codes.)

(Derivation: Former § 17526, added by Stats. 1984, ch. 1459, § 1, was amended, prior to repeal, by Stats. 1995, ch. 945 (S.B. 11), § 2, became inoperative on July 1, 1996, and was repealed on Jan. 1, 1997.)

CODE OF REGULATIONS REFERENCES

Meetings, see 2 Cal. Code of Regs. § 1182.3.

Quorum, see 2 Cal. Code of Regs. § 1182.

§ 17527. Powers

In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To examine any document, report, or data, including computer programs and data files, held by any local agency or school district.

(b) To meet at times and places as it may deem proper.

(c) As a body or, on the authorization of the commission, as a committee composed of one or more members, to hold hearings at any time and place it may deem proper.

(d) Upon a majority vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(e) To administer oaths.

(f) To contract with other agencies or individuals, public or private, as it deems necessary, to provide or prepare services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities.

(g) To adopt, promulgate, amend, and rescind rules and regulations, which shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(h) To do any and all other actions necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Commission on state mandates, test claims, see 2 Cal. Code of Regs. § 1183.

Dismissal of actions, see 2 Cal. Code of Regs. § 1188.31.

Dismissal of requests for amendments to parameters and guidelines, see 2 Cal. Code of Regs. § 1183.21.

Dismissal of test claims, see 2 Cal. Code of Regs. § 1183.09.

Hearings and decisions, see 2 Cal. Code of Regs. § 1187 et seq.

Meetings, scheduling, see 2 Cal. Code of Regs. § 1182.1 et seq.

Rulemaking and informational hearings, see 2 Cal. Code of Regs. § 1189 et seq.

§ 17528. Chairperson and vice chairperson

The members of the commission shall elect a chairperson and a vice chairperson of the commission.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17529. Attorney to commission; appointment; powers and duties

The commission may appoint as attorney to the commission an attorney at law of this state, who shall hold office at the pleasure of the commission. The attorney shall represent and appear for the commission in all actions and proceedings involving any question under this part or under any order or act of the commission. The attorney shall advise the commission and each member of the commission, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof. The attorney shall generally perform all duties and services as attorney to the commission which the commission may require.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17530. Executive director; appointment; term; powers and duties

The commission shall appoint an executive director, who shall be exempt from civil service and shall hold office at the pleasure of the commission. The executive director shall be responsible for the executive and administrative duties of the commission and shall organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the jurisdiction of the commission. The executive director shall keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform other duties as the commission prescribes.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Commission on state mandates, see 2 Cal. Code of Regs. § 1181 et seq.

Filing of written materials, see 2 Cal. Code of Regs. § 1181.2.

Submissions of written materials in other media, see 2 Cal. Code of Regs. § 1181.3.

Permanent record, see 2 Cal. Code of Regs. § 1182.3.

§ 17531. Officers and employees, etc.

The executive director may employ those officers, examiners, experts, statisticians, accountants, inspectors, clerks, and employees as the executive director deems necessary to carry out the provisions of this part or to perform the duties and exercise the powers conferred upon the commission by law.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17532. Quorum; investigation, inquiry or hearing; examiners; finding, opinion and order

A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. Any investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or commissioners designated for the purpose by the commission. The evidence in any investigation, inquiry, or hearing may be taken by the commissioner or commissioners to whom the investigation, inquiry, or hearing has been assigned or, in his or her or their behalf, by an examiner designated for that purpose. Every finding, opinion, and order made by the commissioner or commissioners so designated, pursuant to the investigation, inquiry, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the finding, opinion, and order of the commission.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Assignment to hearing panels/hearing officers, see 2 Cal. Code of Regs. § 1187.2.

Dismissal of actions, see 2 Cal. Code of Regs. § 1188.31.

Dismissal of requests for amendments to parameters and guidelines, see 2 Cal. Code of Regs. § 1183.21.

Dismissal of test claims, see 2 Cal. Code of Regs. § 1183.09.

Conduct of hearing, see 2 Cal. Code of Regs. § 1187.6.

Financial operations, commission on state mandates, reconsideration of a prior final decision, see 2 Cal. Code of Regs. § 1188.4.

Form of decision, see 2 Cal. Code of Regs. § 1188.2.

Hearings and decisions, see 2 Cal. Code of Regs. § 1187 et seq.

Questioning, see 2 Cal. Code of Regs. § 1189.5.

Quorum, see 2 Cal. Code of Regs. § 1182.

§ 17533. Administrative adjudication provisions; application to commission

Notwithstanding Section 11425.10, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 does not apply to a hearing by the commission under this part.

(Added by Stats. 1995, ch. 938 (S.B. 523), § 55, operative July 1, 1997.)

(25 Cal.L.Rev.Comm. Reports 55 (1995): Section 17533 makes the general administrative adjudication provisions of the Administrative Procedure Act inapplicable to hearings of the Commission on State Mandates under this part. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Although Section 17533 is silent on the question, the formal hearing provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the Commission on State Mandates under this part. Cf. Gov't Code § 11501 (application of chapter). Nothing in Section 17533 excuses compliance with procedural protections required by due process of law.)

CHAPTER 4. IDENTIFICATION AND PAYMENT OF COSTS MANDATED BY THE STATE

ARTICLE 1. Commission Procedure

§ 17550. Reimbursement of local agencies and school districts

Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17551. Hearing and decision on claims

(a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) Commission review of claims may be had pursuant to subdivision (a) only if the test claim is filed within the time limits specified in this section.

(c) Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.

(d) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1985, ch. 179, § 5, eff. July 8, 1985, operative Jan. 1, 1985; Stats. 1986, ch. 879, § 2; Stats. 2002, ch. 1124 (A.B. 3000), § 30.2, eff. Sept. 30, 2002; Stats. 2004, ch. 890 (A.B. 2856), § 11.)

(For operative effect of 1985 amendment, see Historical and Statutory Notes under Education Code § 42243.8 in West's California Codes. Amendment of this section by Stats. 1986, ch. 879, § 2.5, failed to become operative under the provisions of § 56 of that Act.)

CODE OF REGULATIONS REFERENCES

Action on proposed decision, see 2 Cal. Code of Regs. § 1188.1.

Definitions, hearings and decisions, see 2 Cal. Code of Regs. § 1187.

Financial operations, commission on state mandates, reconsideration of a prior final decision, see 2 Cal. Code of Regs. § 1188.4.

Form of decision, see 2 Cal. Code of Regs. § 1188.2.

Incorrect reduction claim filing, see 2 Cal. Code of Regs. § 1185.

Reinstatement of costs, see 2 Cal. Code of Regs. § 1185.1.

Representation at hearing, see 2 Cal. Code of Regs. § 1187.8.

Review of completed test claim and preparation of staff analysis, see 2 Cal. Code of Regs. § 1183.07.

Review of incorrect reduction claims, see 2 Cal. Code of Regs. § 1185.01.

Test claim filing, see 2 Cal. Code of Regs. § 1183.

§ 17551.5 Repealed by Stats. 1993, ch. 59 (S.B. 433), §, eff. June 30, 1993, operative Jan. 1, 1996.

§ 17552. Exclusive remedy

This chapter shall provide the sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1986, ch. 879, § 3.)

(Amendment of this section by § 3.5 of Stats. 1986, ch. 879, failed to become operative under the provisions of § 57 of that Act.)

§ 17553. Procedures for receiving and hearing claims; filing of test claims; form and contents; incomplete test claims; determination of complete incorrect reduction claim

(a) The commission shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on those claims. The procedures shall do all of the following:

- (1) Provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, and any other interested person.
- (2) Ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission.
- (3) Permit the hearing of a claim to be postponed at the request of the claimant, without prejudice, until the next scheduled hearing.

(b) All test claims shall be filed on a form prescribed by the commission and shall contain at least the following elements and documents:

- (1) A written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate and shall include all of the following:
 - (A) A detailed description of the new activities and costs that arise from the mandate.
 - (B) A detailed description of existing activities and costs that are modified by the mandate.
 - (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
 - (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(F) Identification of all of the following:

(i) Dedicated state funds appropriated for this program.

(ii) Dedicated federal funds appropriated for this program.

(iii) Other nonlocal agency funds dedicated for this program.

(iv) The local agency's general purpose funds for this program.

(v) Fee authority to offset the costs of this program.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

(2) The written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information or belief, and signed by persons who are authorized and competent to do so, as follows:

(A) Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

(B) Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

(C) Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program. Specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program.

(3) (A) The written narrative shall be supported with copies of all of the following:

(i) The test claim statute that includes the bill number or executive order, alleged to impose or impact a mandate.

(ii) Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate.

(iii) Administrative decisions and court decisions cited in the narrative.

(B) State mandate determinations made by the Board of Control and the Commission on State Mandates and published court decisions on state mandate determinations made by the Commission on State Mandates are exempt from this requirement.

(4) A test claim shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included.

(c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order.

(d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim

is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 5, operative July 1, 1996. Amended by Stats. 1998, ch. 681 (A.B. 1963), § 1, eff. Sept. 22, 1998; Stats. 1999, ch. 643 (A.B. 1679), § 3, Stats. 2004, ch. 890 (A.B. 2856), § 12.)

(Derivation: Former § 17553 was amended, prior to repeal, by Stats. 1995, ch. 945 (S.B. 11), § 4, became inoperative on July 1, 1996, and was repealed by its own terms on Jan. 1, 1997.)

CODE OF REGULATIONS REFERENCES

Adoption of parameters and guidelines, see 2 Cal. Code of Regs. § 1183.1.

Commission on state mandates, see 2 Cal. Code of Regs. § 1181 et seq.

Filing of written materials, see 2 Cal. Code of Regs. § 1181.2.

Submissions of written materials in other media, see 2 Cal. Code of Regs. § 1181.3.

Conduct of hearing, see 2 Cal. Code of Regs. § 1187.6.

Continuance of hearings and further hearings, see 2 Cal. Code of Regs. § 1187.9.

Definitions, hearings and decisions, see 2 Cal. Code of Regs. § 1187.

Evidence submitted to the commission, see 2 Cal. Code of Regs. § 1187.5.

Oral and written arguments, see 2 Cal. Code of Regs. § 1188.

Representation at hearing, see 2 Cal. Code of Regs. § 1187.8.

Test claim filing, see 2 Cal. Code of Regs. § 1183.

Withdrawal of claims and requests, see 2 Cal. Code of Regs. § 1188.3.

§ 17554. Waiver of procedural requirements

With the agreement of all parties to the claim, the commission may waive the application of any procedural requirement imposed by this chapter or pursuant to Section 17553. The authority granted by this section includes the consolidation of claims and the shortening of time periods.

(Added by Stats. 1988, ch. 1179, § 1, eff. Sept. 22, 1988. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 13.)

CODE OF REGULATIONS REFERENCES

Executive director's authority to consolidate test claims, see 2 Cal. Code of Regs. § 1183.06.

Commission on state mandates, submissions of written materials in other media, see 2 Cal. Code of Regs. § 1181.3.

§ 17555. Notification of appropriate policy and fiscal committees, Legislative Analyst, Department of Finance and Controller after hearing and decision

(a) No later than 30 days after hearing and deciding upon a test claim pursuant to subdivision (a) of Section 17551, the commission shall notify the appropriate Senate and Assembly policy and fiscal committees, the Legislative Analyst, the Department of Finance, and the Controller of that decision.

(b) For purposes of this section, the "appropriate policy committee" means the policy committee that has jurisdiction over the subject matter of the statute, regulation, or executive order, and bills relating to that subject matter would have been heard.

(Added by Stats. 2004, ch. 890 (A.B. 2856), § 15.)

(Derivation: Former § 17555, added by Stats. 1995, ch. 945 (S.B. 11), § 7, operative July 1, 1996, derived from former § 17555, added by Stats. 1984, ch. 1459, § 1, relating to public hearing and costs of a test claim based upon statute or executive order, was repealed by Stats. 2004, ch. 890 (A.B. 2856), § 14.)

§ 17556. Findings

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties that were expressly included in a ballot measure approved by the voters in a statewide or local election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1986, ch. 879, § 4; Stats. 1989, ch. 589, § 1; Stats. 2004, ch. 895 (A.B. 2855), § 14.)

(For state reimbursement provisions and Governor's signing message relating to Stats. 2004, ch. 895 (A.B. 2855), see Historical and Statutory Notes under Educ. Code, § 32282.)

CODE OF REGULATIONS REFERENCES

Filing request for reimbursement, see 2 Cal. Code of Regs. § 1184.

CODE OF REGULATIONS REFERENCES

Commission on state mandates, submissions of written materials in other media, see 2 Cal. Code of Regs. § 1181.3.

Evidence submitted to the commission, see 2 Cal. Code of Regs. § 1187.5.

Filing requests for reimbursement, see 2 Cal. Code of Regs. § 1184.

Parameters and guidelines, see 2 Cal. Code of Regs. § 1183.1 et seq.

Submission of proposed parameters and guidelines, see 2 Cal. Code of Regs. § 1183.1 et seq.

Timelines, see 2 Cal. Code of Regs. § 1183.01.

§ 17558. Controller's receipt of parameters and guidelines; payment and audit of claims; claiming instructions

(a) The commission shall submit the adopted parameters and guidelines to the Controller. All claims relating to a statute or executive order that are filed after the adoption or amendment of parameters and guidelines pursuant to Section 17557 shall be transferred to the Controller who shall pay and audit the claims from funds made available for that purpose.

b) Not later than 60 days after receiving the adopted parameters and guidelines from the commission, the Controller shall issue claiming instructions for each mandate that requires state reimbursement, to assist local agencies and school districts in claiming costs to be reimbursed. In preparing claiming instructions, the Controller shall request assistance from the Department of Finance and may request the assistance of other state agencies. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the commission.

(c) The Controller shall, within 60 days after receiving revised adopted parameters and guidelines from the commission or other information necessitating a revision of the claiming instructions, prepare and issue revised claiming instructions for mandates that require state reimbursement that have been established by commission action pursuant to Section 17557 or after any decision or order of the commission pursuant to Section 17551. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 11, operative July 1, 1996. Amended by Stats. 1996, ch. 45 (S.B. 19), § 1, eff. May 15, 1996, operative July 1, 1996; Stats. 2004, ch. 313 (A.B. 2224), § 2; Stats. 2004, ch. 890 (A.B. 2856), § 17.)

(Section affected by two or more acts at the same session of the legislature (2004), see Government Code § 9605.)

(Derivation: Former § 17558, added by Stats. 1984, ch. 1459, § 1, amended by Stats. 1992, ch. 1041, § 2 and Stats. 1995, ch. 945 (S.B. 11) § 10, and by its own terms became inoperative on July 1, 1996, and was repealed operative Jan. 1, 1997.)

§ 17558.5. Reimbursement claims for actual costs; field review; notice of remittance advice of adjustment to claim; interest rate; adjustment of payments due to intent to defraud or willful delay

(a) A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial

payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

(b) The Controller may conduct a field review of any claim after the claim has been submitted, prior to the reimbursement of the claim.

(c) The Controller shall notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a claim for reimbursement that results from an audit or review. The notification shall specify the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the local agency or school district, and the reason for the adjustment. Remittance advices and other notices of payment action shall not constitute notice of adjustment from an audit or review.

(d) The interest rate charged by the Controller on reduced claims shall be set at the Pooled Money Investment Account rate and shall be imposed on the dollar amount of the overpaid claim from the time the claim was paid until overpayment is satisfied.

(e) Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 13, operative July 1, 1996. Amended by Stats. 2002, ch. 1124 (A.B. 3000), § 30.4, eff. Sept. 30, 2002; Stats. 2002, ch. 1128 (A.B. 2834), § 14.5, operative Jan. 1, 2003; Stats. 2004, ch. 313 (A.B. 2224), § 3; Stats. 2004, ch. 890 (A.B. 2856), § 18.)

(For legislative findings and declarations and appropriations relating to Stats. 2002, ch. 1128 (A.B. 2834), see Historical and Statutory Notes under Educ. Code, § 14501, in West's California Codes.)

(Derivation: Former § 17558.5, added by Stats. 1993, ch. 906, § 2, was amended, prior to repeal, by Stats. 1995, ch. 945 (S.B. 11), § 12, became inoperative on July 1, 1996, and was repealed on Jan. 1, 1997, by its own terms.)

(Sections 1 and 23 of Stats. 1993, ch. 906 (A.B. 557), provide:

SEC. 1. This act shall be known and may be cited as the Omnibus Local Government Act of 1993.

SEC. 23. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.)

§ 17558.6. Review of process by which local agencies appeal reduction of reimbursement claims; expeditiousness and cost reduction

It is the intent of the Legislature that the Commission on State Mandates review its process by which local agencies may appeal the reduction of reimbursement claims on the basis that the reduction is incorrect in order to provide for a more expeditious and less costly process.

(Added by Stats. 1998, ch. 681 (A.B. 1963), § 3, eff. Sept. 22, 1998.)

§ 17559. Reconsideration; proceedings to set aside decision

(a) The commission may order a reconsideration of all or part of a test claim or incorrect reduction claim on petition of any party. The power to order a reconsideration or amend a test claim decision shall expire 30 days after the statement of decision is delivered or mailed to the claimant. If additional time is needed

to evaluate a petition for reconsideration filed prior to the expiration of the 30-day period, the commission may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the commission on the ground that the commission's decision is not supported by substantial evidence. The court may order the commission to hold another hearing regarding the claim and may direct the commission on what basis the claim is to receive a rehearing.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1999, ch. 643 (A.B. 1679), § 4.)

CODE OF REGULATIONS REFERENCES

Financial operations, commission on state mandates, reconsideration of a prior final decision, see 2 Cal. Code of Regs. § 1188.4.

§ 17560. Claims for reimbursement

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

(a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).

(b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

(c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

(Added by Stats. 1986, ch. 879, § 5. Amended by Stats. 1992, ch. 1041 (A.B. 1690), § 3. Amended by Stats. 1996, ch. 45 (S.B. 19), § 2, eff. May 15, 1996; Stats. 1998, ch. 681 (A.B. 1963), § 4, eff. Sept. 22, 1998.)

(Derivation: Rev. & Tax Code, former § 2218.5, added by Stats. 1982, ch. 734, § 2; Stats. 1982, ch. 1586, § 2.)

§ 17561. State-mandated costs; reimbursement of local agencies and school districts; appropriations; disbursements; excessive claims

(a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that

appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying

Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies and school districts pursuant to Section 17558. 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.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17551 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late

claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

(Added by Stats. 1986, ch. 879, § 6, amended by Stats. 1988, ch. 1179, § 3, eff. Sept. 22, 1988; Stats. 1989, ch. 589, § 1.5, amended by Stats. 1996, ch. 45 (S.B. 19), § 3, eff. May 15, 1996, operative July 1, 1996; Stats. 1999, ch. 643 (A.B. 1679), § 5; Stats. 2002, ch. 1124 (A.B. 3000), § 30.6, eff. Sept. 30, 2002; Stats. 2004, ch. 313 (A.B. 2224), § 4; Stats. 2004, ch. 890 (A.B. 2856), § 19.)

(Section affected by two or more acts at the same session of the legislature (2004), see Government Code § 9605.)

(Derivation: Rev. & Tax Code, former § 2231, added by Stats. 1975, ch. 486, § 7, amended by Stats. 1977, ch. 1135, § 7; Stats. 1978, ch. 794, § 1.1; Stats. 1980, ch. 1256, § 8; Stats. 1982, ch. 734, § 3; Stats. 1982, ch. 1586, § 3. Rev. & Tax Code, former § 2231, added by Stats. 1973, ch. 358, § 3. Rev. & Tax Code, former § 2164.3, added by Stats. 1972, ch. 1406, § 14.7.)

§ 17561.5. Payment of claims; interest

The payment of an initial reimbursement claim by the Controller shall include accrued interest at the Pooled Money Investment Account rate, if the payment is being made more than 365 days after adoption of the statewide cost estimate for an initial claim or, in the case of payment of a subsequent claim relating to that same statute or executive order, if payment is being made more than 60 days after the filing deadline for, or the actual date of receipt of, the subsequent claim, whichever is later. In those instances, interest shall begin to accrue as of the 366th day after adoption of the statewide cost estimate for an initial claim and as of the 61st day after the filing deadline for, or actual date of receipt of, the subsequent claim, whichever is later.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 14, operative July 1, 1996. Amended by Stats. 1996, ch. 45 (S.B. 19), § 4, eff. May 15, 1996, operative July 1, 1996; Stats. 2004, ch. 890 (A.B. 2856), § 20.)

§ 17561.6. Budget act items or appropriations; reimbursement of interest

A budget act item or appropriation pursuant to this part for reimbursement of claims shall include an amount necessary to reimburse any interest due pursuant to Section 17561.5.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 15, operative July 1, 1996. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 21.)

§ 17562. Legislative findings; declarations and intent; review of proposals concerning state-mandated programs; review of statutes resulting in revenue losses and cost savings; reports and hearings

(a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to increase information regarding state mandates and establish a method for regularly reviewing the costs and benefits of state-mandated local programs.

(b) The Controller shall submit a report to the Joint Legislative Budget Committee and fiscal committees by January 1 of each year. This report shall summarize, by state mandate, the total amount of claims paid per fiscal year and the amount, if any, of mandate deficiencies or surpluses. This report shall be made available in an electronic spreadsheet format. The report shall compare the annual cost of each mandate to the statewide cost estimate adopted by the commission.

(c) After the commission submits its second semiannual report to the Legislature pursuant to Section 17600, the Legislative Analyst shall submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the commission's reports. The report shall make recommendations as to whether the mandate should be repealed, funded, suspended, or modified.

(d) In its annual analysis of the Budget Bill and based on information provided pursuant to subdivision (b), the Legislative Analyst shall identify mandates that significantly exceed the statewide cost estimate adopted by the commission. The Legislative Analyst shall make recommendations on whether the mandate should be repealed, funded, suspended, or modified.

(e) (1) A statewide association of local agencies or school districts or a Member of the Legislature may submit a proposal to the Legislature recommending the elimination or modification of a state-mandated local program. To make such a proposal, the association or member shall submit a letter to the Chairs of the Assembly Committee on Education or the Assembly Committee on Local Government, as the case may be, and the Senate Committee on Education or the Senate Committee on Local Government, as the case may be, specifying the mandate and the concerns and recommendations regarding the mandate. The association or member shall include in the proposal all information relevant to the conclusions. If the chairs of the committees desire additional analysis of the submitted proposal, the chairs may refer the proposal to the Legislative Analyst for review and comment. The chairs of the committees may refer up to a total of 10 of these proposals to the Legislative Analyst for review in any year. Referrals shall be submitted to the Legislative Analyst by December 1 of each year.

(2) The Legislative Analyst shall review and report to the Legislature with regard to each proposal that is referred to the office pursuant to paragraph (1). The Legislative Analyst shall recommend that the Legislature adopt, reject, or modify the proposal. The report and recommendations shall be submitted annually to the Legislature by March 1 of the year subsequent to the year in which referrals are submitted to the Legislative Analyst.

(3) The Department of Finance shall review all statutes enacted each year that contain provisions making inoperative Section 17561 or Section 17565 that have resulted in costs or revenue losses mandated by the state that were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the statutes. The Department of Finance shall also review all statutes enacted each year that may result in cost savings authorized by the state. The Department of Finance shall submit an annual report of the review required by this subdivision, together with the recommendations as it may deem appropriate, by December 1 of each year.

(f) It is the intent of the Legislature that the Assembly Committee on Local Government and the Senate Committee on Local Government hold a joint hearing each year regarding the following:

(1) The reports and recommendations submitted pursuant to subdivision (e).

(2) The reports submitted pursuant to Sections 17570, 17600, and 17601.

(3) Legislation to continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment.

(Added by Stats. 1995, ch. 945 (S.B. 11), § 17, operative July 1, 1996. Amended by Stats. 1996, ch. 45 (S.B. 19), § 5, eff. May 15, 1996, operative July 1, 1996. Stats. 2001, ch. 745 (S.B. 1191), § 97, eff. Oct. 12, 2001; Stats. 2002, ch. 1124 (A.B. 3000), § 30.8, eff. Sept. 30, 2002; Stats. 2004, ch. 890 (A.B. 2856), § 22.)

(Derivation: Former § 17562, added by Stats. 1986, ch. 879, § 7, was amended by Stats. 1995, ch. 945 (S.B. 11), § 16, and by its own terms became inoperative on July 1, 1996 and was repealed operative Jan. 1, 1997. Former Rev. & Tax Code, § 2231.5, added by Stats. 1980, ch. 1337, § 3, amended by Stats. 1982, ch. 734, § 4; Stats. 1985, ch. 179, § 12.)

§ 17563. Use of funds for any public purpose

Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose.

(Added by Stats. 1986, ch. 879, § 8.)

§ 17564. Claims under specified dollar amount; claims for direct and indirect costs

(a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed one thousand dollars (\$1,000), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars (\$1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars (\$1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district

provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines and claiming instructions.

(Added by Stats. 1986, ch. 879, § 9. Amended by Stats. 1992, ch. 1041 (A.B. 1690), § 4; Stats. 1999, ch. 643 (A.B. 1679), § 6; Stats. 2002, ch. 1124 (A.B. 3000), § 30.9, eff. Sept. 30, 2002; Stats. 2004, ch. 890 (A.B. 2856), § 23.)

CODE OF REGULATIONS REFERENCES

Test claim filing, see 2 Cal. Code of Regs. § 1183.

§ 17565. Reimbursement for costs incurred after operative date of mandate

If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.

(Added by Stats. 1986, ch. 879, § 10.)

(Derivation: Rev. & Tax Code, former § 2234, added by Stats. 1975, ch. 486, § 9, amended by Stats. 1977, ch. 1135, § 8.6; Stats. 1980, ch. 1256, § 11.)

§ 17567. Prorated claims; report

In the event that the amount appropriated for reimbursement purposes pursuant to Section 17561 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall adjust prorated claims if supplementary funds are appropriated for this purpose. In the event that the Controller finds it necessary to prorate claims as provided by this section, the Controller shall immediately report this action to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective committee in each house of the Legislature which considers appropriations in order to assure appropriation of these funds in the Budget Act. If these funds cannot be appropriated on a timely basis in the Budget Act, the Controller shall transmit this information to the commission which shall include these amounts in its report to the Legislature pursuant to Section 17600 to assure that an appropriation sufficient to pay the claims is included in the local government claims bills or other appropriation bills. If the local government claims bills required by Section 17612 have been introduced in the Legislature, the Controller shall report directly to the chairperson of the respective committee in each house of the Legislature which considers appropriations to assure inclusion of a sufficient appropriation in the claims bills.

(Added by Stats. 1986, ch. 879, § 11.)

(Derivation: Rev. & T. C. former § 2236, added as Rev. & Tax C. § 2233 by Stats. 1975, ch. 486, § 8, renumbered Rev. & Tax C. § 2234 and amended by Stats. 1977, ch. 309, § 32, renumbered Rev. & Tax C. § 2236 and amended by Stats. 1977, ch. 1135, § 8.5; Stats. 1978, ch. 794, § 2.)

§ 17568. Valid reimbursement claims submitted after specified deadline; insufficient appropriations; prorated claims

If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount which would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars (\$1,000). In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 17560. Estimated claims which were filed by the deadline specified in that section shall be paid in full before payments are made on estimated claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay the estimated claims approved by the Controller, the Controller shall prorate those claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the commission or the Legislature in the same manner as described in Section 17566 in order to assure appropriation of funds sufficient to pay those claims.

(Added by Stats. 1986, ch. 879, § 12. Amended by Stats. 1989, ch. 589, § 2.)

(Derivation: Rev. & Tax Code, former § 2238, added by Stats. 1978, ch. 794, § 3, amended by Stats. 1980, ch. 1256, § 12; Stats. 1982, ch. 734, § 5; Stats. 1982, ch. 1586, § 4; Stats. 1984, ch. 193, § 113.)

§ 17570. Unfunded statutory or regulatory mandate; approved claims; review

The Legislative Analyst shall review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. Any recommendations by the Legislative Analyst to eliminate or modify the mandates shall be contained in the annual analysis of the Budget Bill prepared by the Legislative Analyst.

(Added by Stats. 1990, ch. 582 (S.B. 340), § 6.)

(Derivation: Former § 17570, added by Stats. 1986, ch. 879, § 13, relating to similar subject matter, was repealed by Stats. 1990, ch. 582 (S.B. 340), § 5. Rev. & Tax Code, former § 2246.1, added by Stats. 1980, ch. 1256, § 13.)

§ 17571. Review of claiming instructions; modifications

The commission, upon request of a local agency or school district, shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs. If the commission determines that the claiming instructions do not conform to the parameters and guidelines, the commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the commission.

(Added by Stats. 1986, ch. 879, § 14. Amended by Stats. 1992, ch. 1041 (A.B. 1690), § 5; Stats. 1999, ch. 643 (A.B. 1679), § 7.)

§ 17572. Amendment of parameters and guidelines for Animal Adoption mandate; application; reimbursement claims

(a) The commission shall amend the parameters and guidelines for the state-mandated local program contained in Chapter 752 of the Statutes of 1998, known as the Animal Adoption mandate (Case No. 98-TC-11), as specified below:

(1) Amend the formula for determining the reimbursable portion of acquiring or building additional shelter space that is larger than needed to comply with the increased holding period to specify that costs incurred to address preexisting shelter overcrowding or animal population growth are not reimbursable.

(2) Clarify how the costs for care and maintenance shall be calculated.

(3) Detail the documentation necessary to support reimbursement claims under this mandate, in consultation with the Bureau of State Audits and the Controller's office.

(b) The parameters and guidelines, as amended pursuant to this section, shall apply to claims for costs incurred in fiscal years commencing with the 2005-06 fiscal year in which Chapter 752 of the Statutes of 1998 is not suspended pursuant to Section 17581.

(c) Before funds are appropriated to reimburse local agencies for claims related to costs incurred in fiscal years commencing with the 2005-06 fiscal year pursuant to Sections 1834 and 1846 of the Civil Code, and Sections 31108, 31752, 31752.5, 31753, 32001, and 32003 of the Food and Agricultural Code, known as the Animal Adoption mandate, local agencies shall file reimbursement claims pursuant to the parameters and guidelines amended pursuant to this section, and the Controller's revised claiming instructions.

(Added by Stats. 2004, ch. 313 (A.B. 2224), § 5.)

ARTICLE 2. Specific Costs Mandated By The State

§ 17575. Determination by legislative counsel

When a bill is introduced in the Legislature, and each time a bill is amended, on and after January 1, 1985, the Legislative Counsel shall determine whether the bill mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution. The Legislative Counsel shall make this determination known in the digest of the bill and shall describe in the digest the basis for

this determination. The determination by the Legislative Counsel shall not be binding on the commission in making its determination pursuant to Section 17555.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17576. Preparation of estimate

Whenever the Legislative Counsel determines that a bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Department of Finance shall prepare an estimate of the amount of reimbursement which will be required. This estimate shall be prepared for the respective committees of each house of the Legislature which consider taxation measures and appropriation measures and shall be prepared prior to any hearing on the bill by any such committee.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Certification of statewide cost estimate, see 2 Cal. Code of Regs. § 1184.2.

§ 17577. Amount of estimate

The estimate required by Section 17576 shall be the amount estimated to be required during the first fiscal year of a bill's operation in order to reimburse local agencies and school districts for costs mandated by the state by the bill.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Certification of statewide cost estimate, see 2 Cal. Code of Regs. § 1184.2.

§ 17578. Notice of bill mandating new program or higher level of service

In the event that a bill is amended on the floor of either house, whether by adoption of the report of a conference committee or otherwise, in such a manner as to mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Legislative Counsel shall immediately inform, respectively, the Speaker of the Assembly and the President of the Senate of that fact. Notification from the Legislative Counsel shall be published in the journal of the respective houses of the Legislature.

(Added by Stats. 1984, ch. 1459, § 1.)

§ 17579. Bill mandating new program or higher level of service; section specifying reimbursement; appropriation

Any bill introduced or amended for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution shall contain a section specifying that reimbursement shall be made pursuant to this chapter or that the mandate is being disclaimed and the reason therefor.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1985, ch. 179, § 7, eff. July 8, 1985, operative Jan. 1, 1985; Stats. 2004, ch. 890 (A.B. 2856), § 24.)

§ 17580. Repealed by Stats. 1998, ch. 876 (S.B. 1649), § 6

§ 17581. Implementation by local agencies of statutes or executive orders requiring state reimbursement

(a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(c) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203.

(d) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

(Added by Stats. 1990, ch. 459 (S.B. 1333), § 1, eff. July 31, 1990. Amended by Stats. 1998, ch. 681 (A.B. 1963), § 5, eff. Sept. 22, 1998.)

(Section 2 of Stats. 1991, ch. 266 (S.B. 174), eff. July 29, 1991, provides:

In addition to statutes identified by the Legislature pursuant to the procedure specified in Section 17581 of the Government Code, and notwithstanding any other provision of law, no local agency shall be required to implement or give effect during the 1991-92 fiscal year to any of the following statutes:

(a) Chapter 1327 of the Statutes of 1984, and Chapter 1286 of the Statutes of 1985 (Short-Doyle Targeted Supplemental Fund).

(b) Chapter 1393 of the Statutes of 1978, Chapter 328 of the Statutes of 1982, Chapter 1594 of the Statutes of 1982, and Chapter 1327 of the Statutes of 1984 (Mental Health Quality Assurance).)

§ 17581.5. School Bus Safety II mandate; School Crimes Reporting II mandate; investment reports mandate; county treasurer oversight committees mandate; implementation in specified fiscal years

(a) A school district may not be required to implement or give effect to the statutes, or portion thereof, identified in subdivision (b) during any fiscal year and for the period immediately following that fiscal

year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of school districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) This section applies only to the following mandates:

(1) The School Bus Safety I (CSM-4433) and II (97-TC-22) mandates (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (97-TC-03; and Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

(3) Investment reports (96-358-02; and Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996).

(4) County treasury oversight committees (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

(Added by Stats. 2002, ch. 1167 (A.B. 2781), § 37, eff. Sept. 30, 2002. Amended by Stats. 2004, ch. 216 (S.B. 1108), § 26, eff. Aug. 11, 2004; Stats. 2004, ch. 316 (A.B. 2851), § 1, eff. Aug. 25, 2004.)

(For Governor's reduction message regarding Stats. 2002, ch. 1167 (A.B. 2781), see Historical and Statutory Notes under Education Code § 10554 in West's California Codes.)

(For uncodified provisions and Governor's reduction message regarding Stats. 2004, ch. 216 (S.B. 1108), see Historical and Statutory Notes under Education Code § 2558.46.)

(Section 2 to 5 of Stats. 2004, ch. 316 (A.B. 2851), provide:

SEC. 2. The Legislature hereby finds and declares that, notwithstanding a prior determination by the Board of Control, acting as the predecessor agency for the Commission on State Mandates, and pursuant to subdivision (d) of Section 17556 of the Government Code, the state-mandated local program imposed by Chapter 1131 of the Statutes of 1975 no longer constitutes a reimbursable mandate under Section 6 of Article XIII B of the California Constitution because subdivision (e) of Section 2207 of the Public Resources Code, as added by Chapter 1097 of the Statutes of 1990, confers on local agencies subject to that mandate authority to levy fees sufficient to pay for the mandated program.

SEC. 3. Notwithstanding any other provision of law, by January 1, 2006, the Commission on State Mandates shall reconsider whether each of the following statutes constitutes a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal statutes enacted and federal and state court decisions rendered since these statutes were enacted:

(a) Sex offenders: disclosure by law enforcement officers (97-TC-15; and Chapters 908 and 909 of the Statutes of 1996, Chapters 17, 80, 817, 818, 819, 820, 821, and 822 of the Statutes of 1997, and Chapters 485, 550, 927, 928, 929, and 930 of the Statutes of 1998).

(b) Extended commitment, Youth Authority (98-TC-13; and Chapter 267 of the Statutes of 1998).

(c) Brown Act Reforms (CSM-4469; and Chapters 1136, 1137, and 1138 of the Statutes of 1993, and Chapter 32 of the Statutes of 1994).

(d) Photographic Record of Evidence (No. 98-TC-07; and Chapter 875 of the Statutes of 1985, Chapter 734 of the Statutes of 1986, and Chapter 382 of the Statutes of 1990).

SEC. 4. The Legislature hereby finds and declares that the following statutes no longer constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution because provisions containing the reimbursable mandate have been repealed:

(a) Democratic Party presidential delegates (CSM-4131; and Chapter 1603 of the Statutes of 1982 and Chapter 8 of the Statutes of 1988, which enacted statutes that were repealed by Chapter 920 of the Statutes of 1994).

(b) Short-Doyle case management, Short-Doyle audits, and residential care services (CSM-4238; and Chapter 815 of the Statutes of 1979, Chapter 1327 of the Statutes of 1984, and Chapter 1352 of the Statutes of 1985, which enacted statutes that were repealed by Chapter 89 of the Statutes of 1991).

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to fully implement the Budget Act of 2003 at the earliest possible time, it is necessary that this act take effect immediately.)

§ 17582. Repealed by Stats. 1993, ch. 59 (S.B. 443), § 5, eff. June 30, 1993, operative Jan. 1, 1996.

ARTICLE 3. Reports To The Legislature

§ 17600. Semiannual report

At least twice each calendar year the commission shall report to the Legislature on the number of mandates it has found pursuant to Article 1 (commencing with Section 17550) and the estimated statewide costs of these mandates. This report shall identify the statewide costs estimated for each mandate and the reasons for recommending reimbursement.

(Added by Stats. 1984, ch. 1459, § 1.)

CODE OF REGULATIONS REFERENCES

Certification of statewide cost estimate, see 2 Cal. Code of Regs. § 1184.2.

Statewide cost estimate, see 2 Cal. Code of Regs. § 1183.3.

§ 17601. Annual report

The commission shall report to the Legislature on January 15, 1986, and each January 15 thereafter, on the number of claims it denied during the preceding calendar year and the basis on which the particular claims were denied.

(Added by Stats. 1984, ch. 1459, § 1.)

ARTICLE 4. Payment Of Claims

§ 17610. Repealed by Stats. 2004, ch. 890 (A.B. 2856), § 25.

(The repealed section, added by Stats. 1984, ch. 1459, § 1, amended by Stats. 1985, ch. 179, § 8; Stats. 1986, ch. 879, § 16; Stats. 1988, ch. 1179, § 5; Stats. 1992, ch. 1041 (A.B. 1690), § 6, related to statute specifying reimbursement, specification of parameters and guidelines, statewide cost limitation, and definitions.)

§ 17611. Repealed by Stats. 1985, ch. 179, § 9, eff. July 8, 1985, operative Jan. 1, 1985.

§ 17612. Local government claims bill; modification of parameters and guidelines; action for declaratory relief

(a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates.

(b) The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature amends, modifies, or supplements the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.

(c) If the Legislature deletes from a local government claims bill funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1985, ch. 179, § 10, eff. July 8, 1985, operative Jan. 1, 1985; Stats. 1992, ch. 1041 (A.B. 1690), § 7; Stats. 2004, ch. 890 (A.B. 2856), § 26.)

§ 17613. Augmentation of reimbursement expenditures

(a) The Director of Finance may, upon receipt of any report submitted pursuant to Section 17567, authorize the augmentation of the amount available for expenditure to reimburse costs mandated by the state, as defined in Section 17514, as follows:

(1) For augmentation of (A) any schedule in any item to reimburse costs mandated by the state in any budget act, or (B) the amount appropriated in a local government claims bill for reimbursement of the claims of local agencies, as defined by Section 17518, from the unencumbered balance of any other item to reimburse costs mandated by the state in that budget act or another budget act or in an appropriation for reimbursement of the claims of local agencies in another local government claims bill.

(2) For augmentation of (A) any schedule in any budget act item, or (B) any amount appropriated in a local government claims bill, when either of these augmentations is for reimbursement of mandated claims of school districts, as defined in Section 17519, when the source of this augmentation is (A) the unencumbered balance of any other scheduled amount in that budget act or another budget act, or (B) an appropriation in another local government claims bill, when either of these appropriations is for reimbursement of mandate claims of school districts. This paragraph applies only to appropriations that are made for the purpose of meeting the minimum funding guarantee for educational programs pursuant to Section 8 of Article XVI of the California Constitution.

(b) No authorization for an augmentation pursuant to this section may be made sooner than 30 days after the notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time as the chairperson of the joint committee, or his or her designee, may in each instance determine.

(Added by Stats. 1992, ch. 1041 (A.B. 1690), § 8. Amended by Stats. 1995, ch. 914 (A.B. 818), § 1, eff. Oct. 16, 1995.)

§ 17614. Repealed by Stats. 2004, ch. 890 (A.B. 2856), § 27.

(The repealed section, added by Stats. 1984, ch. 1459, § 1, amended by Stats. 1985, ch. 179, § 11, related to creation of the State Mandates Claim Fund.)

ARTICLE 5. State Mandates Apportionment System

§ 17615. Legislative findings and declarations; intent of legislature

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for actual costs mandated by the state on an annual claim basis is time consuming, cumbersome, and expensive at both the local and state levels. The Controller must process voluminous claims with all claims subject to a desk audit and selected claims also subject to a field audit. Local agencies are required to maintain extensive documentation of all claims in anticipation of such an audit. The volume of these records is substantial and will continue to grow with no relief in sight as new programs are mandated. The cost to local agencies and school districts for filing claims, and for maintaining documentation and responding to the Controller's audits is substantial. The current administrative cost to both state and local governments represents a significant expenditure of public funds with no apparent benefit to the taxpayers. It is the intent of the Legislature to streamline the reimbursement process for costs mandated by the state by creating a system of state mandate apportionments to fund the costs of certain programs mandated by the state.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985.)

CODE OF REGULATIONS REFERENCES

State mandates apportionment system, see 2 Cal. Code of Regs. § 1184.5 et seq.

§ 17615.1. Procedure for reviewing mandated cost programs

The commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982-83, 1983-84, and 1984-85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance, the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the costs of the state-mandated program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 28.)

§ 17615.2. Disbursements computed by averaging approved reimbursement claims; adjustment of payments

(a) Notwithstanding Section 17561, after November 30, 1985, for those programs included in the State Mandates Apportionment System, after approval by the commission, there shall be disbursed by the Controller to each local agency and school district which has submitted a reimbursement claim for costs mandated by the state in the 1982-83, 1983-84, and the 1984-85 fiscal years, or any three consecutive fiscal years thereafter, an amount computed by averaging the approved reimbursement claims for this three-year period. The amount shall first be adjusted according to any changes in the deflator. The deflator shall be applied separately to each year's costs for the three years which comprise the base period. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1985 and the Budget Act for any subsequent fiscal year thereafter. For purposes of this article, "base period" means the three fiscal years immediately succeeding the commission's approval.

(b) When the Controller has made payment on claims prior to commission approval of the program for inclusion in the State Mandates Apportionment System, the payment shall be adjusted in the next apportionment to the amount which would have been subvended to the local agency or school district for that fiscal year had the State Mandates Apportionment System been in effect at the time of the initial payment.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 1989, ch. 589, § 3.)

§ 17615.3. Recalculation of allocations

Notwithstanding Section 17561, by November 30, 1986, and by November 30 of each year thereafter, for those programs included in the State Mandates Apportionment System, the Controller shall recalculate each allocation for each local agency and school district for the 1985-86 fiscal year, by using the actual change in the deflator for that year. That recalculated allocation shall then be adjusted by the estimated change in the deflator for the 1986-87 fiscal year, and each fiscal year thereafter, to establish the allocation amount for the 1986-87 fiscal year, and each fiscal year thereafter. Additionally, for programs approved by the commission for inclusion in the State Mandates Apportionment System on or after January 1, 1988, the allocation for each year succeeding the three-year base period shall be adjusted according to any changes in both the deflator and workload. The Controller shall then subvene that amount after adjusting it by any amount of overpayment or underpayment in the 1985-86 fiscal year, and each fiscal year thereafter, due to a discrepancy between the actual change and the estimated change in the deflator or workload. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1986 and the Budget Act for any subsequent fiscal year thereafter. For purposes of this article, "workload" means, for school districts and county offices of education, changes in the average daily attendance; for community colleges, changes in the number of full-time equivalent students; for cities and counties, changes in the population within their boundaries; and for special districts, changes in the population of the county in which the largest percentage of the district's population is located.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 1989, ch. 589, § 4.)

§ 17615.4. New programs; filing of reimbursement claims; inclusion in state mandates apportionment system

(a) When a new mandate imposes costs that are funded either by legislation or in local government claims bills, local agencies and school districts may file reimbursement claims as required by Section 17561, for a minimum of three years after the initial funding of the new mandate.

(b) After actual cost claims are submitted for three fiscal years against such a new mandate, the commission shall determine, upon request of the Controller or a local entity or school district receiving

reimbursement for the program, whether the amount of the base year entitlement adjusted by changes in the deflator and workload accurately reflects the costs incurred by the local agency or school district. If the commission determines that the base year entitlement, as adjusted, does accurately reflect the costs of the program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

(c) The Controller shall make recommendations to the commission and the commission shall consider the Controller's recommendations for each new mandate submitted for inclusion in the State Mandates Apportionment System. All claims included in the State Mandates Apportionment System pursuant to this section are also subject to the audit provisions of Section 17616.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 1989, ch. 589, § 5; Stats. 2004, ch. 890 (A.B. 2856), § 29.)

§ 17615.5. Base year entitlement; adjustment; establishment

(a) If any local agency or school district has an established base year entitlement which does not include costs for a particular mandate, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, adjusted pursuant to Section 17615.3 by changes in the deflator and workload, or entitlement claims covering a minimum of three consecutive years, after which time its base year entitlement may be adjusted by an amount necessary to fund the costs of that mandate.

(b) If any local agency or school district has no base year entitlement, but wishes to begin claiming costs of one or more of the mandates included in the State Mandates Apportionment System, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, or entitlement claims covering the preceding three consecutive years, which shall be adjusted pursuant to Sections 17615.2 and 17615.3 by changes in the deflator and workload, after which time a base year entitlement may be established in an amount necessary to fund the costs of the mandate or mandates.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 1989, ch. 589, § 6.)

§ 17615.6. Subtractions from annual subventions

If a local agency or school district realizes a decrease in the amount of costs incurred because a mandate is discontinued, or made permissive, the Controller shall determine the amount of the entitlement attributable to that mandate by determining the base year amount for that mandate for the local agency or school district plus the annual adjustments. This amount shall be subtracted from the annual subvention which would otherwise have been allocated to the local agency or school district.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985.)

§ 17615.7. Removal of programs from state mandates apportionment system

If a mandated program included in the State Mandates Apportionment System is modified or amended by the Legislature or by executive order, and the modification or amendment significantly affects the costs of the program, as determined by the commission, the program shall be removed from the State Mandate Apportionment System, and the payments reduced accordingly. Local entities or school districts may submit actual costs claims for a period of three years, after which the program may be considered for inclusion in the State Mandates Apportionment System, pursuant to the provisions of Section 17615.4.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985.)

§ 17615.8. Review of apportionment or base year entitlement; records and documentation; adjustments; costs of review

- (a) The commission shall establish a procedure for reviewing, upon request, any apportionment or base year entitlement of a local agency or school district.
- (b) Local agencies and school districts which request such a review shall maintain and provide those records and documentation as the commission or its designee determines are necessary for the commission or its designee to make the required determinations. With the exception of records required to verify base year entitlements, the records may not be used to adjust current or prior apportionments, but may be used to adjust future apportionments.
- (c) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state does not accurately reflect the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission shall direct the Controller to adjust the apportionment accordingly. For the purposes of this section, an apportionment or a base year entitlement does not accurately reflect the costs incurred by a local agency or school district if it falls short of reimbursing, or over reimburses, that local agency's or school district's actual costs by 20 percent or by one thousand dollars (\$1,000), whichever is less.
- (d) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state accurately reflects the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission may, in its discretion, direct the Controller to withhold, and, if so directed, the Controller shall withhold the costs of the commission's review from the next apportionment to the local agency or school district, if the commission review was requested by the local agency or school district.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985.)

§ 17615.9. Review of programs funded

The commission shall periodically review programs funded under the State Mandate Apportionments System to evaluate the effectiveness or continued statewide need for each such mandate.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985.)

CODE OF REGULATIONS REFERENCES

Adjustment to apportionment, see 2 Cal. Code of Regs. § 1184.11.

§ 17616. Audits; verification of reimbursed activities

The Controller shall have the authority to do either or both of the following:

- (a) Audit the fiscal years comprising the base year entitlement no later than three years after the year in which the base year entitlement is established. The results of such audits shall be used to adjust the base year entitlements and any subsequent apportionments based on that entitlement, in addition to adjusting actual cost payments made for the base years audited.
- (b) Verify that any local agency or school district receiving funds pursuant to this article is providing the reimbursed activities.

(Added by Stats. 1985, ch. 1534, § 4, eff. Oct. 2, 1985. Amended by Stats. 2004, ch. 890 (A.B. 2856), § 30.)

§ 17617. Distribution of amounts due; time period

The total amount due to each city, county, city and county, and special district, for which the state has determined, as of June 30, 2005, that reimbursement is required under Section 6 of Article XIII B of the California Constitution, shall be appropriated for payment to these entities over a period of not more than five years, commencing with the Budget Act for the 2006-07 fiscal year and concluding with the Budget Act for the 2011-12 fiscal year.

(Added by Stats. 2004, ch. 211 (S.B. 1096), § 8.5, eff. Aug. 5, 2004.)

(For legislative intent, findings and declarations, reimbursement relative to State Mandates claims, and urgency effective provisions relating to Stats. 2004, ch. 211 (S.B. 1096), see Historical and Statutory Notes under Government Code § 6585 in West's California Codes.)

CHAPTER 5. CLAIMS FOR OFFSETTING LOCAL SAVINGS AGAINST STATE REIMBURSEMENTS [REPEALED]

§§ 17620 to 17626 Repealed by Stats. 1993, ch. 216 (A.B. 843) § 2.

CHAPTER 6. OPERATIVE DATE

§ 17630. Applicability of part; time of submission of claims; transfer of claims to commission

Except for Article 5, the provisions of this part shall be applicable to claims for state reimbursement of costs mandated by the state on and after January 1, 1985. All claims for state reimbursement filed under Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2227), and Article 3 (commencing with Section 2240) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code that have not been included in a local government claims bill pursuant to Section 2255 of the Revenue and Taxation Code enacted before January 1, 1985, shall be transferred to and considered by the commission pursuant to the provisions of this part.

(Added by Stats. 1984, ch. 1459, § 1. Amended by Stats. 1985, ch. 1534, § 5, eff. Oct. 2, 1985; Stats. 2004, ch. 890 (A.B. 2856), § 31.)

STATUTORY HISTORICAL NOTES

For Government Code Section 17500 et seq.:

(For Governor's signing message regarding Stats. 2002, ch. 1124 (A.B. 3000), see Historical and Statutory Notes under Bus. & Prof. Code, § 7342, in West's California Codes.)

(For Governor's signing message regarding Stats. 2004, ch. 890 (A.B. 2856), see Historical and Statutory Notes under Educ. Code, § 44763, in West's California Codes.)

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 10)

Government Code Sections 7570-7588

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 7570-7588

7570. Ensuring maximum utilization of all state and federal resources available to provide a child with a disability, as defined in paragraph (3) of Section 1401 of Title 20 of the United States Code, with a free appropriate public education, the provision of related services, as defined in paragraph (22) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, to a child with a disability, shall be the joint responsibility of the Superintendent of Public Instruction and the Secretary of Health and Welfare. The Superintendent of Public Instruction shall ensure that this chapter is carried out through monitoring and supervision.

7571. The Secretary of Health and Welfare may designate a department of state government to assume the responsibilities described in Section 7570. The secretary, or his or her designee, shall also designate a single agency in each county to coordinate the service responsibilities described in Section 7572.

7572. (a) A child shall be assessed in all areas related to the suspected disability by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of, occupational therapy, physical therapy, psychotherapy, and other mental health assessments. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code.

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services in consultation with the State Department of Education.

(c) Psychotherapy and other mental health assessments shall be conducted by qualified mental health professionals as specified in regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, pursuant to this chapter.

(d) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30 (commencing with Section 56000) of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the service in order for the child to benefit from special education. In no case shall the inclusion of necessary related services in a pupil's individualized education plan be contingent upon identifying the funding source. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision (b) Section 56329 of the Education Code, which shall be considered by the individualized education program team.

(1) Whenever an assessment has been conducted pursuant to subdivision (b) or (c), the recommendation of the person who

conducted the assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. When the proposed recommendation of the person has been discussed with the parent and there is disagreement on the recommendation pertaining to the related service, the parent shall be notified in writing and may require the person who conducted the assessment to attend the individualized education program team meeting to discuss the recommendation. The person who conducted the assessment shall attend the individualized education program team meeting if requested. Following this discussion and review, the recommendation of the person who conducted the assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local educational agency.

(2) If an independent assessment for the provision of related services or designated instruction and services is submitted to the individualized education program team, review of that assessment shall be conducted by the person specified in subdivisions (b) and (c). The recommendation of the person who reviewed the independent assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. The parent shall be notified in writing and may request the person who reviewed the independent assessment to attend the individualized education program team meeting to discuss the recommendation. The person who reviewed the independent assessment shall attend the individualized education program team meeting if requested. Following this review and discussion, the recommendation of the person who reviewed the independent assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local agency.

(3) Any disputes between the parent and team members representing the public agencies regarding a recommendation made in accordance with paragraphs (1) and (2) shall be resolved pursuant to Chapter 5 (commencing with Section 56500) of Part 30 of the Education Code.

(e) Whenever a related service or designated instruction and service specified in subdivision (b) or (c) is to be considered for inclusion in the child's individualized educational program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (d). Conference calls, together with written recommendations, are acceptable forms of participation. If the responsible public agency representative will not be available to participate in the individualized education program meeting, the local educational agency shall ensure that a qualified substitute is available to explain and interpret the evaluation pursuant to subdivision (d) of Section 56341 of the Education Code. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

572.5. (a) When an assessment is conducted pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, and any member of the individualized

education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include a representative of the county mental health department.

(b) The expanded individualized education program team shall review the assessment and determine whether:

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care is necessary for the child to benefit from educational services.

(3) Residential services are available which address the needs identified in the assessment and which will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program which calls for residential placement, the individualized education program shall include all the items outlined in Section 56345 of the Education Code, and shall also include:

(1) Designation of the county mental health department as lead case manager. Lead case management responsibility may be delegated to the county welfare department by agreement between the county welfare department and the designated mental health department. The mental health department shall retain financial responsibility for provision of case management services.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Identification of an appropriate residential facility for placement with the assistance of the county welfare department as necessary.

7572.55. (a) Residential placements for a child with a disability who is seriously emotionally disturbed may be made out-of-state only after in-state alternatives have been considered and are found not to meet the child's needs and only when the requirements of Section 7572.5, and subdivision (e) of Section 56365 of the Education Code have been met. The local education agency shall document the alternatives to out-of-state residential placement that were considered and the reasons why they were rejected.

(b) Out-of-state placements shall be made only in a privately operated school certified by the California Department of Education.

(c) A plan shall be developed for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. If the child is a ward or dependent of the court, this plan shall be documented in the record.

7573. The Superintendent of Public Instruction shall ensure that local education agencies provide special education and those related services and designated instruction and services contained in a child's individualized education program that are necessary for the child to benefit educationally from his or her instructional program. Local education agencies shall be responsible only for the provision of those services which are provided by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

7575. (a) (1) Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children's Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis and when contained in the child's individualized education program.

(2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, that the individualized education program team determines are necessary in order to assist a child to benefit from special education, shall be provided by the local education agency by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral needs medically necessary occupational therapy or physical therapy. A medical referral shall be based on a written report from a licensed physician and surgeon who has examined the pupil. The written report shall include the following:

(1) The diagnosed neuromuscular, musculoskeletal, or physical disabling condition prompting the referral.

(2) The referring physician's treatment goals and objectives.

(3) The basis for determining the recommended treatment goals and objectives, including how these will ameliorate or improve the pupil's diagnosed condition.

(4) The relationship of the medical disability to the pupil's need for special education and related services.

(5) Relevant medical records.

(c) The department shall provide the service directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic nonsectarian school or agency.

(d) Local education agencies shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

(e) The department shall also be responsible for providing the services of a home health aide when the local education agency considers a less restrictive placement from home to school for a pupil for whom both of the following conditions exist:

(1) The California Medical Assistance Program provides a life-supporting medical service via a home health agency during the time in which the pupil would be in school or traveling between school and home.

(2) The medical service provided requires that the pupil receive the personal assistance or attention of a nurse, home health aide, parent or guardian, or some other specially trained adult in order to be effectively delivered.

7576. (a) The State Department of Mental Health, or any community mental health service, as defined in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, are responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately

provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, "parent" is as defined in Section 56028 of the Education Code.

(b) A local educational agency, individualized education program team, or parent may initiate a referral for assessment of the social and emotional status of a pupil, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs as defined in Section 56026 of the Education Code and who is suspected of needing mental health services to a community mental health service if the pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local educational agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local educational agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that are all of the following:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local educational agency, pursuant to Section 56331 of the Education Code, has provided appropriate counseling and guidance services, psychological services, parent counseling and training, or social work services to the pupil pursuant to Section 56363 of the Education Code, or behavioral intervention as specified in Section 56520 of the Education Code, as specified in the individualized education program and the individualized education program team has determined that the services do not meet the educational needs of the pupil, or, in cases where these services are clearly inadequate or inappropriate to meet the educational needs of the pupil, the individualized education program team has documented which of these services were considered and why they were determined to be inadequate or inappropriate.

(c) If referring a pupil to a community mental health service in

accordance with subdivision (b), the local educational agency or the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, as provided in the individualized education program of the pupil, including the initiation, duration, and frequency of these services, or an explanation of the reasons a service was considered for the pupil and determined to be inadequate or inappropriate to meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.24 and 300.26 of Title 34 of the Code of Federal Regulations.

(5) An explanation as to the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision does not change the identification and referral responsibilities imposed on local educational agencies

under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for provision of necessary services. In no event shall the procedures described in this subdivision delay or impede the referral and assessment process.

(h) A county mental health agency does not have fiscal or legal responsibility for any costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

7576.2. (a) The Director of the State Department of Mental Health is responsible for monitoring county mental health agencies to ensure compliance with the requirement to provide mental health services to disabled pupils pursuant to this chapter and to ensure that funds provided for this purpose are appropriately utilized.

(b) The Director of the State Department of Mental Health shall submit a report to the Legislature by April 1, 2005, that includes the following:

(1) A description of the data that is currently collected by the State Department of Mental Health related to pupils served and services provided pursuant to this chapter.

(2) A description of the existing monitoring process used by the State Department of Mental Health to ensure that county mental health agencies are complying with this chapter.

(3) Recommendations on the manner in which to strengthen and improve monitoring by the State Department of Mental Health of the compliance by a county mental health agency with the requirements of this chapter, on the manner in which to strengthen and improve collaboration and coordination with the State Department of Education in monitoring and data collection activities, and on the additional data needed related to this chapter.

(c) The Director of the State Department of Mental Health shall collaborate with the Superintendent of Public Instruction in preparing the report required pursuant to subdivision (b) and shall convene at least one meeting of appropriate stakeholders and organizations, including a representative from the State Department of Education, to obtain input on existing data collection and monitoring processes, and on ways to strengthen and improve the data collected and monitoring performed.

7576.3. It is the intent of the Legislature that the Director of the State Department of Mental Health collaborate with an entity with expertise in children's mental health to collect, analyze, and disseminate best practices for delivering mental health services to disabled pupils. The best practices may include, but are not limited to:

(a) Interagency agreements in urban, suburban, and rural areas that result in clear identification of responsibilities between local educational agencies and county mental health agencies and result in efficient and effective delivery of services to pupils.

(b) Procedures for developing and amending individualized education programs that include mental health services that provide flexibility to educational and mental health agencies and protect the interests of children in obtaining needed mental health needs.

(c) Procedures for creating ongoing communication between the classroom teacher of the pupil and the mental health professional who is directing the mental health program for the pupil.

7576.5. If funds are appropriated to local educational agencies to support the costs of providing services pursuant to this chapter, the local educational agencies shall transfer those funds to the community mental health services that provide services pursuant to this chapter in order to reduce the local costs of providing these services. These funds shall be used exclusively for programs operated under this chapter and are offsetting revenues in any reimbursable mandate claim relating to special education programs and services.

7577. (a) The State Department of Rehabilitation and the State Department of Education shall jointly develop assessment procedures for determining client eligibility for State Department of Rehabilitation services for disabled pupils in secondary schools to help them make the transition from high school to work. The assessment procedures shall be distributed to local education agencies.

(b) The State Department of Rehabilitation shall maintain the current level of services to secondary school pupils in project work ability and shall seek ways to augment services with funds that may become available.

7578. The provision of special education programs and related services for disabled children and youth residing in state hospitals shall be ensured by the State Department of Developmental Services, the State Department of Mental Health, and the Superintendent of Public Instruction in accordance with Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code.

7579. (a) Prior to placing a disabled child or a child suspected of being disabled in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the special education local plan area where the residential facility is located.

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child placed in a licensed children's institution or foster family home.

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies that engage in referring children to, or placing children in, residential facilities, and representatives of local educational agencies. It is not the intent of this section to hinder the courts or public agencies in their responsibilities for placing disabled children in residential facilities when appropriate.

(d) Any public agency other than an educational agency that places

a disabled child or a child suspected of being disabled in a facility out of state without the involvement of the school district, special education local plan area, or county office of education in which the parent or guardian resides, shall assume all financial responsibility for the child's residential placement, special education program, and related services in the other state unless the other state or its local agencies assume responsibility.

7579.1. (a) Prior to the discharge of any disabled child or youth who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of the Education Code, or a state hospital for the developmentally disabled or mentally disordered, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least 10 days prior to the discharge of a disabled child or youth, notify in writing the local educational agency in which the special education program for the child is being provided, and the receiving special education local plan area where the child is being transferred, of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

(b) Once the disabled child or youth has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the disabled child or youth receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.4, 56156.6, and 56167 of the Education Code.

(c) Special education local plan area directors shall document instances where the procedures in subdivision (a) are not being adhered to and report these instances to the Superintendent of Public Instruction.

7579.2. It is the intent of the Legislature that any disabled individual who has an active individualized education program and is being discharged from a state developmental center or state hospital be discharged to the community as close as possible to the home of the individual's parent, guardian, or conservator in keeping with the individual's right to receive special education and related services in the least restrictive environment.

7579.5. (a) In accordance with subparagraph (B) of paragraph (2) of subsection (b) of Section 1415 of Title 20 of the United States Code, a local educational agency shall make reasonable efforts to expedite the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent. A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.515 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

(1) (A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid individualized education program, (B) the court has specifically limited the right of the parent or guardian to make educational decisions for the child, and (C) the child has no responsible adult to represent him or her pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055 of the Education Code.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(b) When appointing a surrogate parent, the local educational agency shall, as a first preference, select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the local educational agency shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter.

(d) The surrogate parent is required to meet with the child at least one time. He or she may also meet with the child on additional occasions, attend the child's individualized education program meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to individualized education program purposes.

(e) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

The surrogate parent shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the child.

(g) The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency.

(h) The local educational agency shall terminate the appointment of a surrogate parent if (1) the person is not properly performing the duties of a surrogate parent or (2) the person has an interest that conflicts with interests of the child entrusted to his or her care.

(i) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.

(j) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child.

(1) A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides noneducational care for the child and who meets the other standards of this section.

(2) A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the local educational agency solely because he or she is paid by the local educational agency to serve as a surrogate parent.

(k) The surrogate parent may represent the child until (1) the child is no longer in need of special education, (2) the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent, (3) another responsible adult is appointed to make educational decisions for the minor, or (4) the right of the parent or guardian to make educational decisions for the minor is fully restored.

(l) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(m) The State Department of Education shall develop a model surrogate parent training module and manual that shall be made available to local educational agencies.

(n) Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(o) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-0890 of Section 2.00 of the annual Budget Act.

7579.6. (a) In accordance with subparagraph (A) of paragraph (2) of subsection (b) of Section 1415 of Title 20 of the United States Code, in the case of a child who is a ward of the state, the surrogate parent described in Section 7579.5 may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of Section 7579.5.

(b) In the case of an unaccompanied homeless youth as defined in paragraph (6) of Section 725 of the federal McKinney-Vento Homeless

Assistance Act (42 U.S.C. Sec. 11434a(6)), the local educational agency shall appoint a surrogate in accordance with Section 7579.5.

7580. Prior to licensing a community care facility, as defined in Section 1502 of the Health and Safety Code, in which a disabled child or youth may be placed, or prior to a modification of a community care facility's license to permit expansion of the facility, the State Department of Social Services shall consult with the administrator of the special education local plan area in order to consider the impact of licensure upon local education agencies.

7581. The residential and noneducational costs of a child placed in a medical or residential facility by a public agency, other than a local education agency, or independently placed in a facility by the parent of the child, shall not be the responsibility of the state or local education agency, but shall be the responsibility of the placing agency or parent.

7582. Assessments and therapy treatment services provided under programs of the State Department of Health Services or the State Department of Mental Health, or their designated local agencies, rendered to a child referred by a local education agency for an assessment or a disabled child or youth with an individualized education program, shall be exempt from financial eligibility standards and family repayment requirements for these services when referred pursuant to this chapter.

7584. As used in this chapter, "disabled youth," "child," or "pupil" means individuals with exceptional needs as defined in Section 56026 of the Education Code.

7585. (a) Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's individualized education program, the parent, adult pupil, or any local education agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of Health and Welfare.

(b) When either the Superintendent of Public Instruction or the Secretary of Health and Welfare receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local education agency, and affected departments, within 10 days of the meeting.

If the issue cannot be resolved within 15 calendar days to the satisfaction of the superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the State Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the Director of the Office of Administrative Hearings, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local education agency, either party may appeal to the Director of the Office of Administrative Hearings, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall ensure that funds are available for provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) Nothing in this section prevents a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

7586. (a) All state departments, and their designated local agencies, shall be governed by the procedural safeguards required in Section 1415 of Title 20 of the United States Code. A due process hearing arising over a related service or designated instruction and service shall be filed with the Superintendent of Public Instruction.

Resolution of all issues shall be through the due process hearing process established in Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code. The decision issued in the due process hearing shall be binding on the department having responsibility for the services in issue as prescribed by this chapter.

(b) Upon receipt of a request for a due process hearing involving an agency other than an educational agency, the Superintendent of Public Instruction shall immediately notify the state and local agencies involved by sending a copy of the request to the agencies.

(c) All hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

(d) No public agency, state or local, may request a due process hearing pursuant to Section 56501 of the Education Code against another public agency.

7586.5. Not later than January 1, 1988, the Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly submit to the Legislature and the Governor a report on the implementation of this chapter. The report shall include, but not be limited to, information regarding the number of complaints and due process hearings resulting from this chapter.

586.6. (a) The Superintendent of Public Instruction and the

Secretary of Health and Welfare shall ensure that the State Department of Education and the State Department of Mental Health enter into an interagency agreement by January 1, 1998. It is the intent of the Legislature that the agreement include, but not be limited to, procedures for ongoing joint training, technical assistance for state and local personnel responsible for implementing this chapter, protocols for monitoring service delivery, and a system for compiling data on program operations.

(b) It is the intent of the Legislature that the designated local agencies of the State Department of Education and the State Department of Mental Health update their interagency agreements for services specified in this chapter at the earliest possible time. It is the intent of the Legislature that the state and local interagency agreements be updated at least every three years or earlier as necessary.

7586.7. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly prepare and implement within existing resources a plan for in-service training of state and local personnel responsible for implementing the provisions of this chapter.

7587. By January 1, 1986, each state department named in this chapter shall develop regulations, as necessary, for the department or designated local agency to implement this act. All regulations shall be reviewed by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure consistency with federal and state laws and regulations governing the education of disabled children. The directors of each department shall adopt all regulations pursuant to this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1997, and the final regulations shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

7588. This chapter shall become operative on July 1, 1986, except section 7583, which shall become operative on January 1, 1985.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit II)

Welfare & Institutions Code Sections 5651, 5701.3

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 17608.05.

(2) That the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirements of that chapter.

(3) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(4) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the department.

(5) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(6) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(7) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(8) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(9) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(10) Assurances that the county shall comply with all applicable laws and regulations for all services delivered.

(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Performance contracts required by this chapter shall include any contractual requirements needed for any program initiatives utilized by the county contained within this part. In addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

5701.3. Consistent with the annual Budget Act, this chapter shall not affect the responsibility of the state to fund psychotherapy and other mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and the state shall reimburse counties for all allowable costs incurred by counties in providing services pursuant to that chapter. The reimbursement provided pursuant to this section for purposes of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall be provided by the state through an appropriation included in either the annual Budget Act or other statute. Counties shall continue to receive reimbursement from specifically appropriated funds for costs necessarily incurred in providing psychotherapy and other mental health services in accordance with this chapter. For reimbursement claims for services delivered in the 2001-02 fiscal year and thereafter, counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund established by Chapter 6 (commencing with Section 17600) of Part 5 of Division 9.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents


Exhibit 12)

Title 2, Cal Code of Regs, Div 2, Section 1185

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2 CA ADC § 1185

2 CCR s 1185

Cal. Admin. Code tit. 2, s 1185

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 2.5. COMMISSION ON STATE MANDATES
ARTICLE 5. INCORRECT REDUCTION CLAIMS
This database is current through 03/17/06, Register 2006, No. 11.

s 1185. Incorrect Reduction Claim Filing.

(a) To obtain a determination that the Office of State Controller incorrectly reduced a reimbursement claim, a claimant shall file an "incorrect reduction claim" with the commission.

(b) All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice or other notice of adjustment notifying the claimant of a reduction.

(c) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement claim(s) filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

(d) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by the commission.

(e) All incorrect reduction claims, or amendments thereto, shall contain at least the following elements and documents:

(1) A copy of the Office of State Controller's claiming instructions that were in effect during the fiscal year(s) of the reimbursement claim(s).

(2) A written detailed narrative that describes the alleged incorrect reduction(s). The narrative shall include a comprehensive description of the reduced or disallowed area(s) of cost(s).

(3) If the narrative describing the alleged incorrect reduction(s) involves more than discussion of statutes or regulations or legal argument and utilizes assertions or representations of fact, such assertions or representations shall be supported by testimonial or documentary evidence and shall be submitted with the claim. All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and be based upon the declarant's personal knowledge or information or belief.

(4) A copy of the final state audit report or letter or the remittance advice or other notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance.

(5) A copy of a letter sent by the claimant or the claimant's representative to the Office of State Controller explaining why the reduced area(s) of cost in dispute should be restored.

(6) A copy of the subject reimbursement claims the claimant submitted to the Office of State Controller.

(7) An incorrect reduction claim, or amendment thereto, shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date signed, the declarant's title, address, telephone number, and, if available, electronic mail address and facsimile number, shall be included.

(8) The claimant shall file one original incorrect reduction claim, or amendment thereto, and accompanying documents with the commission. The original shall be unbound and single-sided, without tabs, and include a table of contents.

(9) The claimant shall also file two (2) copies of the incorrect reduction claim, or amendment thereto, and accompanying documents with the commission. The copies may be two-sided and shall not include tabs.

<http://weblinks.westlaw.com/Find/Default.wl?DB=CA%2DADC%2DTOC%3BADCCATOC&DocName=...> 4/4/2006

(f) Within ten (10) days of receipt of an incorrect reduction claim, commission staff shall notify the claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction claims will be considered incomplete if any of the elements required in subsections (d) through (f) of this section are illegible or not included. Incomplete incorrect reduction claims shall be returned to the claimant. If a complete incorrect reduction claim is not received by the commission with thirty (30) days from the date the incomplete claim was returned to the claimant, the commission shall deem the filing to be withdrawn.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Section 17527(g) and (h), Government Code. Reference: Sections 17551(b) and 17553, Government Code.

HISTORY

1. New Article 5 (Sections 1185 and 1185.1) filed 12-13-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 50).
 2. Amendment of Notefiled 4-29-87; operative 5-29-87 (Register 87, No. 18).
 3. Amendment of subsections (a), (b) and (c) (4)-(5) and Notefiled 7-23-96; operative 7-23-96. Submitted to OAL for printing only (Register 96, No. 30).
 4. Amendment of section and Notefiled 9-13-99; operative 9-13-99. Submitted to OAL for printing only pursuant to Government Code section 17527 (Register 99, No. 38).
 5. Amendment of article heading and amendment of section and Notefiled 4-21-2003; operative 4-21-2003. Submitted to OAL for printing only pursuant to Government Code section 17527(g) (Register 2003, No. 17).
- 2 CA ADC s 1185

END OF DOCUMENT

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County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 13)

**Title 2, Cal Code of Regs, Div 9, Sections 60000-
60200**

- (j) When the expanded IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a facility listed in Section 60025, the expanded IEP team shall ensure that placement is in accordance with admission criteria of the facility.

[Authority cited: Section 7587, Government Code. Sections 10553, 10554, 11462(i) and (j) and 11466.1, Welfare and Institutions Code.] [Reference: Sections 7576(a) and 7579, Government Code. Sections 11460(c)(2)-(c)(3), 18350, and 18356, Welfare and Institutions Code. Sections 1412 and 1414, Title 20, United States Code. Sections 300.7 and 300.552, Title 34, Code of Federal Regulations.]

2 CCR 60020 - Mental Health Definitions

- (a) "Community mental health service" means a mental health program established by a county in accordance with the Bronzan-McCorquodale Act, Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code.
- (b) "County of origin" for mental health services is the county in which the parent of a pupil with a disability resides. If the pupil is a ward or dependent of the court, an adoptee receiving adoption assistance, or a conservatee, the county of origin is the county where this status currently exists. For the purposes of this program the county of origin shall not change for pupils who are between the ages of 18 and 22.
- (c) "Expanded IEP team" means an IEP team constituted in accordance with Section 7572.5 of the Government Code. This team shall include a representative of the community mental health service authorized to make placement decisions.
- (d) "Host county" means the county where the pupil with a disability is living when the pupil is not living in the county of origin.
- (e) "Local mental health director" means the officer appointed by the governing body of a county to manage a community mental health service.
- (f) "Medication monitoring" includes all medication support services with the exception of the medications or biologicals themselves and laboratory work. Medication support services include prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness.
- (g) "Mental health assessment" is a service designed to provide formal, documented evaluation or analysis of the nature of the pupil's emotional or behavioral disorder. It is conducted in accordance with California Code of Regulations, Title 9, Section 543(b), and Sections 56320 through 56329 of the Education Code by qualified mental health professionals employed by or under contract with the community mental health service.
- (h) "Mental health assessment plan" means a written statement developed for the individual evaluation of a pupil with a disability who has been referred to a community mental health service to determine the need for mental health services in accordance with Section 56321 of the Education Code.
- (i) "Mental health services" means mental health assessments and the following services when delineated on an IEP in accordance with Section 7572(d) of the Government Code: psychotherapy as defined in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management. These services shall be provided directly or by contract at the discretion of the community mental health service of the county of origin.
- (j) "Qualified mental health professional" includes the following licensed practitioners of the healing arts: a psychiatrist; psychologist; clinical social worker; marriage, family and child counselor; registered nurse, mental health rehabilitation specialist, and others who have been waived under Section 5751.2 of the Welfare and Institutions Code. Such individuals may provide mental health services, consistent with their scope of practice.

[Authority cited: Section 7587, Government Code.] [Reference: Section 56320, Education Code. Sections 542 and 543 of Title 9, California Code of Regulations.]

County of San Mateo
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Supporting Documents

Exhibit 14)

AB 1892 (Chapter 1128 of 1994)

BILL NUMBER: AB 1892 CHAPTERED 09/30/94
BILL TEXT

CHAPTER 1128
FILED WITH SECRETARY OF STATE SEPTEMBER 30, 1994
APPROVED BY GOVERNOR SEPTEMBER 29, 1994
PASSED THE ASSEMBLY AUGUST 31, 1994
PASSED THE SENATE AUGUST 30, 1994
AMENDED IN SENATE AUGUST 27, 1994
AMENDED IN SENATE APRIL 26, 1994
AMENDED IN SENATE JULY 12, 1993
AMENDED IN ASSEMBLY JUNE 23, 1993
AMENDED IN ASSEMBLY JUNE 10, 1993
AMENDED IN ASSEMBLY MAY 5, 1993

INTRODUCED BY Assembly Member Polanco

MARCH 5, 1993

An act to add Section 7572.55 to the Government Code, and to amend Section 727.1 of, and to add Section 362.2 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1892, Polanco. Foster care: eligible facilities.

Existing law relating to special education requires placement decisions for pupils found eligible for special education to be made by individualized education program teams.

The bill would impose certain conditions that must be met in order for an individualized education program team to authorize an out-of-state placement of a seriously emotionally disturbed pupil.

By modifying requirements applicable to education agencies, the bill would impose a state-mandated local program.

This bill would also provide that, in order to place a minor who is a ward or dependent of the court under various provisions of law in an out-of-state residential facility or program, the juvenile court would be required to find that in-state facilities or programs are unavailable or inadequate to meet the needs of the minor.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7572.55 is added to the Government Code, to read:

7572.55. (a) Residential placements for a child with a disability who is seriously emotionally disturbed may be made out-of-state only after in-state alternatives have been

considered and are found not to meet the child's needs and only when the requirements of Section 7572.5, and subdivision (e) of Section 56365 of the Education Code have been met. The local education agency shall document the alternatives to out-of-state residential placement that were considered and the reasons why they were rejected.

(b) Out-of-state placements shall be made only in a privately operated school certified by the California Department of Education.

(c) A plan shall be developed for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. If the child is a ward or dependent of the court, this plan shall be documented in the record.

SEC. 2. Section 362.2 is added to the Welfare and Institutions Code; to read:

362.2. It is the intent of the Legislature that if a placement out-of-home is necessary pursuant to an individualized education program, that this placement be as near the child's home as possible, unless it is not in the best interest of the child. When the court determines that it is the best interest of the child to be placed out-of-state, the court shall read into the record that in-state alternatives have been explored and that they cannot meet the needs of the child, and the court shall state on the record the reasons for the out-of-state placement.

SEC. 3. Section 727.1 of the Welfare and Institutions Code is amended to read:

727.1. (a) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that both of the following conditions are met:

(1) In-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor.

(2) The out-of-state residential facility or program is licensed for the placement of minors by an agency of the state or states in which the minor will be placed or operates under and is inspected pursuant to standards comparable to those developed by the Youth Authority for similar facilities or programs.

(b) The court shall review each of these placements for compliance with the requirements of subdivision (a) at least once a year.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
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Supporting Documents

Exhibit 15

AB 2726 (Chapter 654 of 1996)

BILL NUMBER: AB 2726 CHAPTERED
BILL TEXT

CHAPTER. 654
FILED WITH SECRETARY OF STATE SEPTEMBER 19, 1996
APPROVED BY GOVERNOR SEPTEMBER 19, 1996
PASSED THE ASSEMBLY AUGUST 31, 1996
PASSED THE SENATE AUGUST 27, 1996
AMENDED IN SENATE AUGUST 15, 1996
AMENDED IN SENATE AUGUST 7, 1996
AMENDED IN SENATE JUNE 20, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996

INTRODUCED BY Assembly Member Woods

FEBRUARY 22, 1996

An act to amend Sections 7576 and 7587 of, and to add Section 7586.6 to, the Government Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2726, Woods. Pupils: mental health services.

Existing law makes the State Department of Mental Health or any community mental health service designated by the department for the provision of mental health services when required in a child's individualized education program.

This bill would establish procedures governing referrals of pupils to community mental health services and the responsibilities of those entities.

This bill would specify that, commencing July 1, 1997, the fiscal and program responsibilities of community mental health services shall be the same regardless of the location of the placement.

The bill would also require that the Superintendent of Public Instruction and the Secretary of Health and Welfare ensure that the State Department of Education and the State Department of Mental Health, by January 1, 1998, enter into a specified interagency agreement, and would express legislative intent that the designated local agencies of these departments enter into interagency agreements.

By imposing requirements upon community mental health services, the bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The fiscal and program responsibilities of community mental health services shall be the same regardless of the location of placement. Local education agencies and community mental health services shall make out-of-state placements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code only if other options have been considered and are

determined to be inappropriate. In making these placements, local education agencies and community mental health services shall comply with relevant sections of the Education Code, including Section 56365.

(b) This section shall become operative on July 1, 1997.

SEC. 2. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or any community mental health service, as defined in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, shall be responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, when required in the pupil's individualized education program. A local education agency shall not be required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in the pupil's individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local education agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health treatment needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, "parent" is as defined in Section 56028 of the Education Code.

(b) A local education agency, individualized education program team, or parent may initiate a referral for assessment of a pupil's social and emotional status, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs as defined in Section 56026 of the Education Code and who is suspected of needing mental health services to a community mental health service when a pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code. Local education agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local education agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local education agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local education agency has provided counseling,

psychological, or guidance services to the pupil pursuant to Section 56363 of the Education Code, and the individualized education program team has determined that the services do not meet the pupil's educational needs, or, in cases where these services are clearly inappropriate, the individualized education program team has documented which of these services were considered and why they were determined to be inappropriate.

(c) When referring a pupil to a community mental health service in accordance with subdivision (b), the local education agency or the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, including the initiation, duration, and frequency of these services, or an explanation of why a service was considered for the pupil and determined to be inappropriate.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local education agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service when a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling, psychological, and guidance services are clearly inappropriate in meeting the pupil's needs.

(e) When referring a pupil to a community mental health service in accordance with subdivision (d), the local education agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) An explanation as to why counseling, psychological, and guidance services are clearly inappropriate in meeting the pupil's needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision shall not change the identification and referral responsibilities imposed on local education agencies under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the

county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for provision of necessary services. In no event shall the procedures described in this subdivision delay or impede the referral and assessment process.

SEC. 3. Section 7586.6 is added to the Government Code, to read:

7586.6. (a) The Superintendent of Public Instruction and the Secretary of Health and Welfare shall ensure that the State Department of Education and the State Department of Mental Health enter into an interagency agreement by January 1, 1998. It is the intent of the Legislature that the agreement include, but not be limited to, procedures for ongoing joint training, technical assistance for state and local personnel responsible for implementing this chapter, protocols for monitoring service delivery, and a system for compiling data on program operations.

(b) It is the intent of the Legislature that the designated local agencies of the State Department of Education and the State Department of Mental Health update their interagency agreements for services specified in this chapter at the earliest possible time. It is the intent of the Legislature that the state and local interagency agreements be updated at least every three years or earlier as necessary.

SEC. 4. Section 7587 of the Government Code is amended to read:

7587. By January 1, 1986, each state department named in this chapter shall develop regulations, as necessary, for the department or designated local agency to implement this act. All regulations shall be reviewed by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure consistency with federal and state laws and regulations governing the education of disabled children. The directors of each department shall adopt all regulations pursuant to this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1997, and the final regulations shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

County of San Mateo
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Supporting Documents

Exhibit 16)

AB 2781 (Chapter 1167 of 2002)

BILL NUMBER: AB 2781 CHAPTERED
BILL TEXT

CHAPTER 1167
PASSED THE SENATE SEPTEMBER 1, 2002
PASSED THE ASSEMBLY SEPTEMBER 1, 2002
AMENDED IN SENATE AUGUST 31, 2002
AMENDED IN SENATE AUGUST 31, 2002
AMENDED IN SENATE JUNE 27, 2002
AMENDED IN ASSEMBLY APRIL 25, 2002
AMENDED IN ASSEMBLY APRIL 16, 2002

INTRODUCED BY Assembly Member Oropeza

FEBRUARY 25, 2002

An act to amend Sections 10554, 41203.1, 42238, 42238.12, 42238.44, 44515, 44955.5, 47634.5, 48005.10, 48005.13, 48005.15, 48005.25, 48005.30, 48005.35, 48005.45, 48005.55, 53075, 54201, 56836.158, 70000, 99234, 99235, 99240, and 99242 of, to add Sections 42238.445, 42238.46, and 54205 to, and to add and repeal Section 52263.5 of, the Education Code, to add Section 17581.5 to the Government Code, and to amend Section 5701.3 of the Welfare and Institutions Code, relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

(Approved by Governor September 30, 2002. Filed with Secretary of State September 30, 2002.)

I am signing Assembly Bill 2781. However, I am reducing the portion of the appropriation for school district revenue limit equalization by \$203,000,000 that is based on revenue limits prior to the re-benching of excused absences in 1997-98. I intend to set this amount aside for subsequent legislation that accomplishes the intent of legislation I signed last year (Chapter 165, Statutes of 2001), which established a statewide equalization goal.

Let me be clear. I am fully committed to providing full funding for equalization in the 2003-04 Budget Year. However, I am opposed to the formula used to determine equalization funding in this bill. By splitting equalization into disparate allocation methods, as proposed by AB 2781, the State does not actually reach an equalized endpoint. Consequently, this bill creates continued pressure to fund further rounds of equalization in future years. It is estimated that an additional \$195 million to \$200 million would still be required to fully equalize revenue limits computed on the basis of current state policy. As mentioned above, I intend to sign subsequent legislation that appropriates up to \$203,000,000 to complete full equalization consistent with the current statutory goal. That subsequent legislation should also delete Section 7 and subdivision (c) of Section 42 of this statute to conform.

Further, I am reducing the appropriation for the Standardized Testing and Reporting (STAR) program by \$800,000 to correct an unintentional overappropriation of the item.

The effect of my actions are reflected as follows:

SEC. 44. The sum appropriated in Item 6110-113-0001 of Section 2.00 of the Budget Act of 2002 is hereby augmented by forty-five million eight hundred nine thousand dollars (\$45,809,000) and the amount appropriated in Schedule (4) of that item is augmented by forty-five million eight hundred nine thousand dollars (\$45,809,000).

SEC. 51. (a) The amount of two hundred three million dollars (\$203,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 2003-04 fiscal year for the following purposes:

(1) Two hundred three million dollars (\$203,000,000) for purposes

of Section 42238.44 of the Education Code, to be allocated to school districts on a pro rata basis.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to schools districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 2003-04 fiscal year and be included within the "total allocations to schools district and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XVII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2003-04 fiscal year.

GRAY DAVIS, Governor

LEGISLATIVE COUNSEL'S DIGEST

AB 2781, Oropeza. Education finance.

(1) Existing law, until January 1, 2003, establishes the Educational Telecommunication Fund in order for the governing board of the County Office Fiscal Crisis and Management Assistance Team to carry out its responsibilities regarding the establishment of telecommunications standards to support the efficient sharing of school business and administrative information.

This bill would change the date upon which the Educational Telecommunication Fund becomes inoperative to January 1, 2004.

(2) Existing law requires, for the 1990-91 fiscal year and each fiscal year thereafter, that moneys to be applied by the state for the support of school districts and community college districts be distributed in accordance with certain calculations. This provision does not apply to the fiscal years between the 1992-93 fiscal year and the 2001-02 fiscal year, inclusive.

This bill would, instead, make this provision inapplicable to the fiscal years between the 1992-93 fiscal year and the 2002-03 fiscal year, inclusive.

(3) Existing law requires the county superintendent of schools to adjust the total revenue limit for each school district in the jurisdiction of the county superintendent of schools by the amount of increased or decreased employer contributions to the Public Employees' Retirement System (PERS) and sets forth a method for calculating that amount for the 1995-96 fiscal year and each fiscal year thereafter. Existing law provides that funding appropriated in the Budget Act of 2001, or legislation amending that act, for the purpose of limiting reductions to revenue limits for the 2001-02 fiscal year is to be allocated on a one-time basis. Existing law appropriates \$35,000,000 from the General Fund to Section A of the State School Fund for purposes of limiting the reductions to revenue limits for the 2003-04 fiscal year and limits reductions to revenue limits for the 2004-05 fiscal year and each fiscal year thereafter to \$35,000,000 increased annually by cost-of-living adjustments, as specified.

This bill would provide that funding appropriated in the Budget Act of 2002 for the purpose of limiting reductions to revenue limits for the 2002-03 fiscal year is to be allocated on a one-time basis and that total allocations for this purpose may not exceed \$36,000,000.

(4) Existing law requires the Superintendent of Public Instruction to compute an equalization adjustment for the 2001-02 fiscal year for each school district, so that no district's prior year base revenue limit per unit of average daily attendance is less than the prior year base revenue limit per unit of average daily attendance above which fall not more than 10% of the total statewide units of average daily attendance for the appropriate size and type of district.

This bill would require the superintendent also to compute an equalization adjustment for the 2002-03 fiscal year, so that no

district's prior year adjusted base revenue limit per unit of average daily attendance is less than the prior year adjusted base revenue limit above which fall not more than 10% of the total statewide units of average daily attendance for the appropriate size and type of district.

(5) Existing law, the Fairness in Education Funding Act, requires the Superintendent of Public Instruction to compute an equalization adjustment for the 2003-04 fiscal year for each school district, so that no district's prior year base revenue limit per unit of average daily attendance is less than the prior year base revenue limit per unit of average daily attendance above which fall not more than 10% of the total statewide units of average daily attendance for the appropriate size and type of district.

This bill would require the superintendent to also compute an equalization adjustment for the 2003-04 fiscal year, so that no district's prior year adjusted base revenue limit per unit of average daily attendance is less than the prior year adjusted base revenue limit above which fall not more than 8.25% of the total statewide units of average daily attendance for the appropriate size and type of district. The bill would provide a formula for calculating the adjusted base revenue limit and would require the average daily attendance of a charter school to be included in calculating the size of, and target amounts for, a school district that is a chartering agency.

(6) This bill would provide that if the appropriations made for purposes of the equalization adjustments are insufficient to provide funding equal to the amounts computed by the equalization formulas, the amounts appropriated shall be allocated to school districts on a pro rata basis.

(7) This bill would appropriate \$406,000,000 from the General Fund to the Superintendent of Public Instruction for the 2003-04 fiscal year, pursuant to a schedule, for purposes of the equalization adjustments, to be allocated to school districts on a pro rata basis.

The bill would require the appropriation to be included in the amounts appropriated by the state in the 2003-04 fiscal year for purposes of meeting the state's minimum funding obligation to school districts and community college districts under Section 8 of Article XVI of the California Constitution for that fiscal year.

(8) Existing law authorizes the governing board of a school district to terminate the services of certificated employees during the time period between 5 days after the enactment of the Budget Act and August 15 of the fiscal year to which the Budget Act applies, according to a schedule of notice and hearing adopted by the governing board, if the district determines that its revenue limit has not increased by 2% more and it is necessary, therefore, to decrease the district's permanent employees.

This bill would make this provision inoperative from July 1, 2002, to July 1, 2003, inclusive.

(9) Existing law establishes, until July 1, 2006, the Principal Training Program to provide incentive funding to provide schoolsite administrators with instruction and training and requires 1/3 of a local education agency's schoolsite administrators be trained in each of the 3 years of program implementation.

This bill would instead require that 50% of the schoolsite administrators be trained in each of the 2002-03 and 2003-04 fiscal years.

(10) Existing law requires the Director of Finance to make certain computations annually regarding charter school block grant funding and to provide that information as part of the May revision to the Governor's Budget.

This bill would instead require the Director of Finance to make that computation, as specified, and provide that information to the Superintendent of Public Instruction within 30 days of the enactment of the annual Budget Act.

(11) Existing law establishes the Kindergarten Readiness Pilot Program, to be implemented in the 2002-03 school year, and requires a

participating school district to offer admission to 1st grade at the beginning of the school year, or at a later time in the same school year, only to children who will have their 6th birthday on or before September 1 of that school year.

This bill would delay the implementation of that program until the 2003-04 school year and make conforming changes.

(12) Existing law establishes the Digital High School Education Technology Grant Program to provide one-time installation grants and ongoing technology support and staff training grants to school districts and county offices of education for projects at high schools. Existing law requires the Superintendent of Public Instruction, commencing in the second fiscal year following the year in which a high school receives a technology installation grant and upon certification of completion of the installation project, to allocate to each high school an annual technology support and staff training grant.

This bill would specify that technology support and staff training grants would not be provided to school districts and county offices of education for the 2002-03 fiscal year and would prohibit the Superintendent of Public Instruction from allocating those grants for the 2002-03 fiscal year. The bill would state the intent of the Legislature that the funding that would otherwise have been provided for the 2002-03 fiscal year be provided in the 2003-04 fiscal year.

(13) Existing law requires the Secretary for Education to contract for development and establishment of a public involvement campaign to inform Californians that promoting reading in the public schools as a key to success in life is the responsibility of all Californians.

This bill would make the provision subject to funding being appropriated in the annual Budget Act for this purpose.

(14) Existing law establishes the Targeted Instructional Improvement Grant Program and requires the amount of a school district's grant to be adjusted for inflation.

This bill would provide that commencing with the 2001-02 fiscal year, and each fiscal year thereafter, the total amount a school district shall receive in any fiscal year is at a minimum the same total amount it received in the 2000-01 fiscal year adjusted annually for inflation.

(15) Existing law combines the funding for court-ordered desegregation programs and for voluntary integration programs in the Targeted Instructional Improvement Grant Program and calculates a per pupil amount of funding for school districts based on the amounts received in the 2000-01 fiscal year for court-ordered desegregation and voluntary integration claims.

This bill would require the Superintendent of Public Instruction, commencing with the 2001-02 fiscal year, to calculate an apportionment of state funds for a basic aid district that was entitled to reimbursement pursuant to repealed provisions regarding court-ordered voluntary pupil transfer programs and that received an apportionment under the repealed provisions because a court order directs pupils to transfer to that district as part of the court-ordered voluntary pupil transfer program. The amount of the apportionment would be 70% of the district revenue limit that would have been apportioned to the school district from which the pupils were transferred.

(16) Existing law requires the Superintendent of Public Instruction, for purposes of calculating funding for each special education local plan area, to determine the statewide total average daily attendance for the 2000-01 fiscal year, to increase the amount per unit of average daily attendance for the 2001-02 fiscal year by a specified quotient, and to increase the statewide target per unit of average daily attendance for the 2001-02 fiscal year, as provided.

This bill would require that determination and those increases also to be made for the 2001-02 and 2002-03 fiscal years, respectively, and would make conforming changes.

(17) Existing law establishes the Governor's Teaching Fellowships Program and provides, beginning in the 2001-02 fiscal year, for 1,000

nonrenewable graduate teaching fellowships to be awarded annually in the amount of \$20,000 each.

This bill would provide that commencing with the 2002-03 fiscal year and each fiscal year thereafter, the number of fellowships awarded shall be determined pursuant to an appropriation in the annual Budget Act for this purpose.

(18) Existing law establishes, until July 1, 2005, the Mathematics and Reading Professional Development Program, under which a local education agency, as defined, receives incentive funding to provide training in mathematics and reading to teachers and also to provide training to instructional aides and paraprofessionals, as defined, who directly assist with classroom instruction in mathematics and reading, through professional development programs conducted by institutions of higher education or an approved provider of training.

This bill would extend the program until July 1, 2006, and would reduce the number of teachers, instructional aides, and paraprofessionals for whom a local education agency may receive an incentive award.

(19) Under existing law, a local agency may not be required to implement or give effect to any statute or executive order during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if specified conditions are met. Existing law excepts from that provision, any state-mandated local program for which reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the California Constitution.

This bill would specify that a school district may not be required to implement or give effect to the School Bus Safety II mandate statutes and the School Crimes Reporting II mandate statutes if certain conditions are met.

(20) Existing law, the Bronzan-McCorquodale Act, organizes and finances community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs and states the intent of the Legislature that certain funding provisions related to financing community mental health services not affect the responsibilities to fund psychotherapy and other mental health services for handicapped and disabled pupils that are required by law.

This bill would prohibit the funding provisions related to financing community mental health services from affecting the responsibility of the state to fund psychotherapy and other mental health services for handicapped and disabled pupils required by law and would require the state to reimburse counties for all allowable costs incurred by counties in providing those services to handicapped and disabled pupils. The bill would require the state to provide reimbursement for those services through an appropriation included in either the annual Budget Act or other statute. The bill would provide that counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund for reimbursement claims for services delivered in the 2001-02 fiscal year and thereafter to handicapped and disabled pupils.

The bill would provide that county reimbursement claims submitted to the Controller for reimbursement for services associated with providing allowable mental health treatment services required by an individualized education program in fiscal years up to and including the 2000-01 fiscal year are not subject to dispute by the Controller's office regarding the percentage of reimbursement claimed by any county. The bill would prohibit a county that previously submitted a reimbursement claim for services delivered in the 2000-01 fiscal year or prior for less than 100% of the allowable mental health treatment services to special education pupils from amending its claim for a higher percentage of those same allowable costs.

(21) This bill would set the cost-of-living adjustment for certain items contained in the Budget Act of 2002 and for revenue limit

determinations at 2%.

(22) This bill would require the Commission on State Mandates, to amend the parameters and guidelines of the School Bus Safety II mandate to specify that costs associated with implementation of transportation plans are not reimbursable claims and would require the amended parameters and guidelines to be applied retroactively as well as prospectively.

(23) The Budget Act of 2002 makes various appropriations for the support of the public elementary and secondary schools for the 2002-03 fiscal year.

This bill would revise the Budget Act of 2002 by augmenting certain appropriations, by reducing certain appropriations, and by making a new appropriation, as provided.

(24) This bill would appropriate \$681,000,000 from the General Fund in the 2003-04 fiscal year to the State Department of Education pursuant to a schedule for specified school improvement programs, for home to school transportation, for targeted instructional improvement grants, and for other supplemental grants, as specified. The funds appropriated by this bill would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution for the 2003-04 fiscal year.

(25) Existing law requires the Controller to draw warrants on the State Treasury from the State School Fund in favor of the county treasurer of each county in each month in certain amounts determined pursuant to specified calculations. Existing law requires warrants in the months of September to November, inclusive, to include one-tenth of the estimated total amounts of the special purpose apportionment. Under existing law, warrants in December are required to include one-tenth of the amounts certified by the Superintendent of Public Instruction as the special purpose apportionment, as adjusted, if necessary, to correct excesses or deficiencies in the estimates made for purposes of the warrants issued in September to November, inclusive. Existing law requires an additional one-tenth apportionment to be included in the warrants for January to June, inclusive.

This bill would apply that formula for purposes of apportioning funds from the State School Fund for economic impact aid programs as part of the special purpose apportionment in the 2002-03 fiscal year.

The bill would apply a revised formula, based on a one-seventh apportionment, for purposes of apportioning funds from the State School Fund for home to school transportation programs as part of the special purpose apportionment in the 2002-03 fiscal year.

(26) The California Constitution requires that the amount appropriated by the Legislature for the support of school districts, as defined, and community college districts in any fiscal year be not less than a specified amount and authorizes the suspension of this minimum funding obligation for one year.

This bill would require the state's minimum funding obligation for the support of school districts, as defined, and community college districts to be increased, as specified, for the 2003-04 fiscal year.

If the state's minimum funding obligation for the support of school districts, as defined, and community college districts is suspended, the bill would require the amount of the maintenance factor to be computed in a manner that includes this increase.

(27) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10554 of the Education Code is amended to read:

10554. (a) In order for the governing board to carry out its responsibilities pursuant to this chapter, there is hereby

established the Educational Telecommunication Fund. The amount of moneys to be deposited in the fund shall be the amount of any offset made to the principal apportionments made pursuant to Sections 1909, 2558, 42238, 52616, Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28, and Chapter 7.2 (commencing with Section 56836) of Part 30, based on a finding that these apportionments were not in accordance with law. The maximum amount that may be annually deposited in the fund from the offset shall be fifteen million dollars (\$15,000,000). The Controller shall establish an account to receive and expend moneys in the fund. The placement of the moneys in the fund shall occur only upon a finding by the Superintendent of Public Instruction and the Director of Finance that the principal apportionments made pursuant to Sections 1909, 2558, 42238, 52616, and Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28, and Chapter 7.2 (commencing with Section 56836) of Part 30 were not in accordance with existing law and were so identified pursuant to Sections 1624, 14506, 41020, 41020.2, 41320, 42127.2, and 42127.3, or an independent audit that was approved by the State Department of Education.

(b) Moneys in the fund established pursuant to subdivision (a) shall only be available for expenditure upon appropriation by the Legislature in the Budget Act.

(c) The moneys in the fund established pursuant to subdivision (a) may be expended by the governing board to carry out the purposes of this chapter, including for the following purposes:

(1) To support the activities of the team established pursuant to subdivision (c) of Section 10551.

(2) To assist the school districts and county superintendents of schools in purchasing both hardware and software to allow school districts, county superintendents of schools, and the State Department of Education to be linked for school business and administrative purposes. The governing board shall establish a matching share requirement that applicant school districts and county superintendents of schools must fulfill to receive those funds. It is the intent of the Legislature to encourage the distribution of grants to school districts and county superintendents of schools to the widest extent possible.

(3) To provide technical assistance through county offices of education to school districts in implementing the standards established pursuant to subdivision (a) of Section 10552.

(d) This section shall become inoperative as of January 1, 2004.

SEC. 2. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990-91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989-90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), then the amount

calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other provision of law, this section shall not apply to the fiscal years between the 1992-93 fiscal year and the 2002-03 fiscal year, inclusive.

SEC. 3. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984-85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1995-96 fiscal year, the equalization adjustment specified in Section 42238.4.

(3) For the 1996-97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.

(4) For the 1985-86 fiscal year, the amount received per unit of average daily attendance in the 1984-85 fiscal year pursuant to Section 42238.7.

(5) For the 1985-86, 1986-87, and 1987-88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(6) For the 2003-04 fiscal year, the equalization adjustments specified in Sections 42238.44 and 42238.46.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) (1) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982-83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(A) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982-83 fiscal year.

(B) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982-83 fiscal years.

(C) Add the amounts in subparagraphs (A) and (B).

(2) This subdivision shall become inoperative on July 1, 1998.

(e) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(f) For the 1984-85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983-84 fiscal year, resulting from subsequent changes in employer contribution rates.

(g) The reduction required by subdivision (f) shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983-84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983-84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983-84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983-84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983-84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars (\$25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(7) The amount, if any, received pursuant to any provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15, paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(8) For a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, the amount of statewide average general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges, as computed by the State Department of Education pursuant to Section 47633, multiplied by the average daily attendance, in corresponding grade level ranges, of any pupils who attend charter schools funded pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 for which the district is the sponsoring local educational agency, as defined in Section 47632, and who reside in and would otherwise have been eligible to attend a noncharter school of the district.

(i) No transfer of seventh and eighth grade pupils between an elementary school district and a high school district shall result in the receiving district receiving a revenue limit apportionment for those pupils that exceeds 105 percent of the statewide average revenue limit for the type and size of the receiving school district.

SEC. 4. Section 42238.12 of the Education Code is amended to read:

42238.12. (a) For the 1995-96 fiscal year and each fiscal year thereafter, the county superintendent of schools shall adjust the total revenue limit for each school district in the jurisdiction of the county superintendent of schools by the amount of increased or decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System, through the current fiscal year. The adjustment shall be calculated for each school district, as follows:

(1) (A) Determine the amount of employer contributions that would have been made in the current fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the current fiscal year.

(B) For the purposes of this calculation, no school district shall have a contribution rate higher than 13.020 percent.

(2) Determine the actual amount of employer contributions made to the Public Employees' Retirement System in the current fiscal year.

(3) If the amount determined in paragraph (1) for a school district is greater than the amount determined in paragraph (2), the total revenue limit computed for that school district shall be decreased by the amount of the difference between those paragraphs; or, if the amount determined in paragraph (1) for a school district is less than the amount determined in paragraph (2), the total revenue limit for that school district shall be increased by the amount of the difference between those paragraphs.

(4) For the purpose of this section, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(A) Positions or portions of positions supported by federal funds that are subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employers contributions not exceeding twenty-five thousand dollars (\$25,000) by any single educational agency, from a non-General Fund revenue source determined to be properly excludable from this section by the Superintendent of Public Instruction with the approval of the Director of Finance.

(5) For accounting purposes, any reduction to district revenue limits made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(6) The amount of the increase or decrease to the revenue limits of school districts computed pursuant to paragraph (3) for the 1995-96 fiscal year or any fiscal year thereafter shall not be adjusted by the deficit factor applied to the revenue limit of each school district pursuant to Section 42238.145.

(b) Funding appropriated through the Budget Act of 2001 or legislation amending the Budget Act of 2001 for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2001-02 fiscal year shall be allocated on a one-time basis in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2001-02 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2001-02 fiscal year, in lieu of the alternative calculation authorized by paragraph (1), San Francisco Unified School District shall receive an amount equal to five dollars and 57 cents

(\$5.57) multiplied by its second principal apportionment average daily attendance for the 2001-02 fiscal year.

(3) Notwithstanding any other provision of law, total allocations pursuant to this subdivision shall not exceed thirty-five million dollars (\$35,000,000).

(c) Funding appropriated pursuant to Provision 1 of Item 6110-223-0001 of Section 2.00 of the Budget Act of 2002 for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2002-03 fiscal year shall be allocated on a one-time basis in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2002-03 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2002-03 fiscal year, in lieu of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive an amount equal to five dollars and fifty-seven cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2002-03 fiscal year.

(3) Notwithstanding any other provision of law, total allocations pursuant to this subdivision shall not exceed thirty-six million dollars (\$36,000,000).

(d) Thirty-five million dollars (\$35,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for local assistance for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2003-04 fiscal year. Funding from this appropriation shall be allocated in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount appropriated in this subdivision that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2003-04 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2003-04 fiscal year, in lieu of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive an amount equal to five dollars and fifty-seven cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2003-04 fiscal year.

(3) Notwithstanding any other provision of law, total allocations pursuant to this subdivision shall not exceed thirty-five million dollars (\$35,000,000) for the 2003-04 fiscal year.

(4) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003-04 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2003-04 fiscal year.

(d) For the 2004-05 fiscal year, and each fiscal year thereafter, apportionment reductions pursuant to this section and to Section 2558 shall be limited as follows:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2004-05 fiscal year as compared to the statewide total reduction as would occur absent this paragraph.

(2) In lieu of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive funding equal to the amount of funding per unit of average daily attendance specified in paragraph (2) of subdivision (c) as increased annually by cost-of-living adjustments specified in Section 42238.1, multiplied by its second principal apportionment average daily attendance for that fiscal year.

(3) Notwithstanding any other provision of law, total limitations pursuant to this subdivision shall not annually exceed the amount described in paragraph (3) of subdivision (c) as annually increased by the cost-of-living adjustments specified in Section 42238.1, multiplied by the annual statewide percentage growth in total average daily attendance, measured at the second principal apportionment.

SEC. 5. Section 42238.44 of the Education Code is amended to read:

42238.44. (a) This section shall be known and may be cited as, the Fairness in Education Funding Act.

(b) (1) For the 2003-04 fiscal year, the Superintendent of Public Instruction shall compute an equalization adjustment for each school district, so that no district's 2002-03 base revenue limit per unit of average daily attendance is less than the 2002-03 base revenue limit per unit of average daily attendance above which fall not more than 10 percent of the total statewide units of average daily attendance for each category of school district set forth in subdivision (c).

(2) For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(c) Subdivision (b) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(d) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance as follows:

(1) Multiply the amount computed for each school district pursuant to subdivision (b) by the average daily attendance used to calculate the district's revenue limit for the 2003-04 fiscal year.

(2) Divide the amount appropriated for purposes of this section for the 2003-04 fiscal year by the statewide sum of the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to paragraph (1) of subdivision (b) by the amount computed pursuant to paragraph (2).

(e) (1) For the purposes of this section, the 2002-03 statewide 90th percentile base revenue limit determined pursuant to paragraph (1) of subdivision (b), and the fraction computed pursuant to paragraph (2) of subdivision (d) for the 2002-03 second principal apportionment, shall be final, and shall not be recalculated at subsequent apportionments. The fraction computed pursuant to paragraph (2) of subdivision (d) shall not, under any circumstances, exceed 1.00. For purposes of determining the size of a school district pursuant to subdivision (c), county superintendents of schools, in conjunction with the Superintendent of Public Instruction, shall use school district revenue limit average daily attendance for the 2002-03 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

(2) For the purposes of calculating the size of a school district

pursuant to subdivision (c), the Superintendent of Public Instruction shall include units of average daily attendance of any charter school for which the school district is the chartering agency.

(3) For the purposes of computing the target amounts pursuant to subdivision (b), the Superintendent of Public Instruction shall count all charter school average daily attendance toward the average daily attendance of the school district that is the chartering agency.

SEC. 6. Section 42238.445 is added to the Education Code, immediately following Section 42238.44, to read:

42238.445. (a) (1) For the 2002-03 fiscal year, the Superintendent of Public Instruction shall compute an equalization adjustment for each school district by determining the amount that would be necessary to assure that no district's 2001-02 base revenue limit per unit of average daily attendance is less than the 2001-02 base revenue limit per unit of average daily attendance above which fall not more than 10 percent of the total statewide units of average daily attendance for each category of school district set forth in subdivision (b).

(2) For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall determine and allocate, on a one-time basis, an amount for each school district as follows:

(1) Multiply the amount computed for each school district pursuant to subdivision (a) by the average daily attendance used to calculate the district's revenue limit for the 2002-03 fiscal year.

(2) Divide forty-two million dollars (\$42,000,000) appropriated pursuant to Provision 2 of Item 6110-223-0001 of Section 2.00 of the Budget Act of 2002 by the statewide sum of the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to paragraph (1) by the amount computed pursuant to paragraph (2).

(d) (1) For the purposes of this section, the 2001-02 statewide 90th percentile base revenue limit determined pursuant to paragraph (1) of subdivision (a), and the fraction computed pursuant to paragraph (2) of subdivision (c) for the 2001-02 second principal apportionment, shall be final, and shall not be recalculated at subsequent apportionments. The fraction computed pursuant to paragraph (2) of subdivision (c) shall not, under any circumstances, exceed 1.00. For purposes of determining the size of a school district pursuant to subdivision (b), county superintendents of schools, in conjunction with the Superintendent of Public Instruction, shall use school district revenue limit average daily attendance for the 2001-02 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

(2) For the purposes of calculating the size of a school district pursuant to subdivision (b), the Superintendent of Public Instruction shall include units of average daily attendance of any charter school for which the school district is the chartering agency.

(3) For the purposes of computing the target amounts pursuant to subdivision (a), the Superintendent of Public Instruction shall count all charter school average daily attendance toward the average daily

attendance of the school district that is the chartering agency.

(e) Allocations pursuant to this section do not represent adjustments to school district base revenue limits.

SEC. 7. Section 42238.46 is added to the Education Code, to read:

42238.46. (a) For the 2003-04 fiscal year, the Superintendent of Public Instruction, shall compute an equalization adjustment for each school district so that no district's 2002-03 adjusted base revenue limit per unit of average daily attendance is less than the 2002-03 fiscal year adjusted base revenue limit above which fall not more than 8.25 percent of the total statewide units of average daily attendance for the appropriate size and type of district listed in subdivision (b).

For purposes of this section, the district adjusted base revenue limit and the statewide average adjusted base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district's adjusted base revenue limit per unit of average daily attendance as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the district's revenue limit for the current fiscal year.

(2) Divide the amount appropriated for purposes of this section for the current fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) by the amount computed pursuant to paragraph (2).

(d) (1) For purposes of this section only, prior to computing the equalization adjustment pursuant to this section, the Superintendent of Public Instruction shall calculate an adjusted base revenue limit for each district by revising the 2002-03 base revenue limit of the district to eliminate that portion of the one-time adjustment to its base revenue limit related to excused absences made pursuant to Section 42238.8.

(2) For the purposes of this section, the 2002-03 statewide average adjusted base revenue limits determined for the purposes of subdivision (a) and the fraction computed pursuant to paragraph (2) of subdivision (c) by the Superintendent of Public Instruction for the 2002-03 second principal apportionment shall be final, and shall not be recalculated at subsequent apportionments. In no event shall the fraction computed pursuant to paragraph (2) of subdivision (c) exceed 1.00. For the purposes of determining the size of a district used in subdivision (b), county superintendents of schools, in conjunction with the Superintendent of Public Instruction, shall use a school district's revenue limit average daily attendance for the 2002-03 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

(3) For the purposes of calculating the size of a school district pursuant to subdivision (b), the Superintendent of Public Instruction shall include units of average daily attendance of any charter school for which the school district is the chartering agency.

(4) For the purposes of computing the target amounts pursuant to subdivision (a), the Superintendent of Public Instruction shall count all charter school average daily attendance towards the average daily attendance of the school district that is the chartering agency.

SEC. 8. Section 44515 of the Education Code is amended to read:

44515. (a) Program funding is intended to serve 50 percent of the total number of public school principals and vice principals in each of the 2002-03 and 2003-04 fiscal years.

(b) A local education agency shall receive program funding to train up to 50 percent of its schoolsite administrators in the 2002-03 fiscal year and the remainder in the 2003-04 fiscal year.

(c) If all of the statewide funding is not expended in a fiscal year, it may be redistributed on a pro rata basis to local education agencies that have served more than the proportion specified in subdivision (a) of their schoolsite administrators during that fiscal year.

(d) It is the intent of the Legislature that a local education agency give highest priority to training administrators assigned to, and practicing in, low-performing or hard-to-staff schools.

SEC. 9. Section 44955.5 of the Education Code is amended to read:

44955.5. (a) During the time period between five days after the enactment of the Budget Act and August 15 of the fiscal year to which that Budget Act applies, if the governing board of a school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2 percent, and if in the opinion of the governing board it is therefore necessary to decrease the number of permanent employees in the district, the governing board may terminate the services of any permanent or probationary certificated employees of the district, including employees holding a position that requires an administrative or supervisory credential. The termination shall be pursuant to Sections 44951 and 44955 but, notwithstanding anything to the contrary in Sections 44951 and 44955, in accordance with a schedule of notice and hearing adopted by the governing board.

(b) This section is inoperative from July 1, 2002, to July 1, 2003, inclusive.

SEC. 10. Section 47634.5 of the Education Code is amended to read:

47634.5. (a) The Director of Finance shall compute and provide to the Superintendent of Public Instruction within 30 days of the enactment of the Budget Act of 1999 the percentage change calculated based on the Budget Act of 1999 and accompanying statutes in the following:

(1) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(2) The total amount of state funding per unit of average daily attendance appropriated in the Budget Act of 1999 and related implementing legislation for kindergarten and grades 1 to 12, inclusive, local educational agencies for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(b) Commencing in 2000, the Director of Finance shall annually compute and provide as part of the May revision to the Governor's

Budget the percentage change in the following:

(1) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(2) The total amount of state funding per unit of average daily attendance proposed to be appropriated in the following year for kindergarten and grades 1 to 12, inclusive, local educational agencies in the budget year for purposes which count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(c) (1) Notwithstanding subdivision (b), commencing in 2002, the Director of Finance shall annually compute and provide to the Superintendent of Public Instruction within 30 days of the enactment of the annual Budget Act the cumulative percentage change between the amounts calculated pursuant to subparagraphs (A) and (B).

(A) The total amount of state funding per unit of average daily attendance received by kindergarten and grades 1 to 12, inclusive, local educational agencies in 1998-99 for purposes that count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year, exclusive of funding for school district revenue limits, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately.

(B) The total amount of state funding per unit of average daily attendance appropriated in the annual Budget Act and related implementing legislation for kindergarten and grades 1 to 12, inclusive, to local educational agencies for purposes that count toward meeting the requirements of Section 8 of Article XVI of the California Constitution for that fiscal year, exclusive of funding for school district revenue limits, charter schools' general-purpose entitlements, county offices of education, adult education, child development programs, special education, Economic Impact Aid, and programs for which a charter school is required to apply separately. The Director of Finance shall not include in the calculation made to determine the amount required pursuant to this paragraph reappropriations of funding that previously counted toward meeting the requirements of Section 8 of Article XVI of the California Constitution for any fiscal year.

(2) As part of providing the calculation required pursuant to paragraph (1), the Department of Finance shall provide the State Department of Education with a comprehensive list of categorical programs that are included in the Charter School Categorical Block Grant.

SEC. 11. Section 48005.10 of the Education Code is amended to read:

48005.10. (a) This article shall be known, and may be cited, as the Kindergarten Readiness Pilot Program.

(b) The Legislature hereby finds and declares the following:

(1) The available data indicate all of the following:

(A) By changing the age at which children generally enter kindergarten, California's children will be better prepared to enter into the academic environment that is required by the California content standards for kindergarten.

(B) Success in school is often related to socioeconomic status, English language fluency at school entry, and access to preschool.

By providing a kindergarten readiness program for the children most at risk for low performance and delaying entry to allow all children time to become more developmentally ready to learn, pupils are more likely to succeed in school.

(C) Comparisons between California pupils and pupils in other states on national achievement tests in the later grades are likely to be more equitable if the entry age of California pupils is more closely aligned to that of most other states.

(D) Children who have attended an educationally based kindergarten readiness program, including, but not limited to, a quality state preschool, Head Start, or kindergarten readiness program, are better prepared academically and socially for the existing kindergarten curriculum, as reflected by the state adopted standards.

(2) The purpose of the pilot project established pursuant to this article is intended to test these data.

(3) For participating school districts, the change in enrollment required pursuant to this article will result in a decrease in the number of pupils enrolled in kindergarten classes for the class entering kindergarten in the 2003-04 school year. Thus, it is estimated that in participating school districts there will be a 25 percent decrease in the enrollment of the kindergarten class in the initial year of implementation.

(4) The school district revenue related provision of this article in Section 48005.30 is intended to fully fund participation in the program and provide an incentive to participate.

SEC. 12. Section 48005.13 of the Education Code is amended to read:

48005.13. (a) The Superintendent of Public Instruction shall establish and administer the Kindergarten Readiness Pilot Program to permit school districts to provide opportunities for children to enhance their readiness for kindergarten, thereby increasing their likelihood for future academic success.

(b) The Superintendent of Public Instruction shall convene an advisory panel to assist the department in developing its request for proposals, and in evaluating and selecting the proposals submitted to the department. The advisory panel shall include, but need not be limited to, a representative of each of the following:

- (1) The Department of Finance.
- (2) The Legislature.
- (3) The California Research Bureau.
- (4) The Legislative Analyst.
- (5) The State Board of Education.
- (6) The Secretary for Education.

(c) By February 1, 2003, the superintendent shall notify elementary and unified school districts maintaining kindergarten about the existence of this program, shall notify them about the procedures for participation, and shall request proposals for participation.

(d) Participation in the program by a school district shall be voluntary.

(e) A school district that elects to participate in the program shall apply to the Superintendent of Public Instruction by May 1, 2003, upon forms adopted by the superintendent for this purpose.

(f) The Superintendent of Public Instruction, with the advice of the advisory panel, and in consultation with the Secretary for Education, shall select participants from the group of applicants. The Superintendent of Public Instruction shall give priority to applicant school districts that are representative of the diversity of pupils and of the various types of school districts within the state. Priority shall, also, be given to unified school districts.

(g) Nothing in this article prohibits a school district from implementing the program in selected schools within the district if adequate records are kept to substantiate the accuracy of the declining enrollment incentive and limits on prekindergarten instruction funding provided pursuant to Section 48005.30.

SEC. 13. Section 48005.15 of the Education Code is amended to read:

48005.15. By July 1, 2003, each participant school district shall enter into an agreement with the Superintendent of Public Instruction setting forth the requirements under the program, including, but not limited to, all of the following:

(a) The participating school district shall make reasonable efforts to identify parents and guardians of children from three to five years of age who reside within the school district and to provide the parents and guardians with information regarding, and access to, services, programs, or methods, to assist them in assessing the level of readiness of a child to enter school.

(b) The effort set forth in paragraph (1) shall include, but need not be limited to, information regarding available care services, preschool programs, and educationally based kindergarten readiness programs. The school district may coordinate this effort with local parent-teacher organizations.

(c) "Reasonable effort" as used in this subdivision does not require that the school district individually contact every potential parent who resides within the school district.

(d) The school district shall provide assistance to parents or guardians who request assistance regarding activities that parents may initiate in preparing children for school.

(e) At a minimum, participating school districts shall supply parents or guardians with written readiness guidelines developed by the State Department of Education.

(f) Assistance provided pursuant to this section shall be based on generally accepted child development theory and may include information related to social and development readiness and professional consultations with teachers and school administrators.

(g) The participating school district shall make reasonable efforts to collect data and make it available to the independent evaluator, as specified in Section 48005.45.

SEC. 14. Section 48005.25 of the Education Code is amended to read:

48005.25. (a) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 48000, for the 2003-04 school year, and each school year thereafter in which a school district continues to participate in the program, the school district shall offer admission to kindergarten at the beginning of the school year, or at a later time in the same school year, only to children who will have their fifth birthday on or before September 1 of that school year. For a school district that is not implementing the pilot project authorized by this article on a districtwide basis, this subdivision applies only to children whose residence is in the regular attendance boundary of a participating school or who would otherwise attend that school under school assignment policies established in the school year prior to implementation of this pilot program.

(b) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 48010, for the 2004-05 school year, and each school year thereafter in which a school district continues to participate in the program, a school district shall offer admission to first grade at the beginning of the school year, or at a later time in the same school year, only to children who will have their sixth birthday on or before September 1 of that school year. Kindergarten shall not be a prerequisite for enrollment in first grade pursuant to this article. For a school district that is not implementing the pilot project authorized by this article on a districtwide basis, this subdivision applies only to children whose residence is in the regular attendance boundary of a participating school or who would otherwise attend that school under school assignment policies established in the school year prior to implementation of this pilot program.

(c) Notwithstanding subdivisions (a) and (b), the governing board of each school district participating in this program shall adopt a policy to allow, for good cause, admission of a child to kindergarten or to the first grade at the beginning of a school year in which the child's birthday will be after September 1, or at a later time in

the same school year. It is the intent of the Legislature that this subdivision authorize rare exceptions for only the most gifted and socially mature children. Therefore, exceptions are limited to no more than the greater of either one child or the number of children determined by multiplying .01 times the prior school year P-2 average daily attendance in kindergarten within the participating school district or the school implementing the program, as applicable. A school or school district may not exceed this limitation without specific written approval from the Superintendent of Public Instruction upon consideration of a statement by the school or school district of the circumstances that meet the legislative intent regarding this subdivision.

SEC. 15. Section 48005.30 of the Education Code is amended to read:

48005.30. (a) For the 2003-04 school year and each school year thereafter until the 2009-10 school year the Superintendent of Public Instruction shall allocate a grant of funds for a participating school district for each year of participation to cover the costs of developing and operating the school district kindergarten readiness program, including, but not limited to, the costs of administration and the costs associated with services provided to parents and children in the program. For any participating school district, annual funding pursuant to this paragraph shall be subject to the limitations and requirements of this subdivision and shall not exceed the per-pupil amount nor the total amount computed as follows:

(1) Five dollars (\$5) per hour for each hour of attendance for every child participating in the kindergarten readiness program up to a maximum of 150 hours of attendance for each child. The amount per hour shall be adjusted annually, commencing with the 2004-05 school year for the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1.

(2) For purposes of total funding to a participating school district, the amount claimed may not exceed an amount equivalent to multiplying the amount in paragraph (1) by a number equal to 50 percent of the entire kindergarten P-2 average daily attendance for the 2002-03 school year of the school district or, in a school district that is not implementing the pilot project authorized by this article on a districtwide basis, by a number equal to 50 percent of the kindergarten P-2 average daily attendance for the 2002-03 school year of the schools in the district that are implementing the program.

(b) For the 2003-04 school year, the Superintendent of Public Instruction shall allocate a one-time incentive grant to enhance transition of the school district for the reduced attendance that results from the program, to be determined by multiplying one-fourth of the kindergarten average daily attendance for the 2002-03 school year by the school district's base revenue limit per unit of average daily attendance. If a school district does not implement the program districtwide, this one-time incentive shall be determined by multiplying one-fourth of the specific portion of the district's kindergarten average daily attendance for the 2002-03 school year contributed by the implementing school or schools by the school district's base revenue limit per unit of average daily attendance.

(c) A participating school district that does not implement the program on a districtwide basis shall provide to the Superintendent of Public Instruction a statement certifying the following:

(1) P-2 average daily attendance in the implementing schools for the 2002-03 school year. The school district shall maintain these records for audit purposes. The Superintendent of Public Instruction may request documentation of the P-2 average daily attendance in schools implementing the program as deemed necessary to enforce the funding limits of this article.

(2) Attendance boundaries for the schools implementing the program will remain the same as they existed in the 2002-03 school year through the duration of the program unless the district submits an application to and receives approval from the State Board of Education. The State Board of Education shall only consider

applications for attendance boundary changes for participating schools in cases where significant population changes necessitate the opening of new schools or the closing of existing schools. In order to preserve the integrity of the evaluation required by this article, it is the intent of the Legislature that a school district applying to participate in the program on a less than districtwide basis avoid implementation of the program in schools that can reasonably be foreseen to be subject to boundary changes within the timeframe of the pilot program authorized in this article. The State Board of Education may not approve boundary changes that do not meet the requirements and intent of this paragraph.

(3) The district has established procedures that restrict attendance in nonparticipating schools of the district for children residing in the attendance boundaries of the schools implementing the program.

(d) Total incentive funding for reduced P-2 average daily attendance provided pursuant to this article shall be subject to a statewide maximum funding level equal to the equivalent of 2,300 full annual units of average daily attendance multiplied by the statewide average school district revenue limit for the 2003-04 fiscal year as determined by the Department of Finance.

SEC. 16. Section 48005.35 of the Education Code is amended to read:

48005.35. (a) A school district kindergarten readiness program operated pursuant to this article is exempt from Chapter 14 (commencing with Section 15000) and Chapter 19 (commencing with Section 17906) of Division 1 of Title 5 of the California Code of Regulations if the program meets kindergarten staffing and safety requirements.

(b) Notwithstanding any other provision of law to the contrary, including, but not limited to, subdivision (a) of Section 17285, a commercial building that does not meet the requirements of Section 17820, that is leased to a school district may, until January 1, 2004, be used as a classroom in order to accommodate programs under this article if the governing board of the school district finds that conditions of subdivision (b) of Section 17285 have been met.

(c) Any teacher participating in the kindergarten readiness program shall be a holder of a permit or credential issued by the Commission on Teacher Credentialing that authorizes instruction in kindergarten or child care and development.

SEC. 17. Section 48005.45 of the Education Code is amended to read:

48005.45. (a) The Superintendent of Public Instruction shall, by June 1, 2004, contract for an independent longitudinal evaluation regarding the effects of the change in the entry age for kindergarten and first grade pursuant to this article. In selecting the independent evaluator, awarding the contract pursuant to this section, and in monitoring performance under the contract, the Superintendent of Public Instruction shall consult with the advisory panel convened pursuant to subdivision (b) of Section 48005.13.

(b) The evaluation shall be based upon samples of sufficient size and diversity to allow results to be reported separately for pupils of different ethnicity, socioeconomic status, and primary language, and results of the evaluation shall be so reported.

(c) The primary purpose of the evaluation is to determine whether this entry age change results in improved readiness for school and an improvement in academic achievement among participating children.

(d) The evaluation shall use representative sampling to identify the change's effects on all of the following:

(1) Academic achievement, as measured by standardized tests, as compared with pupils not participating in the program.

(2) Behavioral problems, as measured by objective data including, but not limited to, suspension and expulsion rates, as compared with pupils not participating in the program.

(3) Academic problems, as measured by referrals to special education and remedial programs, as compared with pupils not

participating in the program.

(4) Age of kindergarten entry and previous educationally based preschool experience, including, but not limited to, access to child care and preschool by parents or guardians.

(5) Overall retention rates in kindergarten and in subsequent grades.

(6) Participation in remedial, supplemental, or summer school programs.

(7) Class size.

(8) Number of pupils participating in kindergarten.

(9) Number of pupils participating in the kindergarten readiness programs.

(10) Differences, if any, between programs with full preschool participation, and those with partial or no preschool.

(11) Childcare difficulties caused by the admission age change.

(12) Demographic breakdown of participants and nonparticipants, including, but not limited to, socioeconomic and ethnic demographics.

(13) Facilities difficulties, if any, encountered by participating school districts.

(14) The ability of parents to gain access to the program, disaggregated by ethnic, primary language, and socioeconomic status.

(e) It is the intent of the Legislature that funding for this evaluation be included in the Budget Act or a bill related to the Budget Act. It is the intent of the Legislature to subsequently increase the number of hours funded for the kindergarten readiness program if the reports pursuant to this section indicate that the increase would be beneficial.

(f) (1) The independent evaluator shall report to the Legislature, the Governor, the Superintendent of Public Instruction, the State Board of Education, and the Secretary for Education.

(2) The initial report shall be filed by June 1, 2006. The interim report shall be filed by January 1, 2008. The final report shall be filed by January 1, 2009.

SEC. 18. Section 48005.55 of the Education Code is amended to read:

48005.55. This article shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 52263.5 is added to the Education Code, to read:

52263.5. (a) Notwithstanding subdivision (a) of Section 52253, no technology support and staff training grants shall be provided to school districts and county offices of education for the 2002-03 fiscal year. Notwithstanding subdivision (a) of Section 52262, the Superintendent of Public Instruction may not allocate technology support and staff training grants for the 2002-03 fiscal year.

(b) It is the intent of the Legislature that the funding that would otherwise have been provided for the 2002-03 fiscal year be provided in the 2003-04 fiscal year.

(c) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 53075 of the Education Code is amended to read:

53075. Subject to funding being appropriated in the annual Budget Act for this purpose, the Secretary for Education shall contract for the development and establishment of a public involvement campaign to inform Californians that promoting reading in the public schools as a key to success in life is the responsibility of all Californians. The campaign shall address, but not necessarily be limited to, promoting family reading activities, encouraging private sector support for child literacy programs, and publicizing the importance of reading skills for academic success.

Elected officials and declared candidates for partisan public office may not appear in promotional materials for the reading campaign.

SEC. 21. Section 54201 of the Education Code is amended to read:

54201. (a) The State Department of Education shall calculate the per pupil amount that was received by each school district pursuant to the court-ordered desegregation claims filed pursuant to Sections 42243.6 and 42247, and the per pupil amount that was received based on voluntary integration claims filed pursuant to Sections 42247 and 42249 for the 2000-01 fiscal year. This amount shall be determined by dividing the total funds by the actual average daily attendance as reported on the second principal apportionment for 2000-01.

(b) The amount determined pursuant to subdivision (a) for each school district, adjusted by the percentage increase calculated pursuant to Section 42238.1, multiplied by the districts' total average daily attendance for each fiscal year shall be the total per pupil funding received for the Targeted Instructional Improvement Grant. This amount shall be adjusted annually thereafter by the percentage increase calculated pursuant to Section 42238.1. For the 2001-02 fiscal year, and each fiscal year thereafter, the total amount a school district shall receive in any fiscal year is at a minimum the same total amount it received in the 2000-01 fiscal year adjusted annually pursuant to Section 42238.1.

SEC. 22. Section 54205 is added to the Education Code, to read:

54205. (a) For a basic aid district that was entitled to reimbursement pursuant to Section 42247.4, as that section read on January 1, 2001, and that received an apportionment pursuant to subdivision (h) of Section 42247.4, as that section read on January 1, 2001, because a court order directs pupils to transfer to that district as part of the court-ordered voluntary pupil transfer program, the Superintendent of Public Instruction, commencing with the 2001-02 fiscal year, shall calculate an apportionment of state funds for that basic aid district that provides 70 percent of the district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the school district from which the pupils were transferred for the average daily attendance of any pupils credited under that court order who did not attend the basic aid school district prior to the 1995-96 fiscal year.

(b) For purposes of this section, "basic aid district" means a school district that does not receive from the state, for any fiscal year in which this section is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

SEC. 23. Section 56836.158 of the Education Code is amended to read:

56836.158. (a) (1) The superintendent shall determine the statewide total average daily attendance used for the purposes of Section 56836.08 for the 2000-01 fiscal year. For the purposes of this calculation, the 2000-01 second principal average daily attendance for the court, community school, and special education programs served by the Los Angeles County Juvenile Court and Community School/Division of Alternative Education special education local plan area shall be used in lieu of the average daily attendance used for that agency for the purposes of Section 56836.08.

(2) The superintendent shall distribute the amount appropriated for purposes of this section from the Budget Act of 2001. The superintendent shall divide that amount of funding by the amount calculated in paragraph (1).

(3) For each special education local plan area, the superintendent shall permanently increase the amount per unit of average daily attendance determined pursuant to paragraph (2) of Section 56836.10 for the 2001-02 fiscal year by the quotient determined pursuant to paragraph (2) of this section. This increase shall be effective beginning in the 2001-02 fiscal year.

(4) Notwithstanding paragraph (3), for the Los Angeles County Juvenile Court and Community School/Division of Alternative Education special education local plan area, the superintendent shall permanently increase the amount per unit of average daily attendance

determined pursuant to paragraph (2) of Section 56836.10 by the ratio of the amount determined pursuant to paragraph (2) to the statewide target per unit of average daily attendance determined pursuant to Section 56836.11 for the 2000-01 fiscal year. This increase shall be effective beginning in the 2001-02 fiscal year.

(5) The superintendent shall increase the statewide target per unit of average daily attendance determined pursuant to Section 56836.11 for the 2001-02 fiscal year by the amount determined pursuant to paragraph (2).

(b) (1) The superintendent shall determine the statewide total average daily attendance used for the purposes of Section 56836.08 for the 2001-02 fiscal year. For the purposes of this calculation, the 2001-02 second principal average daily attendance for the court, community school, and special education programs served by the Los Angeles County Juvenile Court and Community School/Division of Alternative Education special education local plan area shall be used in lieu of the average daily attendance used for that agency for the purposes of Section 56836.08.

(2) The superintendent shall distribute the amount appropriated for purposes of this section from the Budget Act of 2002. The superintendent shall divide that amount of funding by the amount calculated in paragraph (1).

(3) For each special education local plan area, the superintendent shall permanently increase the amount per unit of average daily attendance determined pursuant to paragraph (2) of Section 56836.10 for the 2002-03 fiscal year by the quotient determined pursuant to paragraph (2). This increase shall be effective commencing in the 2002-03 fiscal year.

(4) Notwithstanding paragraph (3), for the Los Angeles County Juvenile Court and Community School/Division of Alternative Education special education local plan area, the superintendent shall permanently increase the amount per unit of average daily attendance determined pursuant to paragraph (2) of Section 56836.10 by the ratio of the amount determined pursuant to paragraph (2) to the statewide target per unit of average daily attendance determined pursuant to Section 56836.11 for the 2001-02 fiscal year. This increase shall be effective commencing in the 2002-03 fiscal year.

(5) The superintendent shall increase the statewide target per unit of average daily attendance determined pursuant to Section 56836.11 for the 2002-03 fiscal year by the amount determined pursuant to paragraph (2).

SEC. 31. Section 70000 of the Education Code is amended to read:

70000. (a) The Governor's Teaching Fellowships Program is hereby established to be administered by the Chancellor's office of the California State University. The chancellor's office shall collaborate with the University of California, the California Community Colleges, the Association of Independent California Colleges and Universities, the State Department of Education, and the Commission on Teacher Credentialing to ensure that access to the fellowships is available to students in a variety of teaching preparation programs.

(b) In January 2001, 250 nonrenewable graduate teaching fellowships in the amount of twenty thousand dollars (\$20,000) each shall be awarded, with funds disbursed one-half in January 2001 and one-half in September 2001.

(c) During the 2001-02 fiscal year, 1,000 nonrenewable, graduate teaching fellowships in the amount of twenty thousand dollars (\$20,000) each shall be awarded.

(d) Commencing with the 2002-03 fiscal year and each fiscal year thereafter, the number of fellowships awarded shall be determined pursuant to an appropriation in the annual Budget Act for this purpose.

(e) The fellowship award may be used to defer tuition for a teacher certification program at any accredited postsecondary institution in California and for living expenses while enrolled in that program.

SEC. 33. Section 99234 of the Education Code is amended to read:

99234. (a) The Superintendent of Public Instruction shall notify local education agencies that they are eligible to receive an incentive award for up to 3 percent of eligible teachers in the 2002-03 fiscal year, up to 3 percent in the 2003-04 fiscal year, up to 2.4 percent in the 2004-05 fiscal year, up to 2.7 percent in the 2005-06 fiscal year, and up to 1.3 percent in the 2006-07 fiscal year. It is the intent of the Legislature that a local education agency give highest priority to training teachers assigned to low-performing schools. It is also the intent of the Legislature that funding appropriated in one fiscal year that is not expended by a local education agency be redirected to local education agencies that have trained more eligible teachers than the percentage funded. When a redirection of funding occurs, funding in subsequent fiscal years for the local education agencies involved shall be adjusted to reflect the redirection of funding.

(b) A school district that cannot make the certification required pursuant to paragraph (3) of subdivision (a) of Section 99237 for all the grade levels it maintains in reading and mathematics may apply for and receive incentive funding for the grade levels and subjects for which it can make the certification required pursuant to paragraph (3) of subdivision (a) of Section 99237, in which case the certified assurance submitted pursuant to Section 99237 shall apply only to the professional development provided to teachers and instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading in the grade levels and subjects for which it can make the certification required pursuant to paragraph (3) of subdivision (a) of Section 99237.

(c) Of the incentive provided pursuant to subdivision (c), a local education agency may use not more than one thousand dollars (\$1,000) of the per teacher per subject amount to provide an individual teacher stipend.

(d) The Superintendent of Public Instruction shall notify local education agencies that the maximum funding for the purpose of this article for which they are eligible each year is equal to the percentage set forth in subdivision (a), multiplied by the sum of the following two factors multiplied by two thousand five hundred dollars (\$2,500):

(1) Twice the number of multiple subjects teachers teaching in a self-contained classroom and special education teachers, as specified in paragraphs (1) and (2) of Section 99233, that provide direct instruction in reading and mathematics as reported in the most recent available CBEDS data, who have not received training pursuant to either this article or Article 2 (commencing with Section 99220).

(2) The number of mathematics, English, science, and social science teachers as specified in paragraphs (3) to (6), inclusive, of Section 99233 that were reported in the most recent available CBEDS data, who have not received training pursuant to either this article or Article 2 (commencing with Section 99220).

(e) The Superintendent of Public Instruction shall allocate funding appropriated for the purposes of this article in the following order of priority:

(1) Two thousand five hundred dollars (\$2,500) for each qualifying teacher who was provided training pursuant to subdivision (a) in the prior year for whom the local education agency did not receive funding due to insufficient availability of funds in the prior fiscal year.

(2) Two thousand five hundred dollars (\$2,500) for each qualifying teacher who was provided training pursuant to this article, subject to the limitations in subdivision (d).

(3) Five hundred dollars (\$500) for each qualifying teacher for each qualifying program as specified in Article 2 (commencing with Section 99220) who successfully completes mathematics or reading standards training, or both, at a California Professional Development Institute authorized pursuant to Article 2 (commencing with Section 99220) in the 2001-02 fiscal year to the 2004-05 fiscal year, inclusive, using funds received pursuant to Article 2 (commencing with Section 99220), and has had specific approved training on the

mathematics or reading instructional materials selected for use in the school.

(4) Five hundred dollars (\$500) for each qualifying teacher in each qualifying program pursuant to Article 2 (commencing with Section 99220) who successfully completed mathematics or reading standards training, or both, at a California Professional Development Institute authorized pursuant to Article 2 (commencing with Section 99220) in the 1999-2000 or 2000-01 fiscal year, using funds received pursuant to Article 2 (commencing with Section 99220), and has had specific approved training on the mathematics or English-language arts instructional materials selected for use in the school.

(5) Two thousand five hundred dollars (\$2,500) for each qualifying teacher who was provided training pursuant to this article in excess of limitations in subdivision (d).

(f) For purposes of this article, qualifying teachers who, in the 2000-01 fiscal year, received training at a California Professional Development Institute authorized pursuant to Article 2 (commencing with Section 99220) that was paid for by a local education agency using funds that were not received pursuant to Article 2 (commencing with Section 99220) shall be deemed to have received training in the 2001-02 fiscal year. A local education agency shall receive funding for these qualifying teachers in accordance with paragraph (2) of subdivision (e).

(g) Except as provided in subdivision (f) of Section 99237, funding may not be provided to a local education agency until the State Board of Education approves the agency's certified assurance submitted pursuant to Section 99237.

(h) Of the funding a local education agency is eligible to receive pursuant to this section for each eligible teacher, up to the number specified in subdivision (a), 50 percent shall be awarded following the provision of 40 hours of professional development as specified in subdivision (b) of Section 99237, with the remaining funding to be awarded following certification of the provision of the 80 hours of followup instruction as specified in subdivision (b) of Section 99237.

(i) Except as provided in paragraphs (3) and (4) of subdivision (e), a local education agency may not receive funds pursuant to this article for teachers who receive training pursuant to Article 2 (commencing with Section 99220) using funding provided pursuant to Article 2 (commencing with Section 99220).

SEC. 34. Section 99235 of the Education Code is amended to read:

99235. (a) The Superintendent of Public Instruction shall notify local education agencies that they are eligible to receive funding to provide instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading with professional development training in mathematics and reading, in an amount equal to one thousand dollars (\$1,000) per qualifying instructional aide. Funding will be provided to local education agencies on a first-come, first-serve basis. A local education agency that chooses to participate in the program is eligible to receive funding for no greater than 29 percent of its instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading in the 2004-05 fiscal year and up to 14.5 percent in the 2005-06 fiscal year. However, the statewide total number of instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading served under this program may not exceed 9,600 over the two fiscal years.

(b) Of the incentive provided pursuant to subdivision (a), a local educational agency may use not more than five hundred dollars (\$500) of the per instructional aide and paraprofessionals who directly assist with classroom instruction in mathematics and reading amount to provide an individual instructional aid stipend.

SEC. 35. Section 99240 of the Education Code is amended to read:

99240. (a) By July 1, 2003, the State Department of Education, in cooperation with the University of California and the California Professional Development Institutes authorized pursuant to Article 2

(commencing with Section 99220), shall develop, and the State Board of Education shall review and approve, an interim report regarding the program established pursuant to this article for submission to the Legislature. The interim report shall, at a minimum, detail the following:

(1) The number of teachers, by credential type, who have received training offered pursuant to this article.

(2) The number of instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading who have received training offered pursuant to this article.

(3) The entities that have received funds for the purpose of offering training pursuant to this article and the number of teachers and instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading, respectively, that each has trained.

(b) By June 30, 2005, the State Department of Education shall submit, subject to review and approval by the State Board of Education, a final report to the Legislature regarding the program established pursuant to this article. The final report shall, at a minimum, detail the following:

(1) The number of teachers, by credential type, who received training offered pursuant to this article.

(2) The number of instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading who received training offered pursuant to this article.

(3) The entities that received funds for the purpose of offering training pursuant to this article and the number of teachers and instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading, respectively, that each has trained.

(4) Information detailing the effectiveness of the program established pursuant to this article. This information shall, at a minimum, incorporate survey data concerning program effectiveness that has been gathered from program participants and school principals.

(5) To the extent information is available, information detailing the retention rate, by credential type, of teachers who participated in training offered pursuant to this article. The information shall, at a minimum, incorporate sample data concerning teachers who are no longer in the profession.

(6) To the extent information is available, information detailing the retention rate of instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading who participated in training offered pursuant to this article. The information shall, at a minimum, incorporate sample data concerning aides who are no longer in the profession, as well as aides who have obtained a teacher credential subsequent to training.

SEC. 36. Section 99242 of the Education Code is amended to read:
99242. This article shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Section 17581.5 is added to the Government Code, to read:

17581.5. (a) A school district shall not be required to implement or give effect to the statutes, or portion thereof, identified in subdivision (b) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or portion thereof, has been specifically

identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) This section

applies only to the following mandates:

(1) The School Bus Safety II mandate (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

SEC. 38. Section 5701.3 of the Welfare and Institutions Code is amended to read:

5701.3. Consistent with the annual Budget Act, this chapter shall not affect the responsibility of the state to fund psychotherapy and other mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and the state shall reimburse counties for all allowable costs incurred by counties in providing services pursuant to that chapter. The reimbursement provided pursuant to this section for purposes of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall be provided by the state through an appropriation included in either the annual Budget Act or other statute. Counties shall continue to receive reimbursement from specifically appropriated funds for costs necessarily incurred in providing psychotherapy and other mental health services in accordance with this chapter. For reimbursement claims for services delivered in the 2001-02 fiscal year and thereafter, counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund established by Chapter 6 (commencing with Section 17600) of Part 5 of Division 9.

SEC. 39. (a) Notwithstanding Section 42238.1 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-191-0001, 6110-196-0001, 6110-234-0001, and 6110-235-0001 of Section 2.00 of the Budget Act of 2002, and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2002 shall be 2 percent. All funds appropriated in the items identified in this section are in lieu of the amounts that would otherwise be appropriated pursuant to any other provision of law.

(b) Notwithstanding Section 42238.1 of the Education Code for purposes of Sections 2550 and 42238 of the Education Code, for the 2002-03 fiscal year, the cost-of-living adjustment shall be 2 percent.

SEC. 40. Before funds are disbursed to reimburse school districts for claims related to costs incurred from July 1, 1995, to June 30, 2002, inclusive, pursuant to former Section 38048 of, and Sections 39831.3 and 39831.5 of, the Education Code, and Section 22112 of the Vehicle Code, known as the School Bus Safety II mandate, the Commission on State Mandates shall amend the parameters and guidelines for the School Bus Safety II mandate (Ch. 624, Stats. 1992; Ch. 831, Stats. 1994; and Ch. 739, Stats. 1997) to specify that costs associated with implementation of transportation plans are not reimbursable and to detail the documentation necessary to support reimbursement claims under this mandate. In identifying the necessary documentation, the commission shall consult with the Bureau of State Audits and the Controller's Office. In addition to applying to costs incurred in the 2002-03 fiscal year and each fiscal year thereafter, the parameters and guidelines amended pursuant to this section shall apply to claims related to costs incurred from July 1, 1995, to June 30, 2002, inclusive.

SEC. 41. Notwithstanding any other provision of law, with respect to the handicapped and disabled students state-mandated local program, county reimbursement claims submitted to the Controller for reimbursement for services associated with providing, pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, allowable mental health treatment services required by an individualized education program in fiscal years up to and including the 2000-01 fiscal year are not subject to dispute by the Controller's office regarding the percentage of reimbursement claimed by any county. A county that previously submitted a reimbursement claim for services delivered in the 2000-01 fiscal year or prior for less than 100 percent of the allowable mental health treatment services to special education pupils may not amend its claim for 100 percent or other percentage of those same allowable costs. This paragraph does not abridge the right of the Controller to otherwise dispute claims on the basis of allowable costs. With the exception of those costs claimed in excess of what is allowable, claims shall be fully paid at the percentage originally submitted.

SEC. 42. (a) If the appropriation in the 2002-03 fiscal year for purposes of Section 42238.445 of the Education Code pursuant to Provision 2 of Item 6110-223-0001 of Section 2.00 of the Budget Act of 2002 is insufficient to provide funding equal to the amount computed pursuant to Section 42238.445 of the Education Code, the amount appropriated shall be allocated to school districts on a pro rata basis.

(b) If the appropriation in the 2003-04 fiscal year for purposes of Section 42238.44 of the Education Code is insufficient to provide funding equal to the amount computed pursuant to Section 42238.44 of the Education Code, the amount appropriated shall be allocated to school districts on a pro rata basis.

(c) If the appropriation in the 2003-04 fiscal year for purposes of Section 42238.46 of the Education Code is insufficient to provide funding equal to the amount computed pursuant to Section 42238.46 of the Education Code, the amount appropriated shall be allocated to school districts on a pro rata basis.

SEC. 43. The sum appropriated in Item 6110-111-0001 of Section 2.00 of the Budget Act of 2002 is hereby reduced by one hundred thirty-nine million five hundred seventy-nine thousand dollars (\$139,579,000), and the amount in Schedule (1) of that item is reduced by one hundred thirty-nine million five hundred seventy-nine thousand dollars (\$139,579,000).

SEC. 44. The sum appropriated in Item 6110-113-0001 of Section 2.00 of the Budget Act of 2002 is hereby augmented by forty-six million six hundred nine thousand dollars (\$46,609,000) and the amount appropriated in Schedule (4) of that item is augmented by forty-five million eight hundred nine thousand dollars (\$45,809,000).

SEC. 45. The sum of three hundred thirteen million nine hundred eight thousand dollars (\$313,908,000) is hereby appropriated for purposes of the School Improvement Programs by adding Item 6110-116-0001 to Section 2.00 of the Budget Act of 2002, to read:

6110-116-0001--For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.030-School Improvement Programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code

313,908,000

Schedule:

- (1) 20.60.030.010-For the purpose of making allowances for kindergarten and grades 1 to 6, inclusive 259,727,000
- (2) 20.60.030.020-For the purpose of making allowances for grades 7 to 12, inclusive 54,181,000

Provisions:

1. From the funds appropriated in Schedule (2), the State Department of Education shall allocate \$34.72 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to those school districts that received School Improvement Grants in the 1989-90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8.
2. Of the funds appropriated in Schedule (1) of this item, \$6,963,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.
3. Of the funds appropriated in Schedule (2) of this item, \$2,303,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 3.27 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$1,453,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.

SEC. 46. The sum appropriated in Item 6110-132-0001 of Section 2.00 of the Budget Act of 2002 is hereby reduced by one hundred eighty-four million three hundred ninety-nine thousand dollars (\$184,399,000).

SEC. 47. The sum appropriated in Item 6110-235-0001 of Section 2.00 of the Budget Act of 2002 is hereby reduced by two hundred forty-one million seven hundred thirty-nine thousand dollars (\$241,739,000).

SEC. 48. Notwithstanding paragraph (5) of subdivision (a) of, and subdivision (b) of, Section 14041 of the Education Code, or any other provision of law, for the purpose of apportioning funds from the State School Fund for Home to School Transportation, pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and School Improvement Programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code, as part of the special purpose apportionment in the 2002-03 fiscal year only, the warrants drawn by the Controller, pursuant to Section 14041 of the Education Code, in the months of September to November, inclusive, shall include one-seventh of the estimated total amounts of the portion of the special purpose apportionment for the programs identified in this section, as determined by the Superintendent of Public Instruction. Warrants in December shall include one-seventh of the amounts certified by the Superintendent of Public Instruction as the portion of the special purpose apportionment for the programs identified in this section, as adjusted, if necessary, to correct excesses or deficiencies in the estimates made for purposes of the warrants in the months of September to November, inclusive. An additional one-seventh of the amounts of the portion of the special purpose apportionment for the programs identified in this section shall be included in the warrants for the months from January to March, inclusive.

SEC. 49. Notwithstanding paragraph (5) of subdivision (a) of, and subdivision (b) of, Section 14041 of the Education Code, or any other provision of law, for the purpose of apportioning funds from the State School Fund for Economic Impact Aid, pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of the Education Code and Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of the Education Code, as part of the special purpose apportionment in the 2002-03 fiscal year only, the warrants drawn by the Controller, pursuant to Section 14041 of the Education Code, in the months of September to November, inclusive, shall include one-tenth of the estimated total amounts of the portion of the special purpose apportionment for the programs identified in this section, as determined by the Superintendent of Public Instruction. Warrants in December shall include one-tenth the portion of the special purpose apportionment for the programs identified in this section, as adjusted, if necessary, to correct excesses or

deficiencies in the estimates made for purposes of the warrants in the months of September to November, inclusive. An additional one-tenth of the amounts of the portion of the special purpose apportionment for the programs identified in this section shall be included in the warrants for the months from January to June, inclusive.

SEC. 50. (a) The sum of six hundred eighty-one million dollars (\$681,000,000) is hereby appropriated from the General Fund in the 2003-04 fiscal year according to the following schedule:

(1) The sum of one hundred fifteen million two hundred eighty-three thousand dollars (\$115,283,000) to the State Department of Education for the School Improvement Programs pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code, to be expended consistent with the requirements specified in Item 6110-116-0001 of Section 2.00 of the Budget Act of 2002. Of the amount appropriated in this provision, ninety five million three hundred eighty-five thousand dollars (\$95,385,000) shall be expended consistent with Schedule (1) of Item 6110-116-0001 of Section 2.00 of the Budget Act of 2002, and nineteen million eight hundred ninety-eight thousand dollars (\$19,898,000) shall be expended consistent with Schedule (2) of Item 6110-116-0001 of Section 2.00 of the Budget Act of 2002.

(2) The sum of one hundred thirty-nine million five hundred seventy-nine thousand dollars (\$139,579,000) to the State Department of Education for Home to School Transportation pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2002.

(3) The sum of one hundred eighty-four million three hundred ninety-nine thousand dollars (\$184,399,000) to the State Department of Education for the Targeted Instructional Improvement Grant pursuant to Chapter 2.5 (commencing with Section 54200) of Part 29 of the Education Code, to be expended consistent with the requirements specified in Item 6110-132-0001 of Section 2.00 of the Budget Act of 2002.

(4) The sum of two hundred forty-one million seven hundred thirty-nine thousand dollars (\$241,739,000) to the State Department of Education for supplemental grants pursuant to Sections 54761.2 and 54761.3 of the Education Code, to be expended consistent with the requirements specified in Item 6110-235-0001 of Section 2.00 of the Budget Act of 2002.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2003-04 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2003-04 fiscal year.

SEC. 51. (a) The amount of four hundred six million dollars (\$406,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 2003-04 fiscal year for the following purposes:

(1) Two hundred three million dollars (\$203,000,000) for purposes of Section 42238.44 of the Education Code, to be allocated to school districts on a pro rata basis.

(2) Two hundred three million dollars (\$203,000,000) for purposes of Section 42238.46 of the Education Code, to be allocated to school districts on a pro rata basis.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to schools districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 2003-04 fiscal year and

be included within the "total allocations to schools district and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XVII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2003-04 fiscal year.

SEC. 52. (a) Notwithstanding any other provision of law, the amount that is required to be appropriated for the purpose of satisfying the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution, shall, in addition to all other funds required to be appropriated to school districts, as defined in Section 41302.5 of the Education Code, and community college districts, be increased by twenty million nine hundred thirty thousand dollars (\$20,930,000) for the 2003-04 fiscal year.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, including, but not limited to, the purposes of determining the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, the amount of the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 2003-04 fiscal year shall be increased by the amount determined for the 2003-04 fiscal year pursuant to subdivision (a).

(c) If, for any reason for the 2003-04 fiscal year, subparagraph (B) of paragraph (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution is suspended pursuant to subdivision (h) of that section, the amount of the maintenance factor for school districts and community college districts determined pursuant to subdivisions (d) and (e) of that section as a result of that suspension, shall be computed in a manner that includes the increase to the state's minimum funding obligation to school districts and community college districts pursuant to that section that are required under subdivision (a).

SEC. 53. (a) Notwithstanding any other provision of law, in addition to the amount specified in Section 52 of this act, the amount that is required to be appropriated for the purpose of satisfying the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution, shall, in addition to all other funds required to be appropriated to school districts, as defined in Section 41302.5 of the Education Code, and community college districts, be increased by fifty-seven million eight hundred thirty-one thousand dollars (\$57,831,000) for the 2003-04 fiscal year.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, including, but not limited to, the purposes of determining the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, the amount of the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 2003-04 fiscal year shall be increased by the amount determined for the 2003-04 fiscal year pursuant to subdivision (a).

(c) If, for any reason for the 2003-04 fiscal year, subparagraph (B) of paragraph (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution is suspended pursuant to subdivision (h) of that section, the amount of the maintenance factor for school districts and community college districts determined pursuant to subdivisions (d) and (e) of that section as a result of that suspension, shall be computed in a manner that includes the increase to the state's minimum funding obligation to school districts and community college districts pursuant to that section that are required under subdivision (a). The Superintendent of Public

Instruction shall, by August 1, 2003, allocate the funds appropriated by this act.

SEC. 54. Notwithstanding any other provision of law, the amount that is required to be appropriated for the purpose of satisfying the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution in the 2003-04 fiscal year, shall include the full restoration of the maintenance factor.

SEC. 55. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2002 at the earliest possible time, it is necessary that this act take effect immediately.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 17

SB 1895 (Chapter 493 of 2004)

BILL NUMBER: SB 1895 CHAPTERED
BILL TEXT

CHAPTER 493

FILED WITH SECRETARY OF STATE SEPTEMBER 13, 2004

APPROVED BY GOVERNOR SEPTEMBER 13, 2004

PASSED THE SENATE AUGUST 26, 2004

PASSED THE ASSEMBLY AUGUST 24, 2004

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY AUGUST 9, 2004

INTRODUCED BY Senator Burton

MARCH 3, 2004

An act to add Sections 56139 and 56331 to the Education Code, to amend Section 7576 of, and to add Sections 7576.2 and 7576.3 to, the Government Code, and to add Section 5701.6 to the Welfare and Institutions Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1895, Burton. Special education: mental health services.

(1) Existing law requires school districts, county offices of education, and special education local plan areas to comply with state laws that conform to the federal Individuals with Disabilities Education Act, in order that the state may qualify for federal funds available for the education of individuals with exceptional needs. Existing law requires school districts, county offices of education, and special education local plan areas to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, with special education and related services as reflected in an individualized education program.

This bill would authorize a local educational agency to refer a pupil suspected of needing mental health services to a community mental health service in accordance with specified provisions. The bill would prescribe certain requirements relating to making those referrals and providing related services.

(2) Existing law requires the Superintendent of Public Instruction to administer the special education provisions of the Education Code and to be responsible for assuring provision of, and supervising, education and related services to individuals with exceptional needs as required pursuant to the federal Individuals with Disabilities Education Act.

This bill would provide that the superintendent is responsible for monitoring local educational agencies to ensure compliance with the requirement to provide mental health services to individuals with exceptional needs and to ensure that funds provided for this purpose are appropriately utilized. The bill would require the superintendent to submit a report to the Legislature by April 1, 2005, that includes specified information and recommendations relating to the provision and monitoring of mental health services, as provided. The bill would require the superintendent to collaborate with the Director of the State Department of Mental Health in preparing the report and to convene at least one meeting of appropriate stakeholders and organizations to obtain input.

(3) Existing law makes the State Department of Mental Health or any community mental health service designated by the department responsible for the provision of mental health services when required in a child's individualized education program. Existing law

authorizes an individualized education program team or local educational agency to make a referral for mental health services for a pupil to a community mental health service when certain criteria are met and to provide certain documentation when making that referral.

This bill would revise certain provisions of the criteria and of the documentation requirements. The bill would provide that a county mental health agency does not have fiscal or legal responsibility for any costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

This bill would provide that the Director of the State Department of Mental Health is responsible for monitoring county mental health agencies to ensure compliance with the requirement to provide mental health services to disabled pupils and to ensure that funds provided for this purpose are appropriately utilized. The bill would require the director to submit a report to the Legislature by April 1, 2005, that includes specified information and recommendations relating to the provision and monitoring of mental health services, as provided. The bill would require the director to collaborate with the Superintendent of Public Instruction in preparing the report and to convene at least one meeting of appropriate stakeholders and organizations to obtain input.

This bill would declare the intent of the Legislature that the director collaborate with an entity with expertise in children's mental health to collect, analyze, and disseminate best practices, as provided, for delivering mental health services to disabled pupils.

(4) Existing law provides that counties are to continue to receive reimbursement from specifically appropriated funds for costs necessarily incurred in providing psychotherapy and other mental health services for handicapped and disabled pupils and that counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund for reimbursement claims for services delivered in the 2001-02 fiscal year and thereafter to handicapped and disabled pupils.

This bill would authorize counties to utilize money received from the Local Revenue Fund to fund the costs of any part of those mental health services and would provide that counties who use money from that fund for those services are eligible for reimbursement from the state, as provided. The bill would provide that these provisions are declaratory of existing law.

(5) Existing law requires, if the Commission on State Mandates determines that an act contains costs mandated by the state, that reimbursement to local agencies and school districts for those costs be made, as specified.

This bill would require the Commission on State Mandates to, on or before December 31, 2005, reconsider its decision relating to included services and administrative and travel costs associated with certain mental health services provided to disabled pupils, and its parameters and guidelines for calculating the state reimbursements for these costs.

(6) The Budget Act of 2004 requires that \$31,000,000 of certain funds appropriated to the State Department of Education for special education programs for exceptional children to be used to provide mental health services required by an individual education plan pursuant to the federal Individuals with Disabilities Education Act and pursuant to legislation enacted in the 2003-04 Regular Session that clarifies the manner in which the services are to be provided.

This bill would provide that those funds shall be allocated to special education local plan areas on a per average daily attendance basis to implement the provisions authorizing local educational agencies to refer pupils suspected of needing mental health services to community mental health service agencies.

(7) The Budget Act of 2004 requires that, pursuant to legislation enacted in the 2003-04 Regular Session, \$69,000,000 of certain funds

appropriated to the State Department of Education for special education programs for exceptional children to be used exclusively to support mental health services provided during the 2004-05 fiscal year by county mental health agencies, as provided.

This bill would require those funds to be used exclusively to support mental health services that were both included within an individualized education program and that were provided during the fiscal year by county mental health agencies pursuant to specified provisions. The bill would provide that this funding not be provided for services that are not required pursuant to the federal Individuals with Disabilities Education Act and will offset any mandate reimbursement claims for the fiscal year that may be filed by a county pursuant to specified provisions. The bill would require the \$69,000,000 to be distributed consistent with an allocation plan formulated by the State Department of Mental Health. The bill would require the State Department of Mental Health to submit an allocation plan to the Department of Finance for approval, as provided, and to the Joint Legislative Budget Committee. The bill would specify the manner of allocation to county offices of education for allocation to county mental health agencies.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56139 is added to the Education Code, to read:

56139. (a) The superintendent is responsible for monitoring local educational agencies to ensure compliance with the requirement to provide mental health services to individuals with exceptional needs pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and to ensure that funds provided for this purpose are appropriately utilized.

(b) The superintendent shall submit a report to the Legislature by April 1, 2005, that includes all of the following:

(1) A description of the data that is currently collected by the department related to pupils served and services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) A description of the existing monitoring processes used by the department to ensure that local educational agencies are complying with Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, including the monitoring performed to ensure the appropriate use of funds for programs identified in Section 64000.

(3) Recommendations on the manner in which to strengthen and improve monitoring by the department of the compliance by a local educational agency with the requirements of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, on the manner in which to strengthen and improve collaboration and coordination with the State Department of Mental Health in monitoring and data collection activities, and on the additional data needed related to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(c) The superintendent shall collaborate with the Director of the State Department of Mental Health in preparing the report required pursuant to subdivision (b) and shall convene at least one meeting of appropriate stakeholders and organizations, including a representative from the State Department of Mental Health and mental health directors, to obtain input on existing data collection and monitoring processes, and on ways to strengthen and improve the data collected and monitoring performed.

SEC. 2. Section 56331 is added to the Education Code, to read:

56331. (a) A pupil who is suspected of needing mental health services may be referred to a community mental health service in

accordance with Section 7576 of the Government Code.

(b) Prior to referring a pupil to a county mental health agency for services, the local educational agency shall follow the procedures set forth in Section 56320 and conduct an assessment in accordance with Sections 300.530 to 300.536, inclusive, of Title 34 of the Code of Federal Regulations. If an individual with exceptional needs is identified as potentially requiring mental health services, the local educational agency shall request the participation of the county mental health agency in the individualized education program. A local educational agency shall provide any specially-designed instruction required by an individualized education program, including related services such as counseling services, parent counseling and training, psychological services, or social work services in schools as defined in Section 300.24 of Title 34 of the Code of Federal Regulations. If the individualized education program of an individual with exceptional needs includes a functional behavioral assessment and behavior intervention plan, in accordance with Section 300.520 of Title 34 of the Code of Federal Regulations, the local educational agency shall provide documentation upon referral to a county mental health agency.

Local educational agencies shall provide related services, by qualified personnel, as defined by Section 300.23 of Title 34 of the Code of Federal Regulations, unless the individualized education program team designates a more appropriate agency for the provision of services. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

SEC. 3. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or any community mental health service, as defined in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, are responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, "parent" is as defined in Section 56028 of the Education Code.

(b) A local educational agency, individualized education program team, or parent may initiate a referral for assessment of the social and emotional status of a pupil, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs as defined in Section 56026 of the Education Code and who is suspected of needing mental health services to a community mental health service if the pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code. Local educational agencies and community

mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local educational agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local educational agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that are all of the following:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local educational agency, pursuant to Section 56331 of the Education Code, has provided appropriate counseling and guidance services, psychological services, parent counseling and training, or social work services to the pupil pursuant to Section 56363 of the Education Code, or behavioral intervention as specified in Section 56520 of the Education Code, as specified in the individualized education program and the individualized education program team has determined that the services do not meet the educational needs of the pupil, or, in cases where these services are clearly inadequate or inappropriate to meet the educational needs of the pupil, the individualized education program team has documented which of these services were considered and why they were determined to be inadequate or inappropriate.

(c) If referring a pupil to a community mental health service in accordance with subdivision (b), the local educational agency or the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, as provided in the individualized education program of the pupil, including the initiation, duration, and frequency of these services, or an explanation of the reasons a service was considered for the pupil and determined to be inadequate or inappropriate to meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health

service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.24 and 300.26 of Title 34 of the Code of Federal Regulations.

(5) An explanation as to the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision does not change the identification and referral responsibilities imposed on local educational agencies under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for provision of necessary services. In no event shall the procedures described in this subdivision delay or impede the referral and assessment process.

(h) A county mental health agency does not have fiscal or legal responsibility for any costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

SEC. 4. Section 7576.2 is added to the Government Code, to read:

7576.2. (a) The Director of the State Department of Mental Health is responsible for monitoring county mental health agencies to ensure compliance with the requirement to provide mental health services to disabled pupils pursuant to this chapter and to ensure that funds provided for this purpose are appropriately utilized.

(b) The Director of the State Department of Mental Health shall submit a report to the Legislature by April 1, 2005, that includes the following:

(1) A description of the data that is currently collected by the State Department of Mental Health related to pupils served and services provided pursuant to this chapter.

(2) A description of the existing monitoring process used by the State Department of Mental Health to ensure that county mental health agencies are complying with this chapter.

(3) Recommendations on the manner in which to strengthen and improve monitoring by the State Department of Mental Health of the

compliance by a county mental health agency with the requirements of this chapter, on the manner in which to strengthen and improve collaboration and coordination with the State Department of Education in monitoring and data collection activities, and on the additional data needed related to this chapter.

(c) The Director of the State Department of Mental Health shall collaborate with the Superintendent of Public Instruction in preparing the report required pursuant to subdivision (b) and shall convene at least one meeting of appropriate stakeholders and organizations, including a representative from the State Department of Education, to obtain input on existing data collection and monitoring processes, and on ways to strengthen and improve the data collected and monitoring performed.

SEC. 5. Section 7576.3 is added to the Government Code, to read:

7576.3. It is the intent of the Legislature that the Director of the State Department of Mental Health collaborate with an entity with expertise in children's mental health to collect, analyze, and disseminate best practices for delivering mental health services to disabled pupils. The best practices may include, but are not limited to:

(a) Interagency agreements in urban, suburban, and rural areas that result in clear identification of responsibilities between local educational agencies and county mental health agencies and result in efficient and effective delivery of services to pupils.

(b) Procedures for developing and amending individualized education programs that include mental health services that provide flexibility to educational and mental health agencies and protect the interests of children in obtaining needed mental health needs.

(c) Procedures for creating ongoing communication between the classroom teacher of the pupil and the mental health professional who is directing the mental health program for the pupil.

SEC. 6. Section 5701.6 is added to the Welfare and Institutions Code, to read:

5701.6. (a) Counties may utilize money received from the Local Revenue Fund established by Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 to fund the costs of any part of those services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. If money from the Local Revenue Fund is used by counties for those services, counties are eligible for reimbursement from the state for all allowable costs to fund assessments, psychotherapy, and other mental health services allowable pursuant to Section 300.24 of Title 34 of the Code of Federal Regulations and required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(b) This section is declaratory of existing law.

SEC. 7. Notwithstanding any other law, the Commission on State Mandates shall, on or before December 31, 2005, reconsider its decision relating to included services and administrative and travel costs associated with services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and the parameters and guidelines for calculating the state reimbursements for these costs.

SEC. 8. The funds identified in Provision 20 of Item 6110-161-0001 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004) shall be allocated to special education local plan areas pursuant to Section 56836.02 of the Education Code on a per average daily attendance basis to implement Section 2 of this act.

SEC. 9. (a) The funds identified in Provision 10 of Item 6110-161-0890 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004) shall be used exclusively to support mental health services that were both included within an individualized education program pursuant to Section 300.24 of Title 34 of the Code of Federal Regulations and that were provided during the fiscal year by county mental health agencies pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Funding from this item shall not be provided for services that are

not required pursuant to the federal Individuals with Disabilities Education Act. Funding provided from this item shall offset any mandate reimbursement claims for the fiscal year that may be filed by a county pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The sixty-nine million dollars (\$69,000,000) identified in Provision 10 of that item shall be distributed consistent with an allocation plan formulated by the State Department of Mental Health, in consultation with representatives of county mental health agencies. The allocation plan shall be based on the most accurate available data, including, but not limited to, county cost reports for this program, and include a minimum-based methodology to address small county concerns.

(b) The State Department of Mental Health shall submit an allocation plan to the Department of Finance and the Joint Legislative Budget Committee. The Department of Finance shall review the plan and either approve or disapprove the plan within 21 days of submission. If the Department of Finance fails to approve or disapprove the plan within the 21 days, the plan shall be deemed to be approved. If the Department of Finance disapproves the plan it shall submit a letter to the Joint Legislative Budget Committee that explains the rationale for disapproval and convene a working group consisting of representatives of the Department of Finance and the State Department of Mental Health and staff of the appropriate policy and fiscal committees of the Legislature. The working group shall jointly develop a revised expenditure plan and submit that plan to the Director of Finance for approval.

(c) Funding identified in Provision 10 of Item 6110-161-0890 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004) shall be allocated to county offices of education for allocation to county mental health agencies pursuant to subdivisions (a) and (b). County offices of education shall allocate funds to county offices of mental health no later than five business days after receipt from the State Department of Education. Following the end of the fiscal year, county mental health agencies shall provide documentation of actual services and costs to county offices of education in a form that permits the county offices of education to certify that all costs actually incurred are allowable under the federal Individuals with Disabilities Education Act and were provided during the fiscal year by county mental health agencies pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Based on this documentation, any county mental health agency allocation that exceeds actual documented costs for allowable services shall be reallocated on a pro rata basis to other counties where actual costs exceed the allocation provided in subdivisions (a) and (b). Not less than 25 percent of the allocation of each county shall be distributed to county offices of education no later than 30 days after approval of the allocation methodology by the Department of Finance. Of the remaining amount, 35 percent shall be distributed in January and 30 percent in March to county offices of education, with the final 10 percent, as adjusted for actual costs, distributed upon final cost settlement for 2004-05 fiscal year claims. Any amounts reallocated from counties not expending their allocations shall be provided to the other counties no later than January 2006. No county shall be entitled to receive, after claims are cost settled, more funding than was actually expended for this program.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2004 at the earliest possible time, it is necessary that this act take effect immediately.

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 18

Reconsideration Staff Analysis January 2006

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

PHONE: (916) 323-3562

FAX: (916) 445-0278

E-mail: csminfo@esm.ca.gov

November 18, 2005



Mr. Allan P. Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Mr. Leonard Kaye, Esq.
County of Los Angeles
Auditor-Controller's Office
500 West Temple Street, Room 603
Los Angeles, CA 90012

And: Interested Parties
(see enclosed mailing list)

**RE: Final Staff Analysis and Proposed Parameters and Guidelines/Hearing Date
Handicapped and Disabled Students II, 02-TC-40/02-TC-49**

Government Code Sections 7572.55 and 7576

Statutes 1994, Chapter 1128, Statutes 1996, Chapter 654; and

California Code of Regulations, Title 2, Sections 60000 et seq.

(Emergency regulations effective July 1, 1998 [Register 98, No. 26],

final regulations effective August 9, 1999 [Register 99, No. 33])

Counties of Los Angeles and Stanislaus, Claimants

Dear Mr. Kaye and Mr. Burdick:

The final staff analysis and proposed parameters and guidelines are enclosed for your review.

Commission Hearing

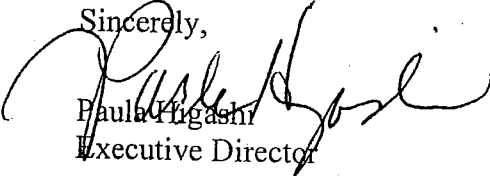
This matter is set for hearing on **Friday, December 9, 2005, at 10:30 a.m.** in Room 126 of the State Capitol, Sacramento, California. This item will be scheduled for the consent calendar unless any party objects. Please let us know in advance of the hearing if you or a representative of your agency will testify at the hearing, or if other witnesses will appear.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

If you have any questions on the above, please contact Camille Shelton at (916) 323-3562.

Sincerely,


Paula Higashi
Executive Director

Enclosures

ITEM 11
PROPOSED PARAMETERS AND GUIDELINES
FINAL STAFF ANALYSIS

Government Code Sections 7572.55 and 7576
Statutes 1994, Chapter 1128, Statutes 1996, Chapter 654

California Code of Regulations, Title 2, Sections 60000 et seq.
(emergency regulations effective July 1, 1998 [Register 98, No. 26],
final regulations effective August 9, 1999 [Register 99, No. 33])

Handicapped and Disabled Students II (02-TC-40/02-TC-49)

Counties of Stanislaus and Los Angeles, Claimants

Executive Summary

Background

On May 26, 2005, the Commission on State Mandates (Commission) adopted its Statement of Decision in *Handicapped and Disabled Students II*, finding that Government Code sections 7572.55 and 7576, as added or amended in 1994 and 1996, and the joint regulations adopted by the Departments of Mental Health and Education as emergency regulations in 1998 and final regulations in 1999 (Cal. Code Regs., tit. 2, §§ 60000 et seq.), impose a reimbursable state-mandated program on counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Handicapped and Disabled Students program was initially enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education. Three other Statements of Decision have been adopted by the Commission on the Handicapped and Disabled Students program. They include *Handicapped and Disabled Students* (CSM 4282)¹, *Reconsideration of Handicapped and Disabled Students* (04-RL-4282-10)², and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).³ The Commission's decision in *Handicapped and Disabled Students II* addresses the statutory and regulatory amendments to the program.

¹ The parameters and guidelines for *Handicapped and Disabled Students* were adopted in August 1991, and amended in 1996.

² The parameters and guidelines for the *Reconsideration of Handicapped and Disabled Students* have not yet been adopted.

³ The parameters and guidelines for *Seriously Emotionally Disturbed Pupils* were adopted on October 26, 2000.

STAFF ANALYSIS

Claimants

Counties of Stanislaus and Los Angeles

Chronology

- 05/26/05 Commission on State Mandates (Commission) adopts Statement of Decision
- 06/20/05 County of Los Angeles submits draft parameters and guidelines on *Handicapped and Disabled Students II*
- 06/27/05 County of Stanislaus submits proposed consolidated parameters and guidelines for *Handicapped and Disabled Students, Handicapped and Disabled II, and Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services*
- 07/20/05 State Controller's Office submits comments on the draft parameters and guidelines for *Handicapped and Disabled Students II*
- 08/16/05 Department of Finance submits comments on the draft parameters and guidelines for *Handicapped and Disabled Students II*
- 09/28/05 Pre-hearing conference conducted
- 10/14/05 County of Stanislaus files declaration regarding the Medi-Cal offset
- 10/18/05 Staff issues draft parameters and guidelines on *Handicapped and Disabled Students II*
- 11/14/05 County of Los Angeles files comments agreeing with draft parameters and guidelines.

Summary of the Mandate

On May 26, 2005, the Commission on State Mandates (Commission) adopted its Statement of Decision in *Handicapped and Disabled Students II*, finding that Government Code sections 7572.55 and 7576, as added or amended in 1994 and 1996, and the joint regulations adopted by the Departments of Mental Health and Education as emergency regulations in 1998 and final regulations in 1999 (Cal. Code Regs., tit. 2, §§ 60000 et seq.), impose a reimbursable state-mandated program on counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Handicapped and Disabled Students program was initially enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education. Three other Statements of Decision have been adopted by the Commission on the Handicapped and Disabled Students program. They include *Handicapped and Disabled Students* (CSM 4282)⁴, *Reconsideration of Handicapped and*

⁴ The parameters and guidelines for *Handicapped and Disabled Students* were adopted in August 1991, and amended in 1996.

Staff disagrees with the County's request. In the Statement of Decision for *Handicapped and Disabled Students II*, the Commission concluded that updating and renewing the interagency agreements every three years did not constitute a new program or higher level of service and, thus, was not reimbursable within the meaning of article XIII B, section 6 of the California Constitution for purposes of this claim. Under prior law, section 60030, subdivision (a)(2), of the regulations adopted by the Departments of Mental Health and Education⁷ required the local mental health director and the county superintendent of schools to renew, and revise if necessary, the interagency agreements every three years or at any time the parties determine a revision is necessary. Thus, the ongoing activity of updating the interagency agreement conflicts with the Commission's Statement of Decision in *Handicapped and Disabled II* and is not reimbursable here.

The ongoing activity to update and renew the interagency agreement, however, was approved by the Commission in the *Reconsideration of Handicapped and Disabled Students* (04-RL-4282-10) and, thus, will be addressed in the parameters and guidelines for the reconsideration, which has a reimbursement period beginning July 1, 2004.

What is eligible for reimbursement in *Handicapped and Disabled Students II*, beginning July 1, 2001, is the one-time activity of revising the interagency agreement with each local educational agency to include the following eight new procedures:

- 1) Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code section 7575, subdivision (f). For purposes of this subdivision only, the term "appropriate" means any service identified in the pupil's IEP, or any service the pupil actually was receiving at the time of the interagency dispute. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(2).)
- 2) A host county to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(4).)
- 3) Development of a mental health assessment plan and its implementation. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(5).)
- 4) At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(7).)
- 5) The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
- 6) The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)

⁷ The regulations referred to are the emergency regulations adopted by the Departments of Mental Health and Education to implement the original 1984 and 1985 legislation. The original emergency regulations are not the subject of *Handicapped and Disabled Students II*.

before authorizing payment. This activity is included in Section IV of the Draft Parameters and Guidelines.

The Medi-Cal Offset

The Commission's Statement of Decision states that, to the extent counties obtain proceeds under the Medi-Cal program from either the state or federal governments for purposes of this mandated program, such proceeds must be identified as an offset and deducted from the costs claimed. The Commission determined that federal law authorizes public agencies, with certain limitations, to use public insurance benefits, such as Medi-Cal, to provide or pay for services required under the IDEA.

The County of Stanislaus requests that the counties' match toward the Medi-Cal funding used for a pupil under this program should not be included as part of the offset. The County requests the following language be included in the offset provision of the parameters and guidelines:

Medi-Cal Federal Financial Participation funds obtained from the State for the purposes of this mandated program in accordance with federal law. Funding received and used by Counties from the State for the purpose of matching federal funding requirements, including Realignment funds, shall be considered local discretionary funding and therefore are not to be identified as an offset or deducted from the costs claimed.

The County supports its language with the following contentions:

The reason for the foregoing is that Medi-Cal reimburses the Federal Financial Participation (FFP) share, which is currently 50% of the allowable costs for eligible students, with counties required to pay the balance.

In many counties, including Stanislaus, County Realignment funds are used to pay the required county match. Realignment funds are state sales tax and vehicle license fees that are allocated to counties to cover their costs for providing mental health services. These funds have been found by the Commission to not constitute offsets to the required expenditures on Handicapped and Disabled Students.

Staff agrees with the County. Under federal law, payment is authorized to the states for medical assistance on behalf of families with dependent children and on behalf of the aged, blind, or disabled individuals whose income and resources are insufficient to meet the costs of necessary medical services. (42 U.S.C. § 1396.) The amount of the federal share of costs for such medical services "shall in no case be less than 50 per centum or more than 83 per centum." (42 U.S.C. § 1396d.) According to the County, the federal share of costs for the state's Medi-Cal program is 50 percent.

Under state law, the state's share of funding for Medi-Cal is split with the counties. Welfare and Institutions Code section 12306 provides that "the state shall pay to each county, from the General Fund and any funds available for that purpose 65 percent of the nonfederal cost of providing services under [the Medi-Cal program], and each county shall pay 35 percent of the nonfederal cost of providing those services."

Thus, the counties' share of funding under the Medi-Cal program used for purposes of this program should not be identified as an offset. Article XIII B, section 6 was designed to protect

5. Any other reimbursement received from the federal or state government, or other non-local source.

Beginning July 1, 2001, realignment funds under the Bronzan-McCorquodale Act that are used by a county for this program are not required to be deducted from the costs claimed. (Stats. 2004, ch. 493, § 6 (SB 1895).)

Language Proposed by the State Controller's Office

The State Controllers' Office requested that the parameters and guidelines state that claims should exclude reimbursable costs included in previously filed claims for the Handicapped and Disabled Students program (CSM 4282). Some costs previously disallowed by the State Controller's Office in prior years are now reimbursable, beginning July 1, 2001 (e.g., medication monitoring).

Staff included the following language regarding the previously filed claims in the boilerplate paragraphs under Section IV, Reimbursable Activities:

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Claims should *exclude* reimbursable costs included in claims previously filed, beginning in fiscal year 2001-2002, for the Handicapped and Disabled Students program (CSM 4282).⁸ Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

Staff Recommendation

Staff recommends that the Commission adopt staff's Proposed Parameters and Guidelines, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

⁸ Some costs disallowed by the State Controller's Office in prior years are now reimbursable beginning July 1, 2001 (e.g., medication monitoring). Rather than claimants re-filing claims for those costs incurred beginning July 1, 2001, the State Controller's Office will reissue the audit reports.

PROPOSED PARAMETERS AND GUIDELINES

Government Code Sections 7572.55 and 7576
Statutes 1994, Chapter 1128, Statutes 1996, Chapter 654

California Code of Regulations, Title 2, Sections 60000 et seq.
(emergency regulations effective July 1, 1998 [Register 98, No. 26],
final regulations effective August 9, 1999 [Register 99, No. 33])

Handicapped and Disabled Students II (02-TC-40/02-TC-49)

Counties of Stanislaus and Los Angeles, Claimants

I. SUMMARY OF THE MANDATE

On May 26, 2005, the Commission on State Mandates (Commission) adopted its Statement of Decision in *Handicapped and Disabled Students II*, finding that Government Code sections 7572.55 and 7576, as added or amended in 1994 and 1996, and the joint regulations adopted by the Departments of Mental Health and Education as emergency regulations in 1998 and final regulations in 1999 (Cal. Code Regs., tit. 2, §§ 60000 et seq.), impose a reimbursable state-mandated program on counties within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Handicapped and Disabled Students program was initially enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education. Three other Statements of Decision have been adopted by the Commission on the Handicapped and Disabled Students program. They include *Handicapped and Disabled Students* (CSM 4282), *Reconsideration of Handicapped and Disabled Students* (04-RL-4282-10), and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).

Eligible claimants are *not* entitled to reimbursement under these parameters and guidelines for the activities approved by the Commission in *Handicapped and Disabled Students* (CSM 4282), *Reconsideration of Handicapped and Disabled Students* (04-RL-4282-10), and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).

These parameters and guidelines address only the amendments to the Handicapped and Disabled Students program. The Commission found, pursuant to the court's ruling in *Hayes v. Commission on State Mandates* (1992) 11 Cal. App.4th 1564, that Government Code sections 7572.55 and 7576, as added or amended in 1994 and 1996, and the joint regulations adopted by the Departments of Mental Health and Education as emergency regulations in 1998 and final regulations in 1999, constitute a reimbursable state-mandated program since the state "freely chose" to impose the costs upon counties as a means of implementing the federal IDEA program.

For each eligible claimant, the following activities are eligible for reimbursement:

A. Interagency Agreements (Cal. Code Regs., tit. 2, § 60030)

The one-time activity of revising the interagency agreement with each local educational agency to include the following eight procedures:

- 1) Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code section 7575, subdivision (f). For purposes of this subdivision only, the term "appropriate" means any service identified in the pupil's IEP, or any service the pupil actually was receiving at the time of the interagency dispute. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(2).)
- 2) A host county to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(4).)
- 3) Development of a mental health assessment plan and its implementation. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(5).)
- 4) At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(7).)
- 5) The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
- 6) The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)
- 7) The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(15).)
- 8) Mutual staff development for education and mental health staff pursuant to Government Code section 7586.6, subdivision (a). (Cal. Code Regs., tit. 2, § 60030, subd. (c)(17).)

(The activities of updating or renewing the interagency agreements are not reimbursable.)

those costs incurred beginning July 1, 2001, the State Controller's Office will reissue the audit reports.

- 1) When a recommendation is made that a child be placed in an out-of-state residential facility, the expanded IEP team, with the county as a participant, shall develop a plan for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. (Gov. Code, § 7572.55, subd. (c).)
 - 2) The expanded IEP team, with the county as a participant, shall document the alternatives to residential placement that were considered and the reasons why they were rejected. (Cal. Code Regs., tit. 2, § 60100, subd. (c).)
 - 3) The expanded IEP team, with the county as a participant, shall ensure that placement is in accordance with the admission criteria of the facility. (Cal. Code Regs., tit. 2, § 60100, subd. (j).)
 - 4) When the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties shall ensure that: (1) the mental health services are specified in the IEP in accordance with federal law, and (2) the mental health services are provided by qualified mental health professionals. (Cal. Code Regs., tit. 2, § 60100, subd. (i).)
- E. Case Management Duties for Pupils Placed in Residential Care (Cal. Code Regs., tit. 2, §§ 60100, 60110)
- 1) Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(1).)
 - 2) When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
 - 3) Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)
 - 4) Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
 - 5) Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)

This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subds. (f) and (i).)

- 6) Notify the parent and the local educational agency when the parent and the county mutually agree upon the completion or termination of a service, or when the pupil is no longer participating in treatment. ((Cal. Code Regs., tit. 2, § 60050, subd. (b).)

(When providing psychotherapy or other mental health treatment services, the activities of mental health assessments, collateral services, intensive day treatment, case management, crisis intervention, vocational services, and socialization services are not reimbursable.)

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. 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 services that were performed during the period covered by the reimbursement claim. 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 invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes,

VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹⁰ is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any of the following sources shall be identified and deducted from this claim:

1. Funds received by a county pursuant to Government Code section 7576.5.
2. Any direct payments or categorical funding received from the state that is specifically allocated to any service provided under this program. This includes the appropriation made by the Legislature in the Budget Act of 2001, which appropriated funds to counties in the amounts of \$12,334,000 (Stats. 2001, ch. 106, items 4440-131-0001), and the \$69 million appropriations in 2003 and 2004 (Stats. 2003, ch. 157, item 6110-161-0890, provision 17; Stats. 2004, ch. 208, item 6110-161-0890, provision 10).
3. Private insurance proceeds obtained with the consent of a parent for purposes of this program.
4. Medi-Cal proceeds obtained from the state or federal government that pay for a portion of the county services provided to a pupil under the Handicapped and Disabled Students program in accordance with federal law.
5. Any other reimbursement received from the federal or state government, or other non-local source.

Beginning July 1, 2001, realignment funds under the Bronzan-McCorquodale Act that are used by a county for this program are not required to be deducted from the costs claimed. (Stats. 2004, ch. 493, § 6 (SB 1895).)

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be

¹⁰ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Commission on State Mandates

Original List Date: 7/7/2003
Last Updated: 10/27/2005
List Print Date: 11/18/2005
Claim Number: 02-TC-40
Issue: Handicapped and Disabled Students II

Mailing Information: Draft Staff Analysis

Mailing List

Related

02-TC-49 County Mental Health Services For Pupils With Disabilities

TO ALL PARTIES AND INTERESTED PARTIES:

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

Ms. Terrie Tatosian
Department of Mental Health (A-31)
1600 9th Street, Room 150
Sacramento, CA 95814

Tel: (916) 654-2378
Fax: (916) 654-2440

Ms. Juliette A. Poulson
County of Orange Health Care Agency
Orange County Department of Mental Health
405 W. 5th St., Suite 721
Santa Ana, CA 92701

Tel: (714) 834-6254
Fax: (714) 834-3660

Mr. Paul J. Yoder
Shaw/Yoder, Inc.
1414 K Street, Suite 320
Sacramento, CA 95814

Tel: (916) 446-4656
Fax: (916) 446-4318

Ms. Mercy Grieco
County of Ventura
County Counsel's Office
800 South Victoria Avenue
Ventura, CA 93009-1540

Tel: (805) 654-3151
Fax: (805) 654-5081

Ms. Monica Neely
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840

Tel: (714) 741-5087
Fax: (714) 741-5205

Director

Department of Health Services (A-22)
1501 Capital Avenue
P.O. Box 997443
Sacramento, CA 95899-7413

Tel: (916) 440-7400

Fax: (916) 440-7404

Mr. Mark Hagiya

Department of Health Services
P.O. Box 997413, MS0010
Sacramento, CA 95899-7413

Tel: (916) 440-7400

Fax: (916) 440-7408

Ms. Ginny Brummels

State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Tel: (916) 324-0256

Fax: (916) 323-6527

Mr. John Polich

County of Ventura
County Counsel's Office
800 South Victoria Avenue
Ventura, CA 93009-1540

Tel: (805) 477-1574

Fax: (805) 654-2185

Mr. Michael Wilkening

Department of Finance (A-15)
915 L Street, 8th Floor
Sacramento, CA 95814

Tel: (916) 445-6423

Fax:

Mr. J. Bradley Burgess

Public Resource Management Group
1380 Lead Hill Boulevard, Suite #106
Roseville, CA 95661

Tel: (916) 677-4233

Fax: (916) 677-2283

Mr. David Wellhouse

David Wellhouse & Associates, Inc.
9175 Kiefer Blvd, Suite 121
Sacramento, CA 95826

Tel: (916) 368-9244

Fax: (916) 368-5723

Ms. Diane Van Maren

Senate Budget & Fiscal Review Committee (E-22)
California State Senate
State Capitol, Room 5066
Sacramento, CA 95814

Tel: (916) 445-5202

Fax: (916) 323-8386

Ms. Patricia Ryan

California Mental Health Directors Association
2030 J Street
Sacramento, CA 95814

Tel: (916) 556-3477

Fax: (916) 446-4519

Ms. Jesse McGuinn
Department of Finance (A-15)
915 L Street, 8th Floor
Sacramento, CA 95814

Tel: (916) 445-8913

Fax: (916) 327-0225

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (800) 487-9234

Fax: (888) 487-6441

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 19

Revised Statement of Decision January 2006

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
(916) 445-0278
E-mail: csminfo@csm.ca.gov



June 1, 2005

Mr. Allan P. Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Mr. Leonard Kaye, Esq.
County of Los Angeles
Auditor-Controller's Office
500 West Temple Street, Room 603
Los Angeles, CA 90012

Re: Adopted Statement of Decision

Handicapped and Disabled Students II, 02-TC-40/02-TC-49

Government Code Sections 7570, 7571, 7572, 7572.5, 7572.55, 7573, 7576, 7579, 7582, 7584, 7585, 7586, 7586.6, 7586.7, 7587, 7588

Statutes 1984, Chapter 1747; Statutes 1985, Chapter 107; Statutes 1985, Chapter 759; Statutes 1985, Chapter 1274; Statutes 1986, Chapter 1133; Statutes 1992, Chapter 759; Statutes 1994, Chapter 1128; Statutes 1996, Chapter 654; Statutes 1998, Chapter 691; Statutes 2001, Chapter 745;

Statutes 2002, Chapter 585; and Statutes 2002, Chapter 1167

California Code of Regulations, Title 2, Sections 60000-60610

Counties of Los Angeles and Stanislaus, Claimants

Dear Mr. Burdick and Mr. Kaye:

The Commission on State Mandates adopted the attached Statement of Decision to approve this test claim on May 26, 2005. State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.

Pre-Hearing Conference. The Commission staff will convene a pre-hearing conference to develop a timeline for the parameters and guidelines phase.

Parameters and Guidelines. Following is a description of the responsibilities of all parties and the Commission during the parameters and guidelines phase:

- **Claimant's Submission of Proposed Parameters and Guidelines.** Pursuant to Government Code section 17557 and California Code of Regulations, title 2, sections 1183.1 et seq., the claimant is responsible for submitting proposed parameters and guidelines within 30 days of the adoption of the Statement of Decision, or by **June 30, 2005**. See Government Code section 17557 and California Code of Regulations, title 2, sections 1183.1 et seq. for guidance in preparing and filing a timely submission.

departments: The Handicapped and Disabled Students program was initially enacted in 1984, as the state's response to federal legislation that guaranteed disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education (Individuals with Disabilities Education Act, or IDEA). Before 1984, the state adopted a comprehensive statutory scheme in the Education Code to govern the special education and related services provided to disabled children.¹ Among the related services, called "designated instruction and services" in California, the following mental health services are identified: counseling and guidance, psychological services other than the assessment and development of the IEP, parent counseling and training, health and nursing services, and social worker services.² The state and the local educational agencies (school districts and county offices of education) provided all related services, including mental health services, to children with disabilities.

In 1984 and 1985, the Legislature enacted Assembly Bill 3632 (Stats. 1984, ch. 1747, and Stats. 1985, ch. 1274), to shift the responsibility and funding for providing mental health services for students with disabilities from local educational agencies to county mental health departments. AB 3632 added Chapter 26.5 to the Government Code (§§ 7570 et seq.), and the Departments of Mental Health and Education adopted emergency regulations (Cal. Code Regs., tit. 2, §§ 60000-60610) to require county mental health departments to:

- Renew the interagency agreement with the local educational agency every three years and, if necessary, revise the agreement.
- Perform an initial assessment of a pupil referred by the local educational agency, and discuss assessment results with the parents and IEP team.
- Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary.
- Act as the lead case manager, as specified in statute and regulations, if the IEP calls for residential placement of a seriously emotionally disturbed pupil.
- Issue payments to providers of out-of-home residential care for the residential and non-educational costs of seriously emotionally disturbed pupils.
- Provide psychotherapy or other mental health services, as defined in regulations, when required by the IEP.
- Participate in due process hearings relating to issues involving mental health assessments or services.

¹ Education Code section 56000 et seq. (Stats. 1980, ch. 797.)

² Education Code section 56363.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Government Code Sections 7570, 7571, 7572,
7572.5, 7572.55, 7573, 7576, 7579, 7582,
7584, 7585, 7586, 7586.6, 7586.7, 7587, 7588;

Statutes 1984, Chapter 1747; Statutes 1985,
Chapter 107; Statutes 1985, Chapter 759;
Statutes 1985, Chapter 1274; Statutes 1986,
Chapter 1133; Statutes 1992, Chapter 759;
Statutes 1994, Chapter 1128; Statutes 1996,
Chapter 654; Statutes 1998, Chapter 691;
Statutes 2001, Chapter 745; Statutes 2002,
Chapter 585; and Statutes 2002, Chapter 1167;
and

California Code of Regulations, Title 2,
Sections 60000-60610;

Filed on June 27, 2003 by the County of
Stanislaus, Claimant; and

Filed on June 30, 2003, by the County of
Los Angeles, Claimant.

Case No.: 02-TC-40/02-TC-49

Handicapped & Disabled Students II

STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; CALIFORNIA
CODE OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Adopted on May 26, 2005)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby
adopted in the above-entitled matter.



PAULA HIGASHI, Executive Director

June 1, 2005

Date

request to amend the parameters and guidelines, the reimbursement period for the new amended portions of the parameters and guidelines would begin on July 1, 2000.⁴

The second matter currently pending with the Commission is the reconsideration of the *Handicapped and Disabled Students* test claim (04-RL-4282-10) that was directed by Statutes 2004, chapter 493 (Sen. Bill No. 1895).

This test claim, *Handicapped and Disabled Students II*, presents the following issues:

- Does the Commission have the jurisdiction to rehear in this test claim the statutes and regulations previously determined by the Commission to constitute a reimbursable state-mandated program in *Handicapped and Disabled Students* (CSM 4282) and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05)?
- Are the test claim statutes and regulations subject to article XIII B, section 6 of the California Constitution?
- Do the test claim statutes and regulations impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?
- Do the test claim statutes and regulations impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

Claimants' Position

The claimants contend that the test claim statutes and regulations constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The County of Los Angeles, according to its test claim, is seeking reimbursement for the following activities:

- Mental health assessments and related treatment services, including psychotherapy, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management.
- Placement in a residential facility outside the child's home, including the provision of food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation.
- Due process hearings, notifications, resolution requirements.
- Preparation of interagency agreements.

The County of Stanislaus is seeking reimbursement for the activities required by statutory and regulatory amendments to the original program. The County of Stanislaus takes no position on the issue of providing residential services to the child.

⁴ California Code of Regulations, title 2, section 1183.2.

modifications, or other comments regarding the submission to the Claimants.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution⁶ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁷ “Its purpose 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.”⁸ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.⁹ In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.¹⁰

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.¹¹ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.¹² A “higher level of service” occurs

⁶ Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: “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 that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

⁷ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

⁸ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

⁹ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹⁰ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

¹¹ *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

¹² *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

No. 28)) as a reimbursable state-mandated program. The Legislature has directed the Commission to reconsider this decision.¹⁷

In 2000, the Commission adopted a statement of decision in *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05) approving Government Code section 7576, as amended by Statutes 1996, chapter 654, and the corresponding regulations (Cal. Code Regs, tit. 2, §§ 60100 and 60200) as a reimbursable state-mandated program for the counties' responsibilities for out-of-state residential placements for seriously emotionally disturbed pupils.

It is a well-settled principle of law that an administrative agency, like the Commission, does not have jurisdiction to retry a question that has become final. If a prior final decision is retried by the agency, without the statutory authority to retry or reconsider the case, that decision is void.¹⁸

In the present case, the Commission does not have the statutory authority to rehear in this test claim the statutes and regulations previously determined by the Commission to constitute a reimbursable state-mandated program in *Handicapped and Disabled Students* (CSM 4282) and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05).

At the time these test claims were filed, Government Code section 17521 defined a "test claim" as the first claim, including claims joined or consolidated with the first claim, filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. The Commission's regulations allowed the filing of more than one test claim on the same statute or executive order only when (1) the subsequent test claim is filed within sixty (60) days from the date the first test claim was filed; and (2) when each test claim is filed by a different type of claimant or the issues presented in each claim require separate representation. (Cal. Code Regs., tit. 2, §§ 1183, subd. (i).) This test claim was filed more than sixty days from the date that *Handicapped and Disabled Students* (CSM 4282) and *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05) were filed. In addition, all three test claims were filed by the same type of claimant; counties. There is no evidence in the record to suggest that the same statutes already determined by the Commission to constitute a reimbursable state-mandated program in the prior test claims require separate representation here.

¹⁷ See reconsideration of *Handicapped and Disabled Students* (04-RL-4282-10).

¹⁸ *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407, where the court held that the civil service commission had no jurisdiction to retry a question and make a different finding at a later time; *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 697, where the court held that whenever a quasi-judicial agency is vested with the authority to decide a question, such decision, when made is conclusive of the issues involved in the decision as though the adjudication had been made by the court; and *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143, where the court held that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once the decision becomes final.

The test claim statutes and regulations implement the federal special education law (IDEA) that requires states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services designed to meet the pupil's unique educational needs.

The Department of Finance argues that the activities performed by counties under the Handicapped and Disabled Students program are federally mandated and, thus, reimbursement is not required under article XIII B, section 6 of the California Constitution. The Commission disagrees.

In 1992, the Third District Court of Appeal, in *Hayes v. Commission on State Mandates*, determined that the federal law at issue in the present case, IDEA, imposes a federal mandate on the states.²¹ The *Hayes* case involved test claim legislation requiring school districts to provide special education services to disabled pupils. The school districts in the *Hayes* case alleged that the activities mandated by the state that exceeded federal law were reimbursable under article XIII B, section 6 of the California Constitution.

The court in *Hayes* determined that the state's "alternatives [with respect to federal law] were to participate in the federal program and obtain federal financial assistance and the procedural protections accorded by the act, or to decline to participate and face a barrage of litigation with no real defense and ultimately be compelled to accommodate the educational needs of handicapped children in any event."²² The court concluded that the state had no "true choice" but to participate in the federal program and, thus, there was a federal mandate on the state.²³

Although the court concluded that the federal law was a mandate on the states, the court remanded the case to the Commission for further findings to determine if the state's response to the federal mandate constituted a state-mandated new program or higher level of service on the school districts.²⁴ The court held that if the state "freely chose" to impose the costs upon the local agency as a means of implementing a federal program, then the costs are the result of a reimbursable state mandate. The court's holding is as follows:

In our view the determination whether certain costs were imposed upon the local agency by a federal mandate must focus upon the local agency which is ultimately forced to bear the costs and how those costs came to be imposed upon that agency. *If the state freely chose to impose the costs upon the local agency as a means of implementing a federal program then the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government.*²⁵ (Emphasis added.)

²¹ *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1592.

²² *Hayes, supra*, 11 Cal.App.4th at page 1591.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Id.* at page 1593-1594.

*federal law allows the state to choose the agency or agencies responsible for service. (Emphasis added.)*²⁸

Accordingly, the activities performed by counties under the Handicapped and Disabled Students program are mandated by the state and not by federal law. Thus, the actual increased costs incurred as a result of the activities in the program that constitute a mandated new program or higher level of service are reimbursable within the meaning of article XIII B, section 6.

Several test claim statutes and regulations do not mandate counties to perform an activity and, thus, are not subject to article XIII B, section 6

In order for a statute or an executive order to be subject to article XIII B, section 6 of the California Constitution, the statutory language must mandate or require local governmental agencies to perform an activity or task.²⁹

Here, there are several statutes included in the test claim that are helpful in understanding the Handicapped and Disabled Students program. But they do not require counties to perform an activity or task. These statutes are Government Code sections 7570, 7584, and 7587.³⁰

In addition, non-substantive changes and amendments that do not affect counties were made to Government Code sections 7572, 7582, and 7585 by the test claim statutes. These amendments do not impose any state-mandated activities on counties.^{31, 32}

²⁸ Department of Finance comments on the draft staff analysis.

²⁹ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284; *Department of Finance, supra*, 30 Cal.4th at page 736; Gov. Code, § 17514.

³⁰ Government Code section 7570 provides that ensuring a free and appropriate public education for children with disabilities under federal law and the Education Code is the joint responsibility of the Superintendent of Public Instruction and the Secretary of Health and Welfare. Government Code section 7584 defines “disabled youth,” “child,” and “pupil.” Government Code section 7587 requires the Departments of Education and Mental Health to adopt regulations to implement the program.

³¹ Government Code section 7572, as originally added in 1984 and amended in 1985, addresses the assessment of a student, including psychological and other mental health assessments performed by counties. The 1992 amendments to Government Code section 7572 substituted the word “disability” for “handicap,” and made other clarifying, non-substantive amendments. Government Code section 7582 states that assessments and therapy treatment services provided under the program are exempt from financial eligibility standards and family repayment requirements. The 1992 amendment to section 7582 substituted “disabled child or youth” for “handicapped child.” Government Code section 7585 addresses the notification of an agency’s failure to provide a required service and reports to the Legislature. The 2001 amendments to section 7585 corrected the spelling of “administrative” and deleted the requirement for the Superintendent of

disabled, that fails to seek the involvement of the local educational agency. This consolidated test claim has been filed on behalf of county mental health departments.³³

This conclusion is further supported by section 60510 of the regulations. Section 60510 of the regulations was adopted in 1998 (filed as an emergency regulation on July 1, 1998 (Register 98, No. 26) and refiled as a final regulation on August 9, 1999 (Register 99, No. 33)) to implement Government Code section 7579. The regulation requires "the court, regional center for the developmentally disabled, or public agency other than an educational agency" to notify the SELPA director before placing a child in a facility and requires the agency to provide specified information to the SELPA. Section 60510 is placed in article 7 of the regulations dealing with the exchange of information between "Education and Social Services." Article 7 is separate and apart from, and located after, the regulations addressing mental health related services. Accordingly, the Commission finds that Government Code section 7579, and section 60510 of the regulations, do not impose any state-mandated duties on county mental health departments.

Finally, the County of Stanislaus requests reimbursement for section 60400 of the regulations (filed as an emergency regulation on July 1, 1998 (Register 98, No. 26) and refiled as a final regulation on August 9, 1999 (Register 99, No. 33)). Section 60400, on its face, does not mandate any activities on counties. Rather, section 60400 of the regulations addresses the requirement imposed on the Department of Health Services to provide the services of a home health aide when the local educational agency considers a less restrictive placement from home to school for a pupil. The statutory authority and reference for this regulation is Government Code section 7575, which requires the Department of Health Services, "*or any designated local agency administering the California Children's Services,*" to be responsible for occupational therapy, physical therapy, and the services of a home health aide, as required by the IEP. The claimants, however, did not plead Government Code section 7575 in their test claims. In addition, there is no evidence in the record that local agencies administering the California Children's Services program have incurred increased costs mandated by the state. Accordingly, the Commission finds that section 60400 of the regulations does not impose any state-mandated activities on county mental health departments.

Accordingly, Government Code sections 7570, 7572, 7579, 7582, 7584, 7585, and 7587, as amended by the test claim legislation, and sections 60400 and 60510 of the regulations do not impose state-mandated duties on counties and, thus, are not subject to article XIII B, section 6 of the California Constitution.

³³ The declarations submitted by the claimants here are from the county mental health departments. (See declaration of Paul McIver, District Chief, Department of Mental Health, County of Los Angeles; and declaration of Dan Souza, Mental Health Director for the County of Stanislaus.)

before the enactment of the test claim legislation, increases the actual level of governmental service provided in the existing program.³⁸

As indicated above, the original statutes in Chapter 26.5 of the Government Code were added by the Legislature in 1984 and 1985. In addition, pursuant to the requirements of Government Code section 7587, the Departments of Mental Health and Education adopted the first set of emergency regulations for the program in 1986. Although the history of the regulations states that the first set of emergency regulations were repealed on June 30, 1997, by operation of Government Code section 7587, and that a new set of regulations were not operative until one year later (July 1, 1998), the Commission finds, as described below, that the initial set of emergency regulations remained operative after the June 30, 1997 deadline, until the new set of regulations became operative in 1998. Thus, for purposes of analyzing whether the remaining test claim legislation constitutes a new program or higher level of service, the initial emergency regulations, and the 1984 and 1985 statutes in Chapter 26.5 of the Government Code, constitute the existing law in effect immediately before the enactment of the test claim legislation.

Government Code section 7587 required the Departments of Mental Health and Education to adopt emergency regulations by January 1, 1986, to implement the Handicapped and Disabled Students program. The statute, as amended in 1996 (Stats. 1996, ch. 654), further states that the emergency regulations "shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1997." Section 7587 states, in relevant part, the following:

...For the purposes of the Administrative Procedure Act, *the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.* These regulations shall not be subject to the review and approval of the Office of Administrative Law and *shall not be subject to automatic repeal until the final regulations take effect on or before June 30, 1997,* and the final regulations shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments. (Emphasis added.)

The final regulations were not adopted by the June 30, 1997 deadline. Nevertheless, the courts have interpreted the time limits contained in statutes similar to Government Code section 7587 as directory and not mandatory. When a deadline in a statute is deemed directory, then the action required by the statute remains valid.³⁹ The California Supreme Court describes the general rule of interpretation as follows:

Time limits are usually deemed to be directory unless the Legislature clearly expresses a contrary intent. [Citation omitted.] "In ascertaining

³⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

³⁹ *California Correctional Peace Officers Association v. State Personnel Board* (1995) 10 Cal.4th 1133, 1145.

Administrative Law did not provide notice of repeal of the regulations, and that the original emergency regulations were never deleted from the California Code of Regulations.⁴³ Ultimately, the parties stipulated to a judgment and writ that subsequent emergency regulations would be filed on or before July 1, 1998, to supercede the original emergency regulations, and that on or before September 24, 1999, the final regulations would be in full force and effect.⁴⁴ Thus, the parties affected by the original emergency regulations continued to act as if the regulations were still in effect.

Therefore, the Commission finds that the initial set of emergency regulations remained operative after the June 30, 1997 deadline, until the new set of regulations became operative in 1998. Thus, for purposes of analyzing whether the remaining test claim legislation constitutes a new program or higher level of service, there is no time gap between the original emergency regulations and the subsequent regulations adopted in July 1998. The initial emergency regulations, and the 1984 and 1985 statutes in Chapter 26.5 of the Government Code, constitute the valid, existing law in effect immediately before the enactment of the test claim legislation.

Accordingly, the issue before the Commission is whether the remaining test claim legislation [Gov. Code, § 7572.55, as added in 1994, and §§ 7576 and 7586.6, as amended in 1996, and the joint regulations adopted by the Departments of Mental Health and Education (Cal. Code Regs, tit. 2, §§ 60000 et seq.), which took effect as emergency regulations on July 1, 1998 (Register 98, No. 26) and became final on August 9, 1999 (Register 99, No. 33)] imposes a new program or higher level of service when compared to the legal requirements in effect immediately before the enactment of the test claim legislation, by increasing the actual level of governmental service provided in the existing program.

A. Interagency Agreements (Gov. Code, § 7586.6; Cal. Code Regs., tit. 2, § 60030)

Government Code section 7586.6

Government Code section 7586.6 was added by the test claim legislation in 1996 to address, in part, the interagency agreements between counties and local educational agencies. Government Code section 7586.6, subdivision (b), states the following:

It is the intent of the Legislature that the designated local agencies of the State Department of Education and the State Department of Mental Health update their interagency agreements for services specified in this chapter at the earliest possible time. It is the intent of the Legislature that the state and local interagency agreements be updated at least every three years or earlier as necessary.

The plain language of Government Code section 7586.6, subdivision (b), states the "legislative intent" that the local interagency agreements be updated at least every three years or earlier as necessary.

⁴³ See Petition for Writ of Mandamus, paragraphs 42 and 43, *McLeish, supra*.

⁴⁴ See Writ of Mandamus, *McLeish, supra*.

- Out-of-home placement of seriously emotionally disturbed pupils in accordance with the educational and treatment goals on the IEP.⁴⁶

In addition, former section 60100, subdivision (a), of the regulations required the local mental health program and the SELPA liaison to define the process and procedures for coordinating services to promote alternatives to out-of-home care of seriously emotionally disturbed pupils. These requirements remain the law.

Section 60030 of the regulations, as replaced by the test claim legislation in 1998, now requires that the interagency agreement include a "delineation of the procedures" for seventeen (17) items. In this regard, section 60030, subdivision (c), requires that the following additional eight (8) procedures be identified in the interagency agreement:

- Resolving interagency disputes at the local level, including procedures for the continued provision of appropriate services during the resolution of any interagency dispute, pursuant to Government Code section 7575, subdivision (f). For purposes of this subdivision only, the term "appropriate" means any service identified in the pupil's IEP, or any service the pupil actually was receiving at the time of the interagency dispute. (Cal. Code Regs, tit. 2, § 60030, subd. (c)(2).)
- A host county⁴⁷ to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons. (Cal. Code Regs, tit. 2, § 60030, subd. (c)(4).)
- Development of a mental health assessment plan and its implementation. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(5).)
- At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(7).)
- The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
- The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)

⁴⁶ Former California Code of Regulations, title 2, section 60030, subdivision (b).

⁴⁷ A "host county" is defined to mean the county where the pupil with a disability is living when the pupil is not living in the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (d).) The "county of origin" is defined as the county in which the parent of the pupil with disability resides. If the pupil is a ward or dependent of the court, an adoptee receiving adoption assistance, or a conservatee, the county of origin is the county where this status currently exists. (Cal. Code Regs., tit. 2, § 60020, subd. (b).)

- The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(15).)
- Mutual staff development for education and mental health staff pursuant to Government Code section 7586.6, subdivision (a). (Cal. Code Regs., tit. 2, § 60030, subd. (c)(17).)⁴⁹

B. Referral and Mental Health Assessment of a Pupil (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)

Government Code section 7576, as amended by the 1996 test claim statute (Stats. 1996, ch. 654), and sections 60040 and 60045 of the regulations govern the referral of a pupil suspected of needing mental health services to the county for an assessment. Under prior law, Government Code section 7572 and former section 60040 of the regulations required counties to perform the following referral and assessment activities:

- Review the following educational information of a pupil referred to the county by a local education agency for an assessment: a copy of the assessment reports completed in accordance with Education Code section 56327, current and relevant behavior observations of the pupil in a variety of educational and natural settings, a report prepared by personnel that provided “specialized” counseling and guidance services to the pupil and, when appropriate, an explanation why such counseling and guidance will not meet the needs of the pupil.
- If necessary, observe the pupil in the school environment to determine if mental health assessments are needed.
- If mental health assessments are deemed necessary by the county, develop a mental health assessment plan and obtain the parent’s written informed consent for the assessment.
- Assess the pupil within the time required by Education Code section 56344.

⁴⁹ The Counties of Los Angeles and Stanislaus, in comments to the draft staff analysis, argue that revising the interagency agreement in accordance with section 60030 of the regulations is not a one-time activity. The County of Los Angeles argues “the negotiation, development, and periodic revision and review of Interagency Agreements require a variety of time consuming activities over an extended period of time.” The County of Stanislaus contends that the interagency agreement is a living, breathing document. However, as indicated in the analysis, periodic renewal and revision of the agreements, which are ongoing activities, are not new. Counties were required to perform these activities every three years under the prior regulations. (Former Cal. Code Regs., tit. 2, § 60030.) Reimbursement for the ongoing activities of renewing the interagency agreements every three years and revising if necessary are addressed in the reconsideration of the original *Handicapped and Disabled Students* program (04-RL-4282-10).

requires that if the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and local educational agency of the county determination within one working day. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(1).)

Section 60045, subdivision (a)(2), now requires that if the county determines that the referral is incomplete, the county shall document the reasons, notify the local educational agency within one working day, and return the referral.

Section 60045, subdivision (b), provides that "if a mental health assessment is determined to be necessary," the community mental health service shall notify the local educational agency, develop a mental health assessment plan, and provide the plan and a consent form to the parent." Under prior law, counties were required to develop a mental health assessment plan and provide a consent form for the assessment to the parent. (Former Cal. Code Regs., tit. 2, § 60040, subd. (d).) However, the activities to notify the local educational agency when an assessment is determined necessary, and to provide the assessment plan to the parent are new activities.

Although section 60045, subdivisions (a) and (b), includes language that implies that the activities are within the discretion of the county (e.g., the activity is required "if no mental health assessment is determined necessary"), the Commission finds that these activities are mandated by the state when necessary to provide the pupil with a free and appropriate education under federal law. Under the rules of statutory construction, section 60045, subdivisions (a) and (b), must be interpreted in the context of the entire statutory scheme so that the statutory scheme may be harmonized and have effect.⁵⁰ In addition, it is presumed that the administrative agency, like the Departments of Mental Health and Education, did not adopt a regulation that alters the terms of a legislative enactment.⁵¹ Federal law, through the IDEA, requires the state to *identify*, locate, and evaluate *all* children with disabilities, including children attending private schools, who are in need of special education and related services.⁵² The state is also required by federal law to conduct a full and individual initial evaluation to determine whether a child has a qualifying disability, and the educational needs of the child.⁵³ In addition, Government Code section 7572, subdivision (a), requires that a child shall be assessed in all areas related to the suspected handicap by those qualified to make a determination of the child's need for the service. In cases where the pupil is suspected of needing mental health services, the state has delegated to the counties the activity of assessing the need for service. Accordingly, the Commission finds that the section 60045, subdivisions (a) and (b), mandate the following new activities that constitute a new program or higher level of service:

⁵⁰ *Select Base Materials v. Board of Equalization* (1959) 51 Cal.2d 640, 645; *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 781-782.

⁵¹ *Wallace v. State Personnel Board* (1959) 168 Cal.App.2d 543, 547.

⁵² 20 United States Code section 1412, subdivision (a)(3).

⁵³ 20 United States Code section 1414, subdivision (a).

agency] administrator or IEP team shall refer the pupil to the local community mental health service [county] to determine appropriate mental health services.

- (b) The local mental health director or designee shall ensure that the pupil is provided interim mental health services, as specified in the existing IEP, pursuant to Section 56325 of the Education Code, for a period not to exceed thirty (30) days, unless the parent agrees otherwise.
- (c) An IEP team, which shall include an authorized representative of the responsible community mental health service, shall be convened by the LEA to review the interim services and make a determination of services within thirty (30) days of the pupil's transfer.

According to the final statement of reasons, section 60055 "conforms with and implements Education Code section 56325 which ensures that special education pupils continue to receive services after they transfer into a new school district or SELPA. This section is intended to address implementation problems in these situations reported by the field in which eligible pupils were denied services due to an inter-county transfer."⁵⁵

The Commission finds that section 60055 mandates a new program or higher level of service on counties, following a pupil's transfer to a new school district, by requiring them to perform the following activities:

- Provide interim mental health services, as specified in the existing IEP, for thirty days, unless the parent agrees otherwise.
- Participate as a member of the IEP team of a transfer pupil to review the interim services and make a determination of services.

D. Participate as a Member of the IEP Team When Residential Placement of a Pupil is Recommended (Gov. Code, § 7572.55; Cal. Code Regs., tit. 2, § 60100)

Under existing law, when a child is assessed as seriously emotionally disturbed and any member of the IEP team recommends residential placement, the IEP team shall be expanded to include a representative of the county. The expanded IEP team is required to review the assessment and determine whether: (1) the child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care; (2) residential care is necessary for the child to benefit from educational services; and (3) residential services are available, which address the needs identified in the assessment and which will ameliorate the conditions leading to the seriously emotionally disturbed designation. The expanded IEP team is also required to consider all possible alternatives to out-of-home placement. (Gov. Code, § 7572.5, former Cal. Code Regs, tit. 2, § 60100.) Finally, the expanded IEP team is required to document the

⁵⁵ Final Statement of Reasons, page 20.

The Commission disagrees. First, the activity required by Government Code section 7572.55, subdivision (c), to develop a plan for using less restrictive alternatives and in-state alternatives when a recommendation is made that a child be placed in an out-of-state facility, is a new requirement. Government Code section 7572.55 was *added* by the test claim legislation. Under prior law, the expanded IEP team was only required to “consider” all possible alternatives to residential placement. The express language of prior law did not require the expanded IEP team to develop a plan for using less restrictive alternatives specifically for out-of-state placements. Thus, the Commission finds that Government Code 7572.55, subdivision (c), imposes a new program or higher level of service with regard to the counties’ participation on the expanded IEP team.

The Commission further finds that the two activities mandated by section 60100 are new activities, not required under prior law. Section 60100, subdivision (c), requires the expanded IEP team to document the alternatives to residential placement that were considered and the reasons why they were rejected. Under prior law, the expanded IEP team was required to “consider” all possible alternatives to residential placement. Prior law also required the expanded IEP team to document the pupil’s educational and mental health treatment needs that support the final recommendation for the placement. But prior law did not require the expanded IEP team to document the alternatives to residential placement that were considered by the team and the reasons why the alternatives were rejected. Thus, the Commission finds that section 60100, subdivision (c), imposes a new program or higher level of service.

Moreover, the Commission finds that the activity required by section 60100, subdivision (j), imposes a new program or higher level of service by requiring, for the first time, that the expanded IEP team ensure that placement is in accordance with admission criteria of the facility.

Finally, when the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties are now required to ensure that: (1) the mental health services are specified in the IEP in accordance with federal law; and (2) the mental health services are provided by qualified mental health professionals.⁵⁸ (Cal. Code Regs., tit. 2, § 60100, subd. (i).) Counties were not required to perform these activities under prior law. Therefore, the Commission finds that the activities required by section 60100, subdivision (i), constitute a new program or higher level of service.

E. Case Management Duties for Pupils Placed in Residential Care (Cal. Code Regs., tit. 2, §§ 60100, 60110)

Under existing law, Government Code section 7572.5, subdivision (c)(1), requires the county to act as the lead case manager if the review of the expanded IEP team calls for residential placement of the seriously emotionally disturbed pupil. The statute further

⁵⁸ Section 60020 defines “qualified mental health professional” to include the following licensed practitioners of the healing arts: a psychiatrist; psychologist; clinical social worker; marriage, family and child counselor; registered nurse, mental health rehabilitation specialist, and others who have been waived under Welfare and Institutions Code section 5751.2.

admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)⁶⁰

- Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).) Under prior law, the expanded IEP team identified the placement. (Former Cal. Code Regs., tit. 2, § 60100, subd. (f).)
- Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
- Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
- Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(11).)⁶¹

The Commission finds that the new activities bulleted above constitute a new program or higher level of service.

In addition, the language for some of the case management activities required under existing law was amended by section 60110 of the test claim legislation. Thus, the issue is whether the amended language mandates an increase in the level of service provided by the county case manager.

For example, existing law required counties to "conven[e] parents and representatives of public and private agencies in accordance with subsection (f) of Section 60100 in order to identify the appropriate residential placement." (Former Cal. Code Regs., tit. 2, § 60110,

⁶⁰ A "community treatment facility" is defined in section 60025 of the regulations to mean "any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure confinement. The facility's program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code."

⁶¹ Welfare and Institutions Code section 4094.5, subdivision (e)(1), states in relevant part that "[t]he child shall, prior to admission, have been determined to be in need of the level of care provided by a community treatment facility, by a county interagency placement committee ..."

The Commission finds that the evaluation every 90 days of the continuing stay criteria of a pupil placed in a community treatment facility, as required by section 60110, subdivision (c)(8), constitutes a new program or higher level of service.

Finally, under prior law, the expanded IEP team was required to review the case progress, the continuing need for out-of-home placement, the extent of compliance with the IEP, and progress toward alleviating the need for out-of-home care "at least every six months." (Gov. Code, § 7572.5, subd. (c)(2).) In addition, former section 60110, subdivision (c)(10), required case managers to "coordinate the six-month expanded IEP team meeting with the local educational agency administrator or designee."

Section 60110, subdivision (c)(10), as adopted by the test claim legislation in 1998, replaced the requirement imposed on the case manager to "coordinate" the expanded six-month IEP team meeting, with the requirement to "schedule and attend" the six-month expanded IEP team meeting. Section 60110, subdivision (c)(10), states the following:

Schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as the pupil remains in residential placement.

The Commission finds that section 60110, subdivision (c)(10), increases the level of service required of counties. Under the prior requirement, case managers were required to coordinate the expanded IEP team meeting every six months. Case managers are now required to schedule the meeting. The activities of "coordinating" and "scheduling" are different. To "coordinate" means to "to place in the same order, class, or rank; to harmonize in a common effort; to work together harmoniously." To "schedule" means "to plan or appoint for a certain date or time."⁶⁴ In addition, although a representative from the county is a member of the IEP team, there was no requirement that the case manager, who may be a different person than the IEP team member, attend the IEP team meeting.⁶⁵ Therefore, the Commission finds that section 60110, subdivision (c)(10), of the regulations constitutes a new program or higher level of service for the activity of scheduling and attending the six-month expanded IEP team meetings.

professionals after staff have informed them of their rights as an adult;

- (4) A CTF obtains an exception from the California Department of Social Services to allow for the continued treatment of the young adult in a CTF....

⁶⁴ Webster's II New College Dictionary (1999) pages 248, 987.

⁶⁵ Existing law authorizes the county to delegate the case management responsibilities to the county welfare department. (Gov. Code, § 7572.5, subd. (c)(1).)

As indicated above, prior law specified that either the Department of Mental Health or a designated county mental health agency provided the authorization documents before payment to the residential facility could be issued. According to the final statement of reasons prepared by the Departments of Mental Health and Education for the 1998 regulations, section 60200, subdivision (e), now assigns the responsibility of authorizing payments to the residential facilities solely to the county community mental health service. The final statement of reasons also states that it is the responsibility of the county to determine that the residential placement meets all of the criteria established in Welfare and Institutions Code sections 18350 through 18356. The final statement of reasons for this regulation expressly provides the following:

Subsection (e) assigns the responsibility for authorizing payment for board and care to the community mental health service. It is the responsibility of the community mental health service to determine that the residential placement meets all of the criteria established in Sections 18350 through 18356 of the Welfare and Institutions Code. These sections of code also refer to Section 11460 of the Welfare and Institutions Code which state that rates will be established by CDSS, and outline certain requirements in order for facilities to be eligible for payment.”⁶⁸

Thus, compliance with section 60200, subdivision (e), of the regulations requires the counties to determine that the residential placement meets all of the criteria established in the Welfare and Institutions Code before authorizing payment. The final statement of reasons suggests that the requirement to authorize payment to residential facilities may not be satisfied by simply providing the IEP to the county welfare department.

The Department of Social Services has not provided the Commission with any comments on this test claim. In addition, the argument asserted by the Department of Finance is not supported with documentary evidence or declarations signed under the penalty of perjury, as required by the Commission’s regulations. (Cal. Code Regs., tit. 2, § 1183.02, subd. (c).)

Accordingly, the Commission finds that authorizing payments to the residential facilities in accordance with section 60200, subdivision (e), constitutes a new program or higher level of service.

G. Provide Psychotherapy or Other Mental Health Treatment Services (Cal. Code Regs., tit. 2, §§ 60020, subd. (i), 60050, subd. (b), 60200, subd. (c))

Pursuant to existing law, counties are required to provide psychotherapy or other mental health treatment services to a pupil, either directly or by contract, when required by the pupil’s IEP. (Gov. Code, § 7576; former Cal. Code Regs., tit. 2, § 60200, subd. (b).) Under the former regulations, “psychotherapy and other mental health services” were defined to include the day services and outpatient services identified in sections 542 and 543 of the Department of Mental Health regulations. (Former Cal. Code Regs., tit. 2, § 60020, subd. (a).)

⁶⁸ Final Statement of Reasons, page 26.

Section 60020 of the test claim regulations continues to include mental health assessments, collateral services, intensive day treatment, and day rehabilitation within the definition of "mental health services." These services are not new.⁶⁹

However, the activities of crisis intervention, vocational services, and socialization services were deleted by the test claim regulations. The final statement of reasons, in responding to a comment that these activities remain in the definition of "mental health services," states the following:

The provision of vocational services is assigned to the State Department of Rehabilitation by Government Code section 7577.

Crisis service provision is delegated to be "from other public programs or private providers, as appropriate" by these proposed regulations in Section 60040(e) because crisis services are a medical as opposed to educational service. They are, therefore, excluded under both the Tatro and Clovis decisions. These precedents apply because "medical" specialists must deliver the services. A mental health crisis team involves specialized professionals. Because of the cost of these professional services, providing these services would be a financial burden that neither the schools nor the local mental health services are intended to address in this program.

The hospital costs of crisis service provision are explicitly excluded from this program in the Clovis decision for the same reasons.

Additionally, the IEP process is one that responds slowly due to the problems inherent in convening the team. It is, therefore, a poor avenue for the provision of crisis services. While the need for crisis services can be a predictable requirement over time, the particular medical requirements of the service are better delivered through the usual local mechanisms established specifically for this purpose.⁷⁰

Thus, counties are not eligible for reimbursement for providing crisis intervention, vocational services, and socialization services since these activities were repealed as of July 1, 1998.

⁶⁹ The County of Los Angeles, in comments to the draft staff analysis, argues that all activities specified in section 60020, subdivision (i), should be reimbursable under this test claim. The County of Stanislaus filed similar comments. As indicated in the analysis, however, the activities of mental health assessments, collateral services, intensive day treatment, and case management, are not new activities. Counties were required to perform these activities under the prior regulations. (Former Cal. Code Regs., tit. 2, § 60020, subd. (a).) Reimbursement for the activities of mental health assessments, collateral services, intensive day treatment, and case management, are addressed in the reconsideration of the original *Handicapped and Disabled Students* program (04-RL-4282-10).

⁷⁰ Final Statement of Reasons, pages 55-56.

It is our interpretation that there is no meaningful difference between the medication requirements under the prior regulations and the new regulations of the test claim. The existing activities of “dispensing of medications, and the evaluation of side effects and results of medication” are in fact activities of medication monitoring and seem representative of all aspects of medication monitoring. To the extent that counties are already required to evaluate the “side effects and results of medication,” it is not clear that the new requirement of “medication monitoring” imposes a new or higher level of service.⁷¹

The Commission disagrees with the Department’s interpretation of section 60020, subdivisions (i) and (f), of the regulations, and finds that “medication monitoring” as defined in the regulation increases the level of service required of counties.

The same rules of construction applicable to statutes govern the interpretation of administrative regulations.⁷² Under the rules of statutory construction, it is presumed that the Legislature or the administrative agency intends to change the meaning of a law or regulation when it materially alters the language used.⁷³ The courts will not infer that the intent was only to clarify the law when a statute or regulation is amended unless the nature of the amendment clearly demonstrates the case.⁷⁴

In the present case, the test claim regulations, as replaced in 1998, materially altered the language regarding the provision of medication. The activity of “dispensing” medications was deleted from the definition of mental health services. In addition, the test claim regulations deleted the phrase “evaluating the side effects and results of the medication,” and replaced the phrase with “monitoring of psychiatric medications or biologicals as necessary to alleviate the symptoms of mental illness.” The definitions of “evaluating” and “monitoring” are different. To “evaluate” means to “to examine carefully; appraise.”⁷⁵ To “monitor” means to “to keep watch over; supervise.”⁷⁶ The definition of “monitor” and the regulatory language to monitor the “psychiatric medications or biologicals as necessary to alleviate the symptoms of mental illness” indicate that the activity of “monitoring” is an ongoing activity necessary to ensure that the pupil receives a free and appropriate education under federal law. This interpretation is supported by the final statement of reasons for the adoption of the language in section 60020, subdivision (f), which state that the regulation was intended to make it

⁷¹ Department of Finance comments to draft staff analysis.

⁷² *Goleta Valley Community Hospital v. Department of Health Services* (1984) 149 Cal.App.3d 1124, 1129.

⁷³ *Garrett v. Young* (2003) 109 Cal.App.4th 1393, 1404-1405.

⁷⁴ *Medina v. Board of Retirement, Los Angeles County Employees Retirement Assn.* (2003) 112 Cal.App.4th 864, 869-870.

⁷⁵ Webster’s II New College Dictionary (1999) page 388.

⁷⁶ *Id.* at page 708.

Title 20 of the United States Code. A due process hearing arising over a related service or designated instruction and service shall be filed with the Superintendent of Public Instruction. Resolution of all issues shall be through the due process hearing process established in Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code. The decision issued in the due process hearing shall be binding on the department having responsibility for the services in issue as prescribed by this chapter.

Pursuant to the former regulations, counties were required to participate in the due process hearings relating to issues involving mental health assessments or services and were required to prepare documentation and provide testimony supporting the county's position. (Former Cal. Code Regs., tit. 2, § 60550.) Counties are currently eligible for reimbursement for their participation in the due process hearings.

The test claim legislation, section 60550 of the regulations, as enacted in 1998, does not increase the level of service provided by counties with respect to the due process hearings. Counties are still subject to the due process hearing procedures as they were under prior law, and are still required to prepare documentation and provide testimony to support its position. According to the final statement of reasons, the amendments in the regulation, with respect to the county, simply reflect the deletion of the Office of Administrative Hearings from the hearing process.

Therefore, the Commission finds that section 60550 does not mandate that counties perform new activities or increase their level of service. Therefore, section 60550 of the regulations does not impose a new program or higher level of service on counties.

I. Compliance Complaints (Cal. Code Regs., tit. 2, § 60560)

The County of Stanislaus requests reimbursement for defending against an allegation that the county has not complied with the regulations for this program, in accordance with section 60560 of the regulations. Section 60560 states that “[a]llegations of failure by an LEA, Community Mental Health Services or CCS to comply with these regulations, shall be resolved pursuant to [sections 4600 et seq. of the Department of Education regulations].”

The Commission finds that the compliance complaint procedure established by section 60560 does not constitute a new program or higher level of service. The compliance complaint procedures, as they relate to the counties' participation in the Handicapped and Disabled Students program, have been in the law since 1991. Section 4650 of the Department of Education regulations (the regulation cited as the authority for section 60560 of the joint regulations in this case) addresses compliance complaints and was adopted in 1991.⁷⁹ Section 4650, subdivision (a)(viii), states in relevant part the following:

For complaints relating to special education the following shall also be conditions for direct state intervention:

⁷⁹ California Code of Regulations, title 5, section 4650.

- A host county to notify the community mental health service of the county of origin within two (2) working days when a pupil with a disability is placed within the host county by courts, regional centers or other agencies for other than educational reasons. (Cal. Code Regs, tit. 2, § 60030, subd. (c)(4).)
 - Development of a mental health assessment plan and its implementation. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(5).)
 - At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(7).)
 - The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
 - The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)
 - The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(15).)
 - Mutual staff development for education and mental health staff pursuant to Government Code section 7586.6, subdivision (a). (Cal. Code Regs., tit. 2, § 60030, subd. (c)(17).)
2. Referral and Mental Health Assessments (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)
- Work collaboratively with the local educational agency to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed. (Gov. Code, § 7576, subd. (b)(1).)
 - A county that receives a referral for a pupil with a different county of origin shall forward the referral within one working day to the county of origin. (Gov. Code, § 7576, subd. (g); Cal. Code Regs., tit. 2, § 60040, subd. (g).)
 - If the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and the local educational agency of the county determination within one day. (Cal Code Regs., tit. 2, § 60045, subd. (a)(1).)

- The expanded IEP team, with the county as a participant, shall ensure that placement is in accordance with the admission criteria of the facility. (Cal. Code Regs., tit. 2, § 60100, subd. (j).)
 - When the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties shall ensure that: (1) the mental health services are specified in the IEP in accordance with federal law, and (2) the mental health services are provided by qualified mental health professionals. (Cal. Code Regs., tit. 2, § 60100, subd. (i).)
5. Case Management Duties for Pupils Placed in Residential Care (Cal. Code Regs., tit. 2, §§ 60100, 60110)
- Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(1).)
 - When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
 - Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)
 - Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
 - Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
 - Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(11).)

In order for the activities listed above to impose a reimbursable, state-mandated program under article XIII B, section 6 of the California Constitution, two additional elements must be satisfied. First, the activities must impose costs mandated by the state pursuant to Government Code section 17514.⁸⁰ Second, the statutory exceptions to reimbursement listed in Government Code section 17556 cannot apply.

Government Code section 17514 defines “costs mandated by the state” as any increased cost a local agency or school district is required to incur as a result of a statute that mandates a new program or higher level of service.

Government Code section 17556 states that the Commission shall not find costs mandated by the state, as defined in section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

- (a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.
- (b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.
- (c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.
- (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.
- (e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.
- (f) The statute or executive order imposed duties that were expressly included in a ballot measure approved by the voters in a statewide or local election.

⁸⁰ See also, *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 835.

The Commission finds that the amount appropriated in 2001 and 2002 are not sufficient to fund the cost of the state mandate and, thus, the second element under Government Code section 17556, subdivision (e), has not been satisfied. According to the State Controller's Deficiency Report issued on May 2, 2005, the unpaid claims for fiscal year 2001-02 total \$124,940,258. The unpaid claims for fiscal year 2002-03 total \$124,871,698.⁸³

In addition, the Budget Acts of 2003 and 2004 contain appropriations "considered offsetting revenues within the meaning of Government Code section 17556, subdivision (e)." However, for the reasons provided below, the Commission finds that Government Code section 17556, subdivision (e), has not been satisfied with these appropriations.

The Budget Act of 2003 appropriated \$69 million to counties from the federal special education fund to be used exclusively to support mental health services identified in a pupil's IEP and provided during the 2003-04 fiscal year by county mental health agencies pursuant to the test claim legislation. (Stats. 2003, ch. 157, item 6110-161-0890, provision 17.) The bill further states in relevant part that the funding shall be considered offsetting revenue pursuant to Government Code section 17556, subdivision (e):

This funding shall be considered offsetting revenues within the meaning of subdivision (e) of section 17556 of the Government Code for any reimbursable mandated cost claim for provision of these mental health services provided in 2003-04.

The Budget Act of 2004 similarly appropriated \$69 million to counties from the federal special education fund to be used exclusively to support mental health services provided during the 2004-05 fiscal year pursuant to the test claim legislation. (Stats. 2004, ch. 208, item 6110-161-0890, provision 10.) The appropriation in 2004 was made as follows:

Pursuant to legislation enacted in the 2003-04 Regular Session, of the funds appropriated in Schedule (4) of this item, \$69,000,000 shall be used exclusively to support mental health services provided during the

1986 (Register 86, No. 1) and refiled June 30, 1986, designated effective July 12, 1986 (Register 86, No. 28)).

⁸³ The Deficiency Report is prepared pursuant to Government Code section 17567. Government Code section 17567 requires that in the event the amount appropriated for reimbursement of a state-mandated program is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall then issue a report of the action to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective committee in each house of the Legislature that considers appropriations. The Deficiency Report is, thus, an official record of a state agency and is properly subject to judicial notice by the court. (*Munoz v. State* (1995) 33 Cal.App.4th 1767, 1773, fn. 2; *Chas L. Harney, Inc. v. State of California* (1963) 217 Cal.App.2d 77, 85-87.)

This finding is further supported by the 2004 report published by Stanford Law School, which states “\$69 million represented only approximately half of the total funding necessary to maintain AB 3632 services.”⁸⁶

Accordingly, the Commission finds that Government Code section 17556, subdivision (e), does not apply to deny this claim. Eligible claimants are, however, required to identify the funds received during fiscal years 2001-02 through 2004-05 as an offset to be deducted from the costs claimed.⁸⁷

Based on the program costs identified by the State Controller’s Office, the Commission further finds that counties do incur increased costs mandated by the state pursuant to Government Code section 17514 for this program. However, as more fully discussed below, the state has amended cost-sharing mechanisms for some of the mandated activities that affect the total costs incurred by a county.

B. Increased costs mandated by the state for providing psychotherapy and other mental health services.

In *Handicapped and Disabled Students* (CSM 4282), the Commission determined that the costs incurred for providing psychotherapy or other mental health treatment services were subject to the Short-Doyle Act. Under the Short-Doyle Act, the state paid 90 percent of the total costs of mental health treatment services and the counties paid the remaining 10 percent. Thus, the Commission concluded that counties incurred increased costs mandated by the state in an amount that equaled 10 percent of the total psychotherapy or other mental health treatment costs. In 1993, the Sixth District Court of Appeal agreed with the Commission’s conclusion.⁸⁸

In 1991, the Legislature enacted realignment legislation that repealed the Short-Doyle Act and replaced the sections with the Bronzan-McCorquodale Act. (Stats. 1991, ch. 89, §§ 63 and 173.) The realignment legislation became effective on June 30, 1991. The parties have disputed whether the Bronzan-McCorquodale Act keeps the cost-sharing ratio, with the state paying 90 percent and the counties paying 10 percent, for the cost of psychotherapy or other mental health treatment services for special education pupils.

The Commission finds, however, that the Commission does not need to resolve that dispute for purposes of this test claim. Section 38 of Statutes 2002, chapter 1167 (Assem. Bill 2781) prohibits the funding provisions of the Bronzan-McCorquodale Act from affecting the responsibility of the state to fund psychotherapy and other mental health treatment services for handicapped and disabled pupils and requires the state to provide reimbursement to counties for those services for all allowable costs incurred. Section 38 also states the following:

⁸⁶ “Challenge and Opportunity – An Analysis of Chapter 26.5 and the System for Delivering Mental Health Services to Special Education Students in California,” Youth and Education Law Clinic, Stanford Law School, May 2004, page 20.

⁸⁷ Government Code section 17514; California Code of Regulations, title 2, section 1183.1.

⁸⁸ *County of Santa Clara v. Commission on State Mandates*, Sixth District Court of Appeal Case No. H009520, filed January 11, 1993 (unpubl.)

and the \$69 million appropriations in 2003 and 2004.⁹⁰ The appropriations made by the Legislature in 2001 and 2002, under Item 4440-295-0001 (appropriations of \$46,944,000 and \$1000, respectively), however, were expressly made pursuant to article XIII B, section 6 for purposes of reimbursing the original program approved by the Commission in CSM 4282, *Handicapped and Disabled Students*.⁹¹ Since the Commission does not have jurisdiction in this test claim over the reimbursement of the statutes and regulations pled in the original test claim (CSM 4282), the Commission finds that the 2001 appropriation of \$46,944,000 and the 2002 appropriation of \$1000 are not required to be identified as an offset and deducted from the costs claimed here.

Furthermore, to the extent counties obtain private insurance proceeds with the consent of a parent for purposes of this program, such proceeds must be identified as an offset and deducted from the costs claimed. Federal law authorizes public agencies to access private insurance proceeds for services provided under the IDEA if the parent consents.⁹² Thus, this finding is consistent with the California Supreme Court's decision in *County of Fresno v. State of California*. In the *County of Fresno* case, the court clarified that article XIII B, section 6 requires reimbursement by the state only for those expenses that are recoverable from tax revenues. Reimbursable costs under article XIII B, section 6, do not include reimbursement received from other non-tax sources.⁹³

The Commission further finds that, to the extent counties obtain proceeds under the Medi-Cal program from either the state or federal government for purposes of this mandated program, such proceeds must be identified as an offset and deducted from the costs claimed. Federal law authorizes public agencies, with certain limitations, to use public insurance benefits, such as Medi-Cal, to provide or pay for services required under the IDEA.⁹⁴ Federal law limits this authority as follows:

(2) With regard to services required to provide FAPE [free appropriate public education] to an eligible child under this part, the public agency-

- (i) May not require parents to sign up for or enroll in public insurance programs in order for their child to receive FAPE under Part B of the Act;
- (ii) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph (g)(2)

⁹⁰ Statutes 2001, chapter 106, items 4440-131-0001; Statutes 2003, chapter 157, item 6110-161-0890, provision 17; Statutes 2004, chapter 208, item 6110-161-0890, provision 10.

⁹¹ Statutes 2001, chapter 106, item 4440-295-0001; Statutes 2002, chapter 379, item 4440-295-0001.

⁹² 34 Code of Federal Regulations section 300.142, subdivision (f).

⁹³ *County of Fresno, supra*, 53 Cal.3d at page 487.

⁹⁴ 34 Code of Federal Regulations section 300.142, subdivision (e).

Counties may utilize money received from the Local Revenue Fund [realignment] ... to fund the costs of any part of those services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. *If money from the Local Revenue Fund is used by counties for those services, counties are eligible for reimbursement from the state for all allowable costs* to fund assessments, psychotherapy, and other mental health services allowable pursuant to Section 300.24 of Title 34 of the Code of Federal Regulations [IDEA] and required by Chapter 26.5 ... of the Government Code. (Emphasis added.)

Senate Bill 1895 was a budget trailer bill to the 2004 budget. However, for reasons provided below, the language in Welfare and Institutions Code section 5701.6, that realignment funds are not required to be identified as an offset and deducted from the costs claimed, is retroactive and applies to the reimbursement period for this test claim, beginning July 1, 2001.

Welfare and Institutions Code section 5701.6, subdivision (b), states that “[t]his section is declaratory of existing law.” Although a legislative statement that an act is declaratory of existing law is not binding on the courts, the courts have interpreted such language as legislative intent that the amendment applies to all existing causes of action. The courts have given retroactive effect to such a statute when there is no constitutional objection to its retroactive application. In this regard, the California Supreme Court has stated the following:

A subsequent expression of the Legislature as the intent of the prior statute, although not binding on the court, may properly be used in determining the effect of a prior act. [Citation omitted.] Moreover, even if the court does not accept the Legislature’s assurance that an unmistakable change in the law is merely a “clarification,” the declaration of intent may still effectively reflect the Legislature’s purpose to achieve a retrospective change. [Citation omitted.] Whether a statute should apply retrospectively or only prospectively is, in the first instance, a policy question of the legislative body enacting the statute. [Citation omitted.] Thus, where a statute provides that it clarifies or declares existing law, “[i]t is obvious that such a provision is indicative of a legislative intent that the amendment apply to all existing causes of action from the date of its enactment. In accordance with the general rules of construction, we must give effect to this intention unless there is some constitutional objection thereto.” [Citations omitted.]⁹⁸

Thus, the Commission finds that realignment funds used by a county for this mandated program are not required to be identified as an offset and deducted from the costs claimed.

Accordingly, the Commission finds that the following revenue and/or proceeds must be identified as offsets and be deducted from the costs claimed:

⁹⁸ *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 244.

- At least ten (10) working days prior notice to the community mental health service of all IEP team meetings, including annual IEP reviews, when the participation of its staff is required. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(7).)
 - The provision of mental health services as soon as possible following the development of the IEP pursuant to section 300.342 of Title 34 of the Code of Federal Regulations. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(9).)
 - The provision of a system for monitoring contracts with nonpublic, nonsectarian schools to ensure that services on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(14).)
 - The development of a resource list composed of qualified mental health professionals who conduct mental health assessments and provide mental health services. The community mental health service shall provide the LEA with a copy of this list and monitor these contracts to assure that services as specified on the IEP are provided. (Cal. Code Regs., tit. 2, § 60030, subd. (c)(15).)
 - Mutual staff development for education and mental health staff pursuant to Government Code section 7586.6, subdivision (a). (Cal. Code Regs., tit. 2, § 60030, subd. (c)(17).)
2. Referral and Mental Health Assessments (Gov. Code, § 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)
- Work collaboratively with the local educational agency to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed. (Gov. Code, § 7576, subd. (b)(1).)
 - A county that receives a referral for a pupil with a different county of origin shall forward the referral within one working day to the county of origin. (Gov. Code, § 7576, subd. (g); Cal. Code Regs., tit. 2, § 60040, subd. (g).)
 - If the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and the local educational agency of the county determination within one day. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(1).)
 - If the county determines that the referral is incomplete, the county shall document the reasons, notify the local educational agency within one working day, and return the referral. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(2).)
 - Notify the local educational agency when an assessment is determined necessary. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 - Provide the assessment plan to the parent. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)

5. Case Management Duties for Pupils Placed in Residential Care (Cal. Code Regs., tit. 2, §§ 60100, 60110)

- Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(1).)
- When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
- Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)
- Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
- Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
- Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(11).)
- Evaluate every 90 days the continuing stay criteria, as defined in Welfare and Institutions Code section 4094, of a pupil placed in a community treatment facility every 90 days. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
- Schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as the pupil remains in residential placement. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(10).)

2004 (Stats. 2003, ch. 157, item 6110-161-0890, provision 17; Stats. 2004, ch. 208, item 6110-161-0890, provision 10).

- Private insurance proceeds obtained with the consent of a parent for purposes of this program.
- Medi-Cal proceeds obtained from the state or federal government that pay for a portion of the county services provided to a pupil under the Handicapped and Disabled Students program in accordance with federal law.
- Any other reimbursement received from the federal or state government, or other non-local source.

The reimbursement period for this test claim begins July 1, 2001.¹⁰⁰

Finally, any statutes and or regulations that were pled in this test claim that are not identified above do not constitute a reimbursable state-mandated program.

¹⁰⁰ Government Code section 17557, subdivision (e).

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 20

Staff Analysis of Consolidation April 2006

ITEM _____
DRAFT STAFF ANALYSIS
PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (Assem. Bill No. 3632)

Statutes 1985, Chapter 1274 (Assem. Bill No. 882)

Statutes 1994, Chapter 1128 (Assem. Bill No. 1892)

Statutes 1996, Chapter 654 (Assem. Bill No. 2726)

California Code of Regulations, Title 2, Sections 60000-60610

(Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed

June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28]; and

Emergency regulations effective July 1, 1998 [Register 98, No. 26],

final regulations effective August 9, 1999 [Register 99, No. 33])

Handicapped and Disabled Students (04-RL-4282-10);

Handicapped and Disabled Students II (02-TC-40/02-TC-49); and

Seriously Emotionally Disturbed (SED) Pupils:

Out-of-State Mental Health Services (97-TC-05)

Fiscal Year 2006-2007

EXECUTIVE SUMMARY

Background

The Handicapped and Disabled Students program was enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The legislation shifted to counties the responsibility and funding of mental health services required by a pupil's individualized education plan (IEP).

The Commission on State Mandates (Commission) adopted amended parameters and guidelines for the *Handicapped and Disabled Students* program (CSM 4282) on January 26, 2006, ending the period of reimbursement for costs incurred through and including June 30, 2004. Costs incurred after this date are claimed under the parameters and guidelines for the Commission's decision on reconsideration, *Handicapped and Disabled Students (04-RL-4282-10)*.

The Commission adopted its Statement of Decision on the reconsideration of *Handicapped and Disabled Students (04-RL-4282-10)* on May 26, 2005. The Commission found that the 1990 Statement of Decision in *Handicapped and Disabled Students* correctly concluded that the test claim legislation imposes a reimbursable state-mandated program on counties pursuant to article XIII B, section 6 of the California Constitution. The Commission determined, however,

that the 1990 Statement of Decision does not fully identify all of the activities mandated by the statutes and regulations pled in the test claim or the offsetting revenue applicable to the claim. Thus, the Commission, on reconsideration, identified the activities expressly required by the test claim legislation and the offsetting revenue that must be identified and deducted from the costs claimed. Parameters and guidelines were adopted on January 26, 2006, with a period of reimbursement beginning July 1, 2004.

The Commission also adopted a Statement of Decision for the *Handicapped and Disabled Students II* program on May 26, 2005, addressing the 1994 and 1996 statutory amendments and the 1998-1999 regulatory amendments to the program. Parameters and guidelines were adopted on December 9, 2005, with a period of reimbursement beginning July 1, 2001.

On May 25, 2000, the Commission adopted a Statement of Decision for the *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services (97-TC-05)* program, addressing the 1996 amendments, which added the counties' responsibilities for out-of-state placement of seriously emotionally disturbed students. Parameters and guidelines were adopted on October 26, 2000, with a period of reimbursement beginning January 1, 1997.

Proposal

These programs are all related to the Handicapped and Disabled Students program. Therefore, staff proposes to consolidate the Commission's findings on the Reconsideration of *Handicapped and Disabled Students (04-RL-4282-10)*, *Handicapped and Disabled Students II (02-TC-40/02-TC-49)*, and *SED Pupils: Out-of-State Mental Health Services (97-TC-05)* into a single document for claims filed in future years. The period of reimbursement for the activities in this proposed consolidated parameters and guidelines begins on July 1, 2006.

Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statements of Decision and current law. All one-time activities, including the revising of interagency agreements, were deleted because these activities should have already been performed.

Staff Recommendation

Staff recommends that the Commission adopt the proposed consolidation of the Commission's findings on the Reconsideration of *Handicapped and Disabled Students (04-RL-4282-10)*, *Handicapped and Disabled Students II (02-TC-40/02-TC-49)*, and *SED Pupils: Out-of-State Mental Health Services (97-TC-05)*, beginning on page 3.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES

Government Code Sections 7570-7588
Statutes 1984, Chapter 1747 (Assem. Bill No. 3632)
Statutes 1985, Chapter 1274 (Assem. Bill No. 882)
Statutes 1994, Chapter 1128 (Assem. Bill No. 1892)
Statutes 1996, Chapter 654 (Assem. Bill No. 2726)

California Code of Regulations, Title 2, Sections 60000-60610
(Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed
June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28]; and
Emergency regulations effective July 1, 1998 [Register 98, No. 26],
final regulations effective August 9, 1999 [Register 99, No. 33])

Handicapped and Disabled Students (04-RL-4282-10);
Handicapped and Disabled Students II (02-TC-40/02-TC-49); and
Seriously Emotionally Disturbed (SED) Pupils:
Out-of-State Mental Health Services (97-TC-05)

Fiscal Year 2006-2007

I. SUMMARY OF THE MANDATE

The Handicapped and Disabled Students program was enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The legislation shifted to counties the responsibility and funding of mental health services required by a pupil's individualized education plan (IEP).

The Commission on State Mandates (Commission) adopted amended parameters and guidelines for the *Handicapped and Disabled Students* program (CSM 4282) on January 26, 2006, ending the period of reimbursement for costs incurred through and including June 30, 2004. Costs incurred after this date are claimed under the parameters and guidelines for the Commission's decision on reconsideration, *Handicapped and Disabled Students* (04-RL-4282-10).

The Commission adopted its Statement of Decision on the reconsideration of *Handicapped and Disabled Students* (04-RL-4282-10) on May 26, 2005. The Commission found that the 1990 Statement of Decision in *Handicapped and Disabled Students* correctly concluded that the test claim legislation imposes a reimbursable state-mandated program on counties pursuant to article XIII B, section 6 of the California Constitution. The Commission determined, however, that the 1990 Statement of Decision does not fully identify all of the activities mandated by the statutes and regulations pled in the test claim or the offsetting revenue applicable to the claim. Thus, the Commission, on reconsideration, identified the activities expressly required by the test claim legislation and the offsetting revenue that must be identified and deducted from the costs

claimed. Parameters and guidelines were adopted on January 26, 2006, with a period of reimbursement beginning July 1, 2004.

The Commission also adopted a Statement of Decision for the *Handicapped and Disabled Students II* program on May 26, 2005, addressing the statutory and regulatory amendments to the program. Parameters and guidelines were adopted on December 9, 2005, with a period of reimbursement beginning July 1, 2001.

On May 25, 2000, the Commission adopted a Statement of Decision for the *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* (97-TC-05) program, addressing the counties' responsibilities for out-of-state placement of seriously emotionally disturbed students. Parameters and guidelines were adopted on October 26, 2000, with a period of reimbursement beginning January 1, 1997.

These parameters and guidelines consolidate the Commission's findings on the Reconsideration of *Handicapped and Disabled Students* (04-RL-4282-10), *Handicapped and Disabled Students II* (02-TC-40/02-TC-49), and *SED Pupils: Out-of-State Mental Health Services* (97-TC-05).

II. ELIGIBLE CLAIMANTS

Any county, or city and county, that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities in this consolidated parameters and guidelines begins on July 1, 2006.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If 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.

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 given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, 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 reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

For each eligible claimant, the following activities are eligible for reimbursement:

- A. Renew the interagency agreement with the local educational agency every three years and, if necessary, revise the agreement (Gov. Code, § 7571; Cal. Code Regs., tit. 2, §§ 60030, 60100)
 1. Renew the interagency agreement every three years, and revise if necessary.
 2. Define the process and procedures for coordinating local services to promote alternatives to out-of-home care of seriously emotionally disturbed pupils.
- B. Referral and Mental Health Assessments (Gov. Code, §§ 7572, 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)
 1. Work collaboratively with the local educational agency to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed. (Gov. Code, § 7576, subd. (b)(1).)
 2. A county that receives a referral for a pupil with a different county of origin shall forward the referral within one working day to the county of origin. (Gov. Code, § 7576, subd. (g); Cal. Code Regs., tit. 2, § 60040, subd. (g).)
 3. If the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and the local educational agency of the county determination within one day. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(1).)
 4. If the county determines that the referral is incomplete, the county shall document the reasons, notify the local educational agency within one working day, and return the referral. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(2).)
 5. Notify the local educational agency when an assessment is determined necessary. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 6. If mental health assessments are deemed necessary by the county, develop a mental health assessment plan and obtain the parent's written informed consent for the assessment. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 7. Provide the assessment plan to the parent. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 8. Report back to the referring local educational agency or IEP team within 30 days from the date of the receipt of the referral if no parental consent for a mental health assessment has been obtained. (Cal. Code Regs., tit. 2, § 60045, subd. (c).)
 9. Notify the local educational agency within one working day after receipt of the parent's written consent for the mental health assessment to establish the date of the IEP meeting. (Cal. Code Regs., tit. 2, § 60045, subd. (d).)

10. Review the following educational information of a pupil referred to the county by a local educational agency for an assessment: a copy of the assessment reports completed in accordance with Education Code section 56327, current and relevant behavior observations of the pupil in a variety of educational and natural settings, a report prepared by personnel that provided "specialized" counseling and guidance services to the pupil and, when appropriate, an explanation why such counseling and guidance will not meet the needs of the pupil. (Cal. Code Regs., tit. 2, § 60045, subd. (a).)
11. If necessary, observe the pupil in the school environment to determine if mental health assessments are needed.
12. If necessary, interview the pupil and family, and conduct collateral interviews.
13. Assess the pupil within the time required by Education Code section 56344. (Cal. Code Regs., tit. 2, § 60045, subd. (e).)
14. Prepare and provide to the IEP team, and the parent or guardian, a written assessment report in accordance with Education Code section 56327. The report shall include the following information: whether the pupil may need special education and related services; the basis for making the determination; the relevant behavior noted during the observation of the pupil in the appropriate setting; the relationship of that behavior to the pupil's academic and social functioning; the educationally relevant health and development, and medical findings, if any; for pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services; a determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate; and the need for specialized services, materials, equipment for pupils with low incidence disabilities. (Cal. Code Regs., tit. 2, § 60045, subds. (f) and (g).)
15. Provide the parent with written notification that the parent may require the assessor to attend the IEP meeting to discuss the recommendation when the parent disagrees with the assessor's mental health service recommendation. (Cal. Code Regs., tit. 2, § 60045, subd. (f).)
16. Review and discuss the county recommendation with the parent and the appropriate members of the IEP team before the IEP team meeting. (Gov. Code, § 7572, subd. (d)(1); Cal. Code Regs., tit. 2, § 60045, subd. (f).)
17. In cases where the local education agency refers a pupil to the county for an assessment, attend the IEP meeting if requested by the parent. (Gov. Code, § 7572, subd. (d)(1); Cal. Code Regs., tit. 2, § 60045, subd. (f).)
18. Review independent assessments of a pupil obtained by the parent. (Gov. Code, § 7572, subd. (d)(2).)
19. Following review of the independent assessment, discuss the recommendation with the parent and with the IEP team before the meeting of the IEP team. (Gov. Code, § 7572, subd. (d)(2).)
20. In cases where the parent has obtained an independent assessment, attend the IEP team meeting if requested. (Gov. Code, § 7572, subd. (d)(2).)

21. The county of origin shall prepare yearly IEP reassessments to determine the needs of a pupil. (Cal. Code Regs., tit. 2, § 60045, subd. (h).)
- C. Transfers and Interim Placements (Cal. Code Regs., tit. 2, § 60055)
1. Following a pupil's transfer to a new school district, the county shall provide interim mental health services, as specified in the existing IEP, for thirty days, unless the parent agrees otherwise.
 2. Participate as a member of the IEP team of a transfer pupil to review the interim services and make a determination of services.
- D. Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary (Gov. Code, §§ 7572.5, subds. (a) and (b), 7572.55; Cal. Code Regs., tit. 2, § 60100)
1. Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary.
 2. Re-assess the pupil in accordance with section 60400 of the regulations, if necessary.
 3. When a recommendation is made that a child be placed in an out-of-state residential facility, the expanded IEP team, with the county as a participant, shall develop a plan for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. (Gov. Code, § 7572.55, subd. (c).)
 4. The expanded IEP team, with the county as a participant, shall document the alternatives to residential placement that were considered and the reasons why they were rejected. (Cal. Code Regs., tit. 2, § 60100, subd. (c).)
 5. The expanded IEP team, with the county as a participant, shall ensure that placement is in accordance with the admission criteria of the facility. (Cal. Code Regs., tit. 2, § 60100, subd. (j).)
 6. When the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties shall ensure that: (1) the mental health services are specified in the IEP in accordance with federal law, and (2) the mental health services are provided by qualified mental health professionals. (Cal. Code Regs., tit. 2, § 60100, subd. (i).)
- E. Designate the lead case manager if the IEP calls for residential placement of a seriously emotionally disturbed pupil to perform the following activities (Gov. Code, § 7572.5, subd. (c)(1); Cal. Code Regs., tit. 2, §§ 60100, 60110):
1. Convene parents and representatives of public and private agencies in order to identify the appropriate residential facility. (Cal. Code Regs., tit. 2, §§ 60110, subd. (c)(1).)
 2. Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)

3. Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
4. Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(1).)
5. When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
6. Complete the local mental health program payment authorization in order to initiate out of home care payments. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(3).)
7. Coordinate the completion of the necessary County Welfare Department, local mental health program, and responsible local education agency financial paperwork or contracts. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(4).)
8. Develop the plan for and assist the family and pupil in the pupil's social and emotional transition from home to the residential facility and the subsequent return to the home. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(5).)
9. Facilitate the enrollment of the pupil in the residential facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(6).)
10. Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
11. Conduct quarterly face-to-face contacts with the pupil at the residential facility to monitor the level of care and supervision and the implementation of the treatment services and the IEP. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
12. Evaluate the continuing stay criteria, as defined in Welfare and Institutions Code section 4094, of a pupil placed in a community treatment facility every 90 days. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
13. Notify the parent or legal guardian and the local education agency administrator or designee when there is a discrepancy in the level of care, supervision, provision of treatment services, and the requirements of the IEP. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(9).)
14. Schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as the pupil remains in residential placement. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(10).)

15. Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs, tit. 2, § 60110, subd. (c)(11).)
- F. Authorize Payments to Out-Of-Home Residential Care Providers / Issue payments to providers of out-of-home residential care for the residential and non-educational costs of seriously emotionally disturbed pupils (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e))
1. Authorize payments to residential facilities based on rates established by the Department of Social Services in accordance with Welfare and Institutions Code sections 18350 and 18356. This activity requires counties to determine that the residential placement meets all the criteria established in Welfare and Institutions Code sections 18350 through 18356 before authorizing payment.
 2. Issue payments to providers of out-of-home residential facilities for the residential and non-educational costs of seriously emotionally disturbed pupils. Payments are for the costs of food, clothing, shelter, daily supervision, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. Counties are eligible to be reimbursed for 60 percent of the total residential and non-educational costs of a seriously emotionally disturbed child placed in an out-of-home residential facility.

Welfare and Institutions Code section 18355.5 applies to this program and prohibits a county from claiming reimbursement for its 60-percent share of the total residential and non-educational costs of a seriously emotionally disturbed child placed in an out-of-home residential facility if the county claims reimbursement for these costs from the Local Revenue Fund identified in Welfare and Institutions Code section 17600 and receives the funds.
 3. Submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed pupils for 24-hour out-of-home care.
- G. Provide Psychotherapy or Other Mental Health Treatment Services (Cal. Code Regs., tit. 2, §§ 60020, subd. (i), 60050, subd. (b), 60200, subd. (c))
1. The host county shall make its provider network available and provide the county of origin a list of appropriate providers used by the host county's managed care plan who are currently available to take new referrals. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)
 2. The county of origin shall negotiate with the host county to obtain access to limited resources, such as intensive day treatment and day rehabilitation. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)
 3. Provide case management services to a pupil when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)

4. Provide individual or group psychotherapy services, as defined in Business and Professions Code section 2903, when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)
5. Provide medication monitoring services when required by the pupil's IEP. "Medication monitoring" includes all medication support services with the exception of the medications or biologicals themselves and laboratory work. Medication support services include prescribing, administering, and monitoring of psychiatric medications or biologicals as necessary to alleviate the symptoms of mental illness. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subds. (f) and (i).)
6. Notify the parent and the local educational agency when the parent and the county mutually agree upon the completion or termination of a service, or when the pupil is no longer participating in treatment. ((Cal. Code Regs., tit. 2, § 60050, subd. (b).)

When providing psychotherapy or other mental health treatment services, the activities of mental health assessments, collateral services, intensive day treatment, case management, crisis intervention, vocational services, and socialization services are not reimbursable.

- H. Participate in due process hearings relating to mental health assessments or services (Gov. Code, § 7586; Cal. Code Regs., tit. 2, § 60550.) When there is a proposal or a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child relating to mental health assessments or services, the following activities are eligible for reimbursement:
1. Retaining county counsel to represent the county mental health agency in dispute resolution. The cost of retaining county counsel is reimbursable.
 2. Preparation of witnesses and documentary evidence to be presented at hearings.
 3. Preparation of correspondence and/or responses to motions for dismissal, continuance, and other procedural issues.
 4. Attendance and participation in formal mediation conferences.
 5. Attendance and participation in information resolution conferences.
 6. Attendance and participation in pre-hearing status conferences convened by the Office of Administrative Hearings.
 7. Attendance and participation in settlement conferences convened by the Office of Administrative Hearings.
 8. Attendance and participation in Due Process hearings conducted by the Office of Administrative Hearings.

9. Paying for psychological and other mental health treatment services mandated by the test claim legislation (California Code of Regulations, title 2, sections 60020, subdivisions (f) and (i)), and the out-of-home residential care of a seriously emotionally disturbed pupil (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e)), that are required by an order of a hearing officer or a settlement agreement between the parties to be provided to a pupil following due process hearing procedures initiated by a parent or guardian.

Attorneys' fees when parents prevail in due process hearings and in negotiated settlement agreements are not reimbursable.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. 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 services that were performed during the period covered by the reimbursement claim. 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 and Equipment

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

5. Travel

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

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any of the following sources shall be identified and deducted from this claim:

1. Funds received by a county pursuant to Government Code section 7576.5.
2. Any direct payments or categorical funding received from the state that is specifically allocated to any service provided under this program.
3. Funds received and applied to this program from appropriations made by the Legislature in future Budget Acts for disbursement by the State Controller's Office.
4. Private insurance proceeds obtained with the consent of a parent for purposes of this program.
5. Medi-Cal proceeds obtained from the state or federal government, exclusive of the county match, that pay for a portion of the county services provided to a pupil under the Handicapped and Disabled Students program in accordance with federal law.
6. Any other reimbursement received from the federal or state government, or other non-local source.

Except as expressly provided in section IV(F)(2) of these parameters and guidelines, Realignment funds received from the Local Revenue Fund that are used by a county for this

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

program are not required to be deducted from the costs claimed. (Stats. 2004, ch. 493, § 6 (Sen. Bill No. 1895).)

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

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

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 21

Proposed Consolidated Ps&Gs April 2006

PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (Assem. Bill No. 3632)

Statutes 1985, Chapter 1274 (Assem. Bill No. 882)

Statutes 1994, Chapter 1128 (Assem. Bill No. 1892)

Statutes 1996, Chapter 654 (Assem. Bill No. 2726)

California Code of Regulations, Title 2, Sections 60000-60610

(Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28]; and Emergency regulations effective July 1, 1998 [Register 98, No. 26], final regulations effective August 9, 1999 [Register 99, No. 33])

Handicapped and Disabled Students (04-RL-4282-10);

Handicapped and Disabled Students II (02-TC-40/02-TC-49); and

Seriously Emotionally Disturbed (SED) Pupils:

Out-of-State Mental Health Services (97-TC-05)

Fiscal Year 2006-2007

I. SUMMARY OF THE MANDATE

The Handicapped and Disabled Students program was enacted in 1984 and 1985 as the state's response to federal legislation (Individuals with Disabilities Education Act, or IDEA) that guaranteed to disabled pupils, including those with mental health needs, the right to receive a free and appropriate public education, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The legislation shifted to counties the responsibility and funding of mental health services required by a pupil's individualized education plan (IEP).

The Commission on State Mandates (Commission) adopted amended parameters and guidelines for the *Handicapped and Disabled Students* program (CSM 4282) on January 26, 2006, ending the period of reimbursement for costs incurred through and including June 30, 2004. Costs incurred after this date are claimed under the parameters and guidelines for the Commission's decision on reconsideration, *Handicapped and Disabled Students (04-RL-4282-10)*.

The Commission adopted its Statement of Decision on the reconsideration of *Handicapped and Disabled Students (04-RL-4282-10)* on May 26, 2005. The Commission found that the 1990 Statement of Decision in *Handicapped and Disabled Students* correctly concluded that the test claim legislation imposes a reimbursable state-mandated program on counties pursuant to article XIII B, section 6 of the California Constitution. The Commission determined, however, that the 1990 Statement of Decision does not fully identify all of the activities mandated by the statutes and regulations pled in the test claim or the offsetting revenue applicable to the claim. Thus, the Commission, on reconsideration, identified the activities expressly required by the test claim legislation and the offsetting revenue that must be identified and deducted from the costs

claimed. Parameters and guidelines were adopted on January 26, 2006, with a period of reimbursement beginning July 1, 2004.

The Commission also adopted a Statement of Decision for the *Handicapped and Disabled Students II* program on May 26, 2005, addressing the statutory and regulatory amendments to the program. Parameters and guidelines were adopted on December 9, 2005, with a period of reimbursement beginning July 1, 2001.

On May 25, 2000, the Commission adopted a Statement of Decision for the *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services (97-TC-05)* program, addressing the counties' responsibilities for out-of-state placement of seriously emotionally disturbed students. Parameters and guidelines were adopted on October 26, 2000, with a period of reimbursement beginning January 1, 1997.

These parameters and guidelines consolidate the Commission's findings on the Reconsideration of *Handicapped and Disabled Students (04-RL-4282-10)*, *Handicapped and Disabled Students II (02-TC-40/02-TC-49)*, and *SED Pupils: Out-of-State Mental Health Services (97-TC-05)*.

II. ELIGIBLE CLAIMANTS

Any county, or city and county, that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

The period of reimbursement for the activities in this consolidated parameters and guidelines begins on July 1, 2006.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If 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.

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 given fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, 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 reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

For each eligible claimant, the following activities are eligible for reimbursement:

- A. Renew the interagency agreement with the local educational agency every three years and, if necessary, revise the agreement (Gov. Code, § 7571; Cal. Code Regs., tit. 2, §§ 60030, 60100)
 - 1. Renew the interagency agreement every three years, and revise if necessary.
 - 2. Define the process and procedures for coordinating local services to promote alternatives to out-of-home care of seriously emotionally disturbed pupils.
- B. Referral and Mental Health Assessments (Gov. Code, §§ 7572, 7576; Cal. Code Regs., tit. 2, §§ 60040, 60045)
 - 1. Work collaboratively with the local educational agency to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed. (Gov. Code, § 7576, subd. (b)(1).)
 - 2. A county that receives a referral for a pupil with a different county of origin shall forward the referral within one working day to the county of origin. (Gov. Code, § 7576, subd. (g); Cal. Code Regs., tit. 2, § 60040, subd. (g).)
 - 3. If the county determines that a mental health assessment is not necessary, the county shall document the reasons and notify the parents and the local educational agency of the county determination within one day. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(1).)
 - 4. If the county determines that the referral is incomplete, the county shall document the reasons, notify the local educational agency within one working day, and return the referral. (Cal. Code Regs., tit. 2, § 60045, subd. (a)(2).)
 - 5. Notify the local educational agency when an assessment is determined necessary. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 - 6. If mental health assessments are deemed necessary by the county, develop a mental health assessment plan and obtain the parent's written informed consent for the assessment. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 - 7. Provide the assessment plan to the parent. (Cal. Code Regs., tit. 2, § 60045, subd. (b).)
 - 8. Report back to the referring local educational agency or IEP team within 30 days from the date of the receipt of the referral if no parental consent for a mental health assessment has been obtained. (Cal. Code Regs., tit. 2, § 60045, subd. (c).)
 - 9. Notify the local educational agency within one working day after receipt of the parent's written consent for the mental health assessment to establish the date of the IEP meeting. (Cal. Code Regs., tit. 2, § 60045, subd. (d).)

10. Review the following educational information of a pupil referred to the county by a local educational agency for an assessment: a copy of the assessment reports completed in accordance with Education Code section 56327, current and relevant behavior observations of the pupil in a variety of educational and natural settings, a report prepared by personnel that provided "specialized" counseling and guidance services to the pupil and, when appropriate, an explanation why such counseling and guidance will not meet the needs of the pupil. (Cal. Code Regs., tit. 2, § 60045, subd. (a).)
11. If necessary, observe the pupil in the school environment to determine if mental health assessments are needed.
12. If necessary, interview the pupil and family, and conduct collateral interviews.
13. Assess the pupil within the time required by Education Code section 56344. (Cal. Code Regs., tit. 2, § 60045, subd. (e).)
14. Prepare and provide to the IEP team, and the parent or guardian, a written assessment report in accordance with Education Code section 56327. The report shall include the following information: whether the pupil may need special education and related services; the basis for making the determination; the relevant behavior noted during the observation of the pupil in the appropriate setting; the relationship of that behavior to the pupil's academic and social functioning; the educationally relevant health and development, and medical findings, if any; for pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services; a determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate; and the need for specialized services, materials, equipment for pupils with low incidence disabilities. (Cal. Code Regs., tit. 2, § 60045, subs. (f) and (g).)
15. Provide the parent with written notification that the parent may require the assessor to attend the IEP meeting to discuss the recommendation when the parent disagrees with the assessor's mental health service recommendation. (Cal. Code Regs., tit. 2, § 60045, subd. (f).)
16. Review and discuss the county recommendation with the parent and the appropriate members of the IEP team before the IEP team meeting. (Gov. Code, § 7572, subd. (d)(1); Cal. Code Regs., tit. 2, § 60045, subd. (f).)
17. In cases where the local education agency refers a pupil to the county for an assessment, attend the IEP meeting if requested by the parent. (Gov. Code, § 7572, subd. (d)(1); Cal. Code Regs., tit. 2, § 60045, subd. (f).)
18. Review independent assessments of a pupil obtained by the parent. (Gov. Code, § 7572, subd. (d)(2).)
19. Following review of the independent assessment, discuss the recommendation with the parent and with the IEP team before the meeting of the IEP team. (Gov. Code, § 7572, subd. (d)(2).)
20. In cases where the parent has obtained an independent assessment, attend the IEP team meeting if requested. (Gov. Code, § 7572, subd. (d)(2).)

21. The county of origin shall prepare yearly IEP reassessments to determine the needs of a pupil. (Cal. Code Regs., tit. 2, § 60045, subd. (h).)
- C. Transfers and Interim Placements (Cal. Code Regs., tit. 2, § 60055)
1. Following a pupil's transfer to a new school district, the county shall provide interim mental health services, as specified in the existing IEP, for thirty days, unless the parent agrees otherwise.
 2. Participate as a member of the IEP team of a transfer pupil to review the interim services and make a determination of services.
- D. Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary (Gov. Code, §§ 7572.5, subds. (a) and (b), 7572.55; Cal. Code Regs., tit. 2, § 60100)
1. Participate as a member of the IEP team whenever the assessment of a pupil determines the pupil is seriously emotionally disturbed and residential placement may be necessary.
 2. Re-assess the pupil in accordance with section 60400 of the regulations, if necessary.
 3. When a recommendation is made that a child be placed in an out-of-state residential facility, the expanded IEP team, with the county as a participant, shall develop a plan for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. (Gov. Code, § 7572.55, subd. (c).)
 4. The expanded IEP team, with the county as a participant, shall document the alternatives to residential placement that were considered and the reasons why they were rejected. (Cal. Code Regs., tit. 2, § 60100, subd. (c).)
 5. The expanded IEP team, with the county as a participant, shall ensure that placement is in accordance with the admission criteria of the facility. (Cal. Code Regs., tit. 2, § 60100, subd. (j).)
 6. When the expanded IEP team determines that it is necessary to place a pupil who is seriously emotionally disturbed in residential care, counties shall ensure that: (1) the mental health services are specified in the IEP in accordance with federal law, and (2) the mental health services are provided by qualified mental health professionals. (Cal. Code Regs., tit. 2, § 60100, subd. (i).)
- E. Designate the lead case manager if the IEP calls for residential placement of a seriously emotionally disturbed pupil to perform the following activities (Gov. Code, § 7572.5, subd. (c)(1); Cal. Code Regs., tit. 2, §§ 60100, 60110):
1. Convene parents and representatives of public and private agencies in order to identify the appropriate residential facility. (Cal. Code Regs., tit. 2, §§ 60110, subd. (c)(1).)
 2. Identify, in consultation with the IEP team's administrative designee, a mutually satisfactory placement that is acceptable to the parent and addresses the pupil's educational and mental health needs in a manner that is cost-effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. (Cal. Code Regs., tit. 2, §§ 60100, subd. (e), 60110, subd. (c)(2).)

3. Document the determination that no nearby placement alternative that is able to implement the IEP can be identified and seek an appropriate placement that is as close to the parents' home as possible. (Cal. Code Regs., tit. 2, § 60100, subd. (f).)
4. Coordinate the residential placement plan of a pupil with a disability who is seriously emotionally disturbed as soon as possible after the decision has been made to place the pupil in residential placement. The residential placement plan shall include provisions, as determined in the pupil's IEP, for the care, supervision, mental health treatment, psychotropic medication monitoring, if required, and education of the pupil. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(1).)
5. When the IEP team determines that it is necessary to place a pupil with a disability who is seriously emotionally disturbed in a community treatment facility, the lead case manager shall ensure that placement is in accordance with admission, continuing stay, and discharge criteria of the community treatment facility. (Cal. Code Regs., tit. 2, § 60110, subd. (b)(3).)
6. Complete the local mental health program payment authorization in order to initiate out of home care payments. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(3).)
7. Coordinate the completion of the necessary County Welfare Department, local mental health program, and responsible local education agency financial paperwork or contracts. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(4).)
8. Develop the plan for and assist the family and pupil in the pupil's social and emotional transition from home to the residential facility and the subsequent return to the home. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(5).)
9. Facilitate the enrollment of the pupil in the residential facility. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(6).)
10. Notify the local educational agency that the placement has been arranged and coordinate the transportation of the pupil to the facility if needed. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(7).)
11. Conduct quarterly face-to-face contacts with the pupil at the residential facility to monitor the level of care and supervision and the implementation of the treatment services and the IEP. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
12. Evaluate the continuing stay criteria, as defined in Welfare and Institutions Code section 4094, of a pupil placed in a community treatment facility every 90 days. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(8).)
13. Notify the parent or legal guardian and the local education agency administrator or designee when there is a discrepancy in the level of care, supervision, provision of treatment services, and the requirements of the IEP. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(9).)
14. Schedule and attend the next expanded IEP team meeting with the expanded IEP team's administrative designee within six months of the residential placement of a pupil with a disability who is seriously emotionally disturbed and every six months thereafter as the pupil remains in residential placement. (Cal. Code Regs., tit. 2, § 60110, subd. (c)(10).)

15. Facilitate placement authorization from the county's interagency placement committee pursuant to Welfare and Institutions Code section 4094.5, subdivision (e)(1), by presenting the case of a pupil with a disability who is seriously emotionally disturbed prior to placement in a community treatment facility. (Cal. Code Regs, tit. 2, § 60110, subd. (c)(11).)
- F. Authorize Payments to Out-Of-Home Residential Care Providers / Issue payments to providers of out-of-home residential care for the residential and non-educational costs of seriously emotionally disturbed pupils (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e))
1. Authorize payments to residential facilities based on rates established by the Department of Social Services in accordance with Welfare and Institutions Code sections 18350 and 18356. This activity requires counties to determine that the residential placement meets all the criteria established in Welfare and Institutions Code sections 18350 through 18356 before authorizing payment.
 2. Issue payments to providers of out-of-home residential facilities for the residential and non-educational costs of seriously emotionally disturbed pupils. Payments are for the costs of food, clothing, shelter, daily supervision, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. Counties are eligible to be reimbursed for 60 percent of the total residential and non-educational costs of a seriously emotionally disturbed child placed in an out-of-home residential facility.
Welfare and Institutions Code section 18355.5 applies to this program and prohibits a county from claiming reimbursement for its 60-percent share of the total residential and non-educational costs of a seriously emotionally disturbed child placed in an out-of-home residential facility if the county claims reimbursement for these costs from the Local Revenue Fund identified in Welfare and Institutions Code section 17600 and receives the funds.
 3. Submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed pupils for 24-hour out-of-home care.
- G. Provide Psychotherapy or Other Mental Health Treatment Services (Cal. Code Regs., tit. 2, §§ 60020, subd. (i), 60050, subd. (b), 60200, subd. (c))
1. The host county shall make its provider network available and provide the county of origin a list of appropriate providers used by the host county's managed care plan who are currently available to take new referrals. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)
 2. The county of origin shall negotiate with the host county to obtain access to limited resources, such as intensive day treatment and day rehabilitation. (Cal. Code Regs., tit. 2, § 60200, subd. (c)(1).)
 3. Provide case management services to a pupil when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)

4. Provide individual or group psychotherapy services, as defined in Business and Professions Code section 2903, when required by the pupil's IEP. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subd. (i).)
5. Provide medication monitoring services when required by the pupil's IEP. "Medication monitoring" includes all medication support services with the exception of the medications or biologicals themselves and laboratory work. Medication support services include prescribing, administering, and monitoring of psychiatric medications or biologicals as necessary to alleviate the symptoms of mental illness. This service shall be provided directly or by contract at the discretion of the county of origin. (Cal. Code Regs., tit. 2, § 60020, subs. (f) and (i).)
6. Notify the parent and the local educational agency when the parent and the county mutually agree upon the completion or termination of a service, or when the pupil is no longer participating in treatment. ((Cal. Code Regs., tit. 2, § 60050, subd. (b).)

When providing psychotherapy or other mental health treatment services, the activities of mental health assessments, collateral services, intensive day treatment, case management, crisis intervention, vocational services, and socialization services are not reimbursable.

- H. Participate in due process hearings relating to mental health assessments or services (Gov. Code, § 7586; Cal. Code Regs., tit. 2, § 60550.) When there is a proposal or a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free, appropriate public education to the child relating to mental health assessments or services, the following activities are eligible for reimbursement:
1. Retaining county counsel to represent the county mental health agency in dispute resolution. The cost of retaining county counsel is reimbursable.
 2. Preparation of witnesses and documentary evidence to be presented at hearings.
 3. Preparation of correspondence and/or responses to motions for dismissal, continuance, and other procedural issues.
 4. Attendance and participation in formal mediation conferences.
 5. Attendance and participation in information resolution conferences.
 6. Attendance and participation in pre-hearing status conferences convened by the Office of Administrative Hearings.
 7. Attendance and participation in settlement conferences convened by the Office of Administrative Hearings.
 8. Attendance and participation in Due Process hearings conducted by the Office of Administrative Hearings.

9. Paying for psychological and other mental health treatment services mandated by the test claim legislation (California Code of Regulations, title 2, sections 60020, subdivisions (f) and (i)), and the out-of-home residential care of a seriously emotionally disturbed pupil (Gov. Code, § 7581; Cal. Code Regs., tit. 2, § 60200, subd. (e)), that are required by an order of a hearing officer or a settlement agreement between the parties to be provided to a pupil following due process hearing procedures initiated by a parent or guardian.

Attorneys' fees when parents prevail in due process hearings and in negotiated settlement agreements are not reimbursable.

V. CLAIM PREPARATION AND SUBMISSION

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. 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 services that were performed during the period covered by the reimbursement claim. 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 and Equipment

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

5. Travel

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

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any of the following sources shall be identified and deducted from this claim:

1. Funds received by a county pursuant to Government Code section 7576.5.
2. Any direct payments or categorical funding received from the state that is specifically allocated to any service provided under this program.
3. Funds received and applied to this program from appropriations made by the Legislature in future Budget Acts for disbursement by the State Controller's Office.
4. Private insurance proceeds obtained with the consent of a parent for purposes of this program.
5. Medi-Cal proceeds obtained from the state or federal government, exclusive of the county match, that pay for a portion of the county services provided to a pupil under the Handicapped and Disabled Students program in accordance with federal law.
6. Any other reimbursement received from the federal or state government, or other non-local source.

Except as expressly provided in section IV(F)(2) of these parameters and guidelines, Realignment funds received from the Local Revenue Fund that are used by a county for this

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

program are not required to be deducted from the costs claimed. (Stats. 2004, ch. 493, § 6 (Sen. Bill No. 1895).)

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

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

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

County of San Mateo
Handicapped & Disabled Students
FY 1996-97, 1997-98 and 1998-99
Incorrect Reduction Claim

Supporting Documents

Exhibit 22)

Remittance Advice/Reduction Notice Dated 4/28/03



9941

STEVE WESTLY
CALIFORNIA STATE CONTROLLER
DIVISION OF ACCOUNTING AND REPORTING

APRIL 28, 2003

AUDITOR CONTROLLER
COUNTY OF SAN MATEO
555 COUNTY CENTER 4TH FLOOR
REDWOOD CITY CA 94063

LSU

DEAR CLAIMANT:

RE: HANDI & DISABLE STU CH 1747/84

WE HAVE REVIEWED YOUR 1996/1997 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED	2,297,163.00
LESS: TOTAL ADJUSTMENTS (DETAIL ON PAGE 2)	- 1,038,963.00
CLAIM AMOUNT APPROVED	1,258,200.00
LESS: TOTAL PRIOR PAYMENTS (DETAIL ON PAGE 2)	2,297,163.00
AMOUNT DUE STATE	\$ 1,038,963.00

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 1,038,963.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT FRAN STUART AT (916) 323-0766 OR IN WRITING AT THE ABOVE ADDRESS.

SINCERELY,

Ginny Brummels
GINNY BRUMMELS
MANAGER

9941

ADJUSTMENT TO CLAIM:		
FIELD AUDIT FINDINGS	-	1,038,963.00
LESS: TOTAL ADJUSTMENTS	-	1,038,963.00
PRIOR PAYMENTS:		
SCHEDULE NO. MA122811 PAID 10-22-2001		0.00
SCHEDULE NO. MA91352A PAID 01-04-2000		146,137.00
SCHEDULE NO. MA91303A PAID 07-26-1999		293,079.00
SCHEDULE NO. MA81003A PAID 03-12-1999		1,857,947.00
SCHEDULE NO. MA71609E PAID 09-19-1997		0.00
LESS: TOTAL PRIOR PAYMENTS		2,297,163.00



STEVE WESTLY

California State Controller

Division of Accounting and Reporting

April 28, 2003

The Honorable Tom Huening
Auditor-Controller, San Mateo County
555 County Center, 4th Floor
Redwood City CA 94063

Dear Claimant:

Re: HANDICAPPED & DISABLED STUDENTS CH 1747/84

We have reviewed your 1997/1998 fiscal year reimbursement claim for the mandated cost program referenced above. The results of our review are as follows:

Amount Claimed	\$2,429,787.00
Less: Total Adjustments (Detail on Page 2)	<u>-1,351,404.00</u>
Claim Amount Approved	1,078,383.00
Less: Total Prior Payments (Detail on Page 2)	<u>-2,429,787.00</u>
Amount Due State	<u>\$1,351,404.00</u>

Please remit a warrant in the amount of \$1,351,404.00 within 30 days from the date of this letter, payable to the State Controller's Office, Division of Accounting and Reporting, P. O. Box 942850, Sacramento, CA 94250-5875 with a copy of this letter. Failure to remit the amount due will result in our office proceeding to offset the amount from the next payments due to your agency for State Mandated Cost Programs. If you have any questions, please contact Fran Stuart at (916) 323-0766 or in writing at the above address.

Sincerely,

Ginny Brummels
Ginny Brummels,
Manager

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250
SACRAMENTO 3301 C Street, Suite 500, Sacramento, CA 95816 (916) 445-8717

Page 2

ADJUSTMENT TO CLAIM

Field Audit Findings	-	\$1,351,404.00
Less: Total Adjustments		-\$1,351,404.00

PRIOR PAYMENTS:

SCHEDULE NO. MA71656E PAID 01/22/1998	\$1,433,622.00	
SCHEDULE NO. MA81005A PAID 03/15/1999	\$ 315,031.00	
SCHEDULE NO. MA91305A PAID 08/13/1999	\$ 679,183.00	
SCHEDULE NO. MA91332A PAID 10/29/1999	\$ 1,951.00	
Less: Total Prior Payments		-\$2,429,787.00



9941

LSU

STEVE WESTLY
CALIFORNIA STATE CONTROLLER
DIVISION OF ACCOUNTING AND REPORTING

APRIL 28, 2003

AUDITOR CONTROLLER
COUNTY OF SAN MATEO
555 COUNTY CENTER 4TH FLOOR
REDWOOD CITY CA 94063

DEAR CLAIMANT:

RE: HANDI & DISABLED STU CH 1747/84

WE HAVE REVIEWED YOUR 1998/1999 FISCAL YEAR REIMBURSEMENT CLAIM FOR THE MANDATED COST PROGRAM REFERENCED ABOVE. THE RESULTS OF OUR REVIEW ARE AS FOLLOWS:

AMOUNT CLAIMED	3,041,213.00
LESS: TOTAL ADJUSTMENTS (DETAIL ON PAGE 2)	- 1,550,882.00

CLAIM AMOUNT APPROVED	1,490,331.00
LESS: TOTAL PRIOR PAYMENTS (DETAIL ON PAGE 2)	3,040,213.00

AMOUNT DUE STATE	\$ 1,549,882.00 ✓
	=====

PLEASE REMIT A WARRANT IN THE AMOUNT OF \$ 1,549,882.00 WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, PAYABLE TO THE STATE CONTROLLER'S OFFICE, DIVISION OF ACCOUNTING AND REPORTING, P.O. BOX 942850, SACRAMENTO, CA 94250-5875 WITH A COPY OF THIS LETTER. FAILURE TO REMIT THE AMOUNT DUE WILL RESULT IN OUR OFFICE PROCEEDING TO OFFSET THE AMOUNT FROM THE NEXT PAYMENTS DUE TO YOUR AGENCY FOR STATE MANDATED COST PROGRAMS.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT FRAN STUART AT (916) 323-0766 OR IN WRITING AT THE ABOVE ADDRESS.

SINCERELY,

Ginny Brummels
GINNY BRUMMELS
MANAGER

PAGE 1 OF 2

LOCAL REIMBURSEMENT SECTION
P.O. BOX 942850 SACRAMENTO, CA 94250-5875