

Item 14

**Final Staff Analysis
Proposed Statewide Cost Estimate**

\$577,876

(Approximate Prospective Cost of \$106,183 Annually)

Education Code Sections 14501, 33126(b), 35186, 41020, and 42127.6 as Added or Amended by Statutes 2004, Chapter 900 (SB 550); Statutes 2004, Chapter 902 (AB 3001); Statutes 2004, Chapter 903 (AB 2727); Statutes 2005, Chapter 118 (AB 831); Statutes 2006, Chapter 704 (AB 607); and Statutes 2007, Chapter 526 (AB 347)

Williams Case Implementation I, II, and III
05-TC-04, 07-TC-06, and 08-TC-01

San Diego County Office of Education and Sweetwater Union High School District, Claimants

STAFF ANALYSIS

Background and Summary of the Mandate

This program arises from the consolidated test claim of three test claim filings based on legislative enactments resulting from the state's settlement in *Eliezer Williams, et al. v. State of California (Williams)*. In *Williams*, the plaintiffs sought to vindicate the rights of public school children to receive access to sufficient instructional materials; decent, clean, and safe school facilities; and qualified teachers.

The case was settled under the Schwarzenegger administration; and the settlement agreement called for legislative action to ensure that students would be provided with sufficient instructional materials, qualified teachers, and clean and safe facilities and instructional spaces. The resulting statutes made a number of changes to the Education Code, which addressed deficiencies in the provision of instructional materials, assignment and retention of qualified teachers, and the maintenance of clean and safe facilities and instructional spaces.

On December 7, 2012, the Commission on State Mandates (Commission) adopted a statement of decision on the consolidated test claim finding that Education Code sections 14501, 33126(b), 35186, 41020, and 42127.6, as added or amended by the test claim statutes, impose reimbursable state-mandated new programs or higher levels of service for school districts and county offices of education, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.¹

On April 19, 2013, the parameters and guidelines were adopted approving the reimbursable activities described below under the *Reimbursable Activities* section and based on the consolidated *Williams Case Implementation* test claim filings.²

¹ Exhibit A.

² Exhibit B.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between September 29, 2004 and June 30, 2005 and for fiscal years 2005-06 through 2011-12) with the State Controller's Office (SCO) by November 21, 2013. Late initial reimbursement claims may be filed until November 21, 2014. Reimbursement claims for fiscal year 2012-2013 are due by February 18, 2014.

Eligible Claimants and Period of Reimbursement

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

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. However, given the various test claim filing dates and various effective dates of statutes, the beginning of the reimbursement periods differ by approved activity, but range from September 29, 2004 to October 12, 2007. The beginning reimbursement periods for each approved activity are included below under the *Reimbursable Activities* section.

Reimbursable Activities

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

1. Reimbursable activities for school districts:
 - a. Beginning September 29, 2004, reporting the following information on the School Accountability Report Card, pursuant to Education Code section 33126(b):³
 - i. Misassignments of teachers, including teachers of English learners, and the number of vacant teacher positions for the most recent three-year period. Reimbursement is not required for reporting the assignment of teachers outside their areas of competence, as was required by Proposition 98 and is not new.
 - ii. Availability of textbooks and other instructional materials. Reimbursement is not required for reporting on the quality and currency of textbooks and other instructional materials; those reporting requirements were required by Proposition 98 and are not new. Additionally, reimbursement is not required to determine whether each student in the district has sufficient textbooks or instructional materials; that activity is required as a condition of seeking funds under the Pupil Textbook and Instructional Materials Incentive grant program pursuant to Education Code section 60119, and was denied by the Commission.
 - iii. Maintenance needed to ensure good repair. Reimbursement is not required for reporting on the safety, cleanliness, and adequacy of school facilities, since that was required by Proposition 98 and is not new.

³ Statutes 2004, chapter 900.

Reimbursement for this activity is required only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Education Code section 41020. If the information is determined to be inaccurate, reimbursement for reporting the information required by 1.a. i, ii. or iii above, is required if the information is corrected by May 15 following the audit.⁴

- b. Complying with the Williams Complaint Process pursuant to Education Code section 35186 as enacted in Statutes 2004, chapter 900 (SB 550), and amended by Statutes 2004, chapter 903 (AB 2727); Statutes 2005, chapter 118 (AB 831); Statutes 2006, chapter 704 (AB 607); and Statutes 2007, chapter 526 (AB 347):
 - i. Receiving complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher misassignments or vacancies. The eligible reimbursement period for this activity begins September 29, 2004.⁵
 - ii. Responding to complaints, if requested. The eligible reimbursement period for this activity begins September 29, 2004.⁶
 - iii. Forwarding a complaint beyond the authority of the local school official in a timely manner but not to exceed 10 working days. The eligible reimbursement period for this activity begins September 29, 2004.⁷
 - iv. Making all reasonable efforts to investigate any problem within the principal's authority. The eligible reimbursement period for this activity begins September 29, 2004.⁸
 - v. Remedying a valid complaint within a reasonable time period but not to exceed 30 working days. The eligible reimbursement period for this activity begins September 29, 2004.⁹

The activity of remedying a valid complaint includes costs incurred, where applicable, for the administrative activities of (1) arranging for the maintenance or repair required to remedy complaints related to facility conditions that pose an emergency or urgent threat to the health and safety of pupils or staff (2) procuring sufficient textbooks or instructional materials, but only in the case that the district is not participating in the Pupil Textbook and Instructional Materials Incentive Program pursuant to Education Code section 60117 et seq.; (3) locating suitable teachers to fill vacancies, or reallocating staff to

⁴ Education Code section 33126(c) (Stats. 2004, ch. 900 (SB 550)).

⁵ Education Code section 35186(a)(1) (Stats. 2004, ch. 900 § 12 (SB 550); Stats. 2004, ch. 903 (AB 2727)).

⁶ Education Code section 35186(a)(1) (Stats. 2004, ch. 900 § 12 (SB 550)).

⁷ Education Code section 35186(a)(3) (Stats. 2004, ch. 900 § 12 (SB 550)).

⁸ Education Code section 35186(b) (Stats. 2004, ch. 900 § 12 (SB 550)).

⁹ Education Code section 35186(b) (Stats. 2004, ch. 900 § 12 (SB 550)).

remedy misassignments, as identified by the complaint process; and (4) remedying a failure to provide intensive instruction and services to a pupil who has not passed one or both parts of the high school exit examination by the end of grade 12.

Reimbursement is **not required** for the costs of any maintenance or repair required to remedy complaints related to facilities conditions that pose an emergency or urgent threat to the health and safety of pupils or staff; teacher salaries and benefits; or the salaries and other direct costs of intensive instruction and services provided to pupils who have not passed one or both parts of the high school exit examination by the end of grade 12.

- vi. Reporting the resolution to the complainant within 45 working days. The eligible reimbursement period for this activity begins September 29, 2004.¹⁰
- vii. Hearing the complaint at a regularly scheduled hearing of the district governing board. The eligible reimbursement period for this activity begins September 29, 2004.¹¹
- viii. Reporting summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent and the district governing board. The eligible reimbursement period for this activity begins September 29, 2004.¹²
- ix. Beginning September 29, 2004, the *one-time activity* of posting a notice in each classroom identifying the appropriate subjects of complaint, including sufficient textbooks and instructional materials, and facilities conditions; and informing potential complainants of the location where a complaint form may be obtained in the case of a shortage.¹³
- x. Beginning July 25, 2005, the *one-time activity* of adding to the posted notice in each classroom that “[t]here should be no teacher vacancies or misassignments.”¹⁴
- xi. Beginning October 12, 2007, the *one-time activity* of adding to the posted notice in each classroom in schools that serve grades 10 to 12, that “[p]upils who have not passed the high school exit examination by the end of grade 12 are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.”¹⁵

¹⁰ Education Code section 35186(b) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹¹ Education Code section 35186(c) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹² Education Code section 35186(d) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹³ Education Code section 35186(f) (Stats. 2004, ch. 900 § 12 (SB 550)).

¹⁴ Education Code section 35186(f) (Stats. 2005, ch. 118 § 5 (AB 831)).

¹⁵ Education Code section 35186(f) (Stats. 2007, ch. 526 § 2 (AB 347)).

- xii. Beginning October 12, 2007, receiving complaints regarding “any deficiencies related to intensive instruction and services provided...to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12.”¹⁶
- c. Beginning September 29, 2004, including verification of the following in annual compliance audits, pursuant to Education Code sections 14501 and 41020:
 - i. That the reporting requirements and the hearings required to establish sufficiency of textbooks or instructional materials, or both, as outlined in section 60119, have been completed, for schools that receive instructional materials funds.¹⁷
 - ii. Whether any of a representative sample of teachers is misassigned, within the meaning of sections 33126(b) and 44258.9.¹⁸
 - iii. That the information reported on the School Accountability Report Card required by section 33126 is accurate based on the tests and criteria provided for in the Audit Guide.¹⁹
- d. Beginning September 29, 2004, providing to the county superintendent of schools, pursuant to Education Code section 42127.6:
 - i. A copy of a study, report, evaluation, or audit commissioned by the school district, the county superintendent, the Superintendent of Public Instruction, or a state control agency, which contains evidence that the school district is showing fiscal distress under the standards and criteria adopted in Education Code sections 33127, unless commissioned by the district or the county office of education.
 - ii. A copy of a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Education Code section 42127.8.

Reimbursement is not required to provide a copy of a study, report, evaluation, or audit commissioned *at the discretion of* the district or of the county office of education.

2. Reimbursable activities for county offices of education:

Beginning September 29, 2004, reviewing audit exceptions related to the following, pursuant to Education Code sections 14501 and 41020, and determining whether the exceptions are either corrected or an acceptable plan of correction has been developed:

¹⁶ Education Code section 35186(a) (Stats. 2007, ch. 526 § 2 (AB 347)).

¹⁷ Education Code sections 14501; 41020; 60119; 60252 (Stats. 2004, ch. 900 (SB 550)).

¹⁸ Education Code sections 14501; 41020; 44258.9 (Stats. 2004, ch. 900 (SB 550)). See also Code of Regulations, title 5, section 19817.5 (Register 2011, No. 18).

¹⁹ Education Code sections 14501; 41020; 33126(b) (Stats. 2004, ch. 900 (SB550)). See also Code of Regulations, title 5, section 19837.3 (Register 2009, No. 27).

- i. Reporting and hearing requirements for sufficiency of textbooks or instructional materials, or both, as defined in section 60119.
- ii. Teacher misassignments pursuant to Education Code section 44258.9.
- iii. The accuracy of the information reported on the School Accountability Report Card required by section 33126.²⁰

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 29 school districts and compiled by the SCO²¹. The actual claims data showed that 136 initial claims were filed for fiscal years 2004-2005²², through 2011-2012 for a total of \$577,876. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are approximately 1043 school districts in California. Of those, only 29 school districts filed initial reimbursement claims totaling \$577,876 for this program for fiscal years 2004-2005 through 2011-2012. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial claims for this program for fiscal years 2004-2005 through 2011-2012 may be filed until November 21, 2014. There may be several reasons that non-claiming school districts did not file reimbursement claims, including but not limited to:
 - they did not incur more than \$1,000 in increased costs for this program; or
 - they did not have supporting documentation to file a reimbursement claim.
 - Additionally, the total costs claimed in the most recent three years of the initial claiming period are trending upward. It is likely that the costs of the activities will continue to increase with the costs of living moving forward.
- *The initial reimbursement costs of this program will vary from year to year.*
 - The variation in costs claimed for this program may be due to more than one eligible reimbursement period effective on different dates for specified activities added by subsequent statutes and one-time activities found to be reimbursable.
 - Additionally, this program requires school districts to submit claims based on costs incurred pursuant to the *Williams* complaint process as outlined in the parameters and guidelines. As a result, the costs of claims will vary annually depending on the number of complaints filed within the school district.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

²⁰ Education Code section 41020 (Stats. 2004, ch. 900 § 13 (SB 550)).

²¹ Claims data reported as of December 4, 2013.

²² The initial reimbursement period began on September 29, 2004.

- The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. Reimbursement is required for the higher level of service for the incremental costs of reporting on the three specified new subjects within the School Accountability Report Card under prior law. Claimants may file claims for activities that, while part of a larger process, are not reimbursable under the test claim decision and parameters and guidelines and those claims may therefore be reduced by the SCO.

Methodology

Fiscal Years 2004-2005 through 2011-2012

The statewide cost estimate for fiscal years 2004-2005²³ through 2011-2012 was developed by totaling the 136 reimbursement claims filed with the SCO for these years totaling \$577,876. For the reasons discussed above, staff finds that the averages for the most recent three-year period are most indicative of potential costs. For the most recent three-year period, costs averaged \$106,183 annually. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2004-2005	7	\$26,795
2005-2006	11	\$46,027
2006-2007	12	\$48,610
2007-2008	18	\$81,314
2008-2009	17	\$56,582
2009-2010	21	\$90,556
2010-2011	25	\$112,108
2011-2012	25	\$115,884
TOTAL	136	\$577,876

Draft Staff Analysis and Proposed Statewide Cost Estimate

Commission staff issued a draft staff analysis on December 16, 2013.²⁴ No comments were received.

Conclusion

On January 24, 2014, the Commission adopted the statewide cost estimate of **\$577,876 (Approximate Prospective Cost of \$106,183 Annually)** for costs incurred in complying with the *Williams Case Implementation I, II, III* program.

²³ The initial reimbursement period began on September 29, 2004.

²⁴ Exhibit C.