

**ITEM 5**  
**TEST CLAIM**  
**FINAL STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEMENT OF DECISION**

Education Code Section 49452.8  
Statutes 2006, Chapter 413 (AB 1433)

*Pupil Health: Oral Health Assessment*

07-TC-03

San Diego Unified School District, Claimant

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**1. TEST CLAIM TITLE**

Pupil Health: Oral Health Assessment

**2. CLAIMANT INFORMATION**

**San Diego Unified School District**

Name of Local Agency or School District

**William A. Kowba**

Claimant Contact

**Chief Financial Officer**

Title

**4100 Normal Street, Room 3209**

Street Address

**San Diego, CA 92103**

City, State, Zip

**(619) 725-7562**

Telephone Number

**(619) 725-7564**

Fax Number

**wkowba@sandi.net**

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

**Arthur M. Palkowitz, Esq.**

Claimant Representative Name

**Director, Resource Development**

Title

**San Diego Unified School District**

Organization

**4100 Normal Street, Room 3160**

Street Address

**San Diego, CA 92103**

City, State, Zip

**(619) 725-7786**

Telephone Number

**(619) 725-7564**

Fax Number

**apalkowitz@sandi.net**

E-Mail Address

<b>RECEIVED</b>
Filing Date: <b>SEP 28 2007</b>
<b>COMMISSION ON STATE MANDATES</b>
Test Claim #: <b>07-TC-04</b>

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.*

<p><b>Education Code Section 49452.8, Statutes 2006, Chapter 413 [AB 1433], effective September 22, 2006</b></p>
<p><input checked="" type="checkbox"/> <i>Copies of all statutes and executive orders cited are attached.</i></p>

Sections 5, 6, 7 are attached as follows:

- 5. Written Narrative:** pages 1 to 3 .
- 6. Declarations:** pages 4 to 8 .
- 7. Documentation:** pages 9 to 23 .

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

## 5. WRITTEN NARRATIVE

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (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 funding sources available for this program:
  - (i) Dedicated state funds
  - (ii) Dedicated federal funds
  - (iii) Other nonlocal agency funds
  - (iv) The local agency's general purpose funds
  - (v) Fee authority to offset costs
- (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.

## 6. DECLARATIONS

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and 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) describe 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); and
- (D) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

## 6. DOCUMENTATION

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.

**8. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission. \**

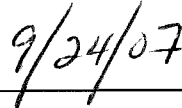
This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

**William A. Kowba**

**Chief Financial Officer**

Print or Type Name of Authorized Local Agency  
or School District Official

Print or Type Title



Signature of Authorized Local Agency or School  
District Official

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

**5. WRITTEN NARRATIVE**  
**Test Claim of San Diego Unified School District**  
**Chapter 413, Statutes of 2006**  
***Pupil Health: Oral Health Assessment***

**STATEMENT OF COSTS**

The actual and estimated costs resulting from the addition of AB 1433, Chapter 413 exceeds \$1,000.

**(A) New Activities and Costs**

- (1) To train district staff in order to implement the mandated activities.
- (2) To review the requirements in Chapter 413 and any regulations relating to the *Pupil Health: Oral Health Assessment* mandate.
- (3) To prepare of a letter and issuance, or other reasonable method of communication. The notification must consist, at a minimum, of a letter that includes all of the following:
  - (a) An explanation of the administrative requirements of this Education Code §49452.8.
  - (b) Information on the importance of primary teeth.
  - (c) Information on the importance of oral health to overall health and to learning.
  - (d) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.
  - (e) Contact information for county public health departments.
  - (f) A statement of privacy applicable under state and federal laws and regulations.
- (4) To notify parents or legal guardian of pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, concerning the oral health assessment requirement.
- (5) To collect completed letters from the parents or legal guardians of kindergarten or first-grade pupils to ensure compliance with the oral health assessment requirements no later than May 31<sup>st</sup> of the school year.
- (6) To excuse parents or legal guardians who indicate on the letter that the oral health assessment could not be completed because one or more of the reason provided in subparagraphs (A) to (C)<sup>1</sup> from complying with subdivision (a)<sup>2</sup>.

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<sup>1</sup> Subparagraph (A) to (C) of paragraph (2) of subdivision (d) reads, “(A) completion of an assessment poses an undue financial burden on the parent or legal guardian. (B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered health professional. (C) The parent or legal guardian does not consent to an assessment.”

<sup>2</sup> Education Code 49452.8 (a) reads, “A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public

- (7) To prepare and submit a report, by December 31 of each year, to the county office of education upon receipt of completed assessments. School districts must include in that report:
- (a) The total number of pupils in the district, by school, who are subject to the oral health assessment requirement (i.e., the number of kindergarten students plus the number of first grade students who did not attend public school kindergarten.
  - (b) The total number of pupils who present proof of an assessment.
  - (c) The total number of pupils who could not complete an assessment due to financial burden.
  - (d) The total number of pupils who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.
  - (e) The total number of pupils who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.
  - (f) The total number of pupils who are assessed and found to have untreated decay.
  - (g) The total number of pupils who did not return either the assessment or the waiver request to the school

**(B) Existing Activities and Costs**

There are no existing oral health assessment activities or costs that are modified by the *Pupil Health: Oral Health Assessment* mandate.

**(C) Actual Increased Costs Incurred by San Diego Unified School District**

To implement the *Pupil Health: Oral Health Assessment* legislation, San Diego Unified School District incurred actual increased costs of \$67,488 (2006/2007).

**(D) Actual or Estimated Annual Costs that will be Incurred by the San Diego Unified School District to implement the *Pupil Health: Oral Health Assessment* Mandate**

To implement the *Pupil Health: Oral Health Assessment* legislation, San Diego Unified School District estimates additional annual expenses of \$70,000 per year for 2007/2008 and beyond. (*Note – this forecast predicated on \$67,488 figure in item c.*)

**(E) Statewide Cost Estimate of Increased Costs that all Local Agencies or School Districts will Incur to Implement the *Pupil Health: Oral Health Assessment* Mandate**

The statewide cost estimate of increased costs incurred by this legislation would be \$4,048,00.

**(F) All Funding Sources for *Pupil Health: Oral Health Assessment*:**

- (i) Dedicated state funds: \$4,048,000 (*Education Code* Section 49452.8), which is provided in Budget Item #6110-268-0001 of the Budget Act of 2006 as amended by Section 43 of

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school, shall, no later than May 31 of the school year, present proof of having received licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

Assembly Bill 1811 (Chapter 48, Statutes of 2006). These funds are pursuant to the California Education Code Section 49452.8.

- (ii) Dedicated federal funds: None
- (iii) Other non-local agency funds: None
- (iv) The local agency's general purpose fund: None
- (v) Fee authority to offset costs: None

**(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.**

There are no prior mandate determinations made by the Board of Control or the Commission on State Mandates that are related to the *Pupil Health: Oral Health Assessment mandate*.

DECLARATION OF JENNIFER GORMAN  
SAN DIEGO UNIFIED SCHOOL DISTRICT

No. CSM \_\_\_\_\_  
Test Claim of San Diego Unified School District  
Chapter 413, Statutes of 2006  
Education Code Section 49452.8  
Pupil Health: Oral Health Assessment

I, Jennifer Gorman, Nursing and Wellness Program Manager at San Diego Unified School District, make the following declaration and statement:

In my capacity as the District School Nurse Specialist, I am responsible for management of San Diego Unified School District's school nursing services program. I am familiar with the provisions and requirements of Chapter 413, Statutes of 2006.

Education Code section 49452.8 as added by Chapter 413 requires public schools to perform the following activities:

- (1) Review, develop, implement, and update procedures for the implementation of the Oral Health Assessment program.
- (2) Prepare a letter and issuance, or other reasonable method of communication to parents or legal guardians of pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, concerning oral health assessment requirement. The notification must consist, at a minimum, of a letter that includes all of the following:
  - (a) An explanation of the administrative requirements of this Education Code §49452.8.
  - (b) Information on the importance of primary teeth.



Declaration of Jennifer Gorman  
Test Claim of San Diego Unified School District  
Chapter 413, Statutes of 2006  
*Pupil Health: Oral Health Assessment*

- (c) Information on the importance of oral health to overall health and to learning.
  - (d) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.
  - (e) Contact information for county public health departments.
  - (f) A statement of privacy applicable under state and federal laws and regulations.
- (3) Notify parents or legal guardians of pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, of the provisions of oral health assessment requirement and of their responsibilities relative to Education Code §49452.8.
- (4) Collect completed letters from the parents or legal guardians of kindergarten or first-grade pupils to ensure compliance with the oral health assessment requirements no later than May 31<sup>st</sup> of the school.
- (5) Report compliance results, by December 31 of each year, to the county office of education upon receipt of all completed assessments.

In addition, Education Code section 49452.8 as added by Chapter 413 requires county offices of education to perform the following activity:

- (1) Each county office of education shall maintain the data described in subdivision (e)<sup>1</sup> in a manner that allows the county office to release it upon request.

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<sup>1</sup> Subdivision (e) reads, "Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following: (1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a). (2) The total number of pupils described in paragraph (1) who present proof of an assessment. (3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden. (4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional. (5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment. (6) The total number of pupils described in paragraph (1) who are assessed and

Declaration of Jennifer Gorman  
Test Claim of San Diego Unified School District  
Chapter 413, Statutes of 2006  
*Pupil Health: Oral Health Assessment*

Since most activities are performed to comply with the requirements of Chapter 413 seem to be identical to Pupil Health Screenings program, I request a unit rate be established for activities relating to the Oral Health Assessment program similar to Pupil Health Screening reimbursable components that are based on a unit rate.

In 2006/07, San Diego Unified School District distributed a total of 9,872 Oral Health Assessment/Waivers to parents or legal guardians of pupils in kindergarten and 1<sup>st</sup> grade who have not previously enrolled in public school. Of these 3,458 assessments and 397 waivers were returned to the district, which totals 3,855.

It is estimated that the district has incurred approximately \$67,488 for the period of January 1, 2007 through December 30, 2007 to implement these new duties mandated by the state. The estimate is based on the total kindergarten and first grade enrollment in 2006/07, which is similar to the California Department of Education's 2006/07 Oral Health Assessment program apportionment.

The estimate is comprised of five components: (1) \$1,442 to train district staff in order to implement the mandated activities; (2) \$13,266 to implement the Oral Health Assessment (OHA) program, distribute information and forms, answer questions, collect data, input data, remind district staff to send reports, and prepare forms to be submitted to the county office of education; (3) \$1,307 to prepare a letter and issuance, or other reasonable method of communication, for the purpose of notifying each parent or guardian, upon their child's enrollment in kindergarten or first grade, of their obligation to

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found to have untreated decay. (7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

Declaration of Jennifer Gorman  
Test Claim of San Diego Unified School District  
Chapter 413, Statutes of 2006  
*Pupil Health: Oral Health Assessment*

comply with the Oral Health Assessment requirements; (4) \$46,901 to distribute and collect completed assessment/waivers to parents or legal guardians, and obtain compliance of Chapter 413; and, (5) \$4,571 to annually report compliance results and statistics to the county office of education: the number of pupils subject to the Oral Health Assessment requirement, the number of pupils who present proof of an assessment, the number of pupils who could not complete an assessment due to financial burden, the number of pupils who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional, the number of pupils who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment, the number of pupils who are assessed and found to have untreated decay, and the number of pupils who did not return either the assessment or the waiver request to the school.

California Department of Education (CDE) apportioned \$3,237,600, provided in Item 6110-268-001 of the Budget Act of 2006, to support the OHA program. The apportionment represents 80 percent of the total estimated entitlement for each LEA. San Diego Unified School District's estimated entitlement for 2006/07 is \$87,491. Although on-going funding for this program is intended, future apportionment will depend upon the approval of the budget. For 2007/08, CDE estimates eligible local educational agencies to receive approximately \$8.40/student enrolled in 1st grade. \$4,048,000 will be allocated to local educational agencies based on 2006 CBEDS enrollment for first grade.

Declaration of Jennifer Gorman  
Test Claim of San Diego Unified School District  
Chapter 413, Statutes of 2006  
*Pupil Health: Oral Health Assessment*

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 24<sup>th</sup> day of September, 2007 in the San Diego, California.



Jennifer Gorman,  
Nursing and Wellness Program Manager  
San Diego Unified School District

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Test Claim of:	)	No. CSM _____
	)	
San Diego Unified School	)	Chapter 413, Statutes of 2006
District (claimant)	)	Education Code section 49452.8
	)	
	)	<i><u>Pupil Health: Oral Health Assessment</u></i>
_____	)	

**AUTHORITY FOR THE CLAIM**

The Commission on State Mandates has the authority pursuant to Government Code section 17551, subdivision (a) to 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. San Diego Unified School District (“Claimant”) is a school district as defined in Government Code section 17519. This Test Claim is filed pursuant to Title 2, California Code of Regulations section 1183.

**STATEMENT OF THE CLAIM**

This test claim alleges reimbursable costs mandated by the state for school districts to require pupils, while enrolled in kindergarten in a public school or enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, to present proof of having received oral health assessments by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was

performed no earlier than 12 months prior to the date of the initial enrollment pursuant to the requirements in Education Code section 49452.8.<sup>1</sup>

A. ACTIVITIES REQUIRED UNDER PRIOR LAW

Under Health and Safety Code section 124100, the governing body of any school district that has children enrolled in kindergarten are required to provide information to the parents or guardians of all children enrolled in kindergarten of this article and Health and Safety Code section 120475. Under this section, the governing board of any school district is required to make rules for the physical examination of pupils that will ensure proper care of the pupils and proper secrecy with regard to any defect noted.

The governing board of each school district is required to exclude from school, for not more than five days, any first grade pupil who has not provided either a certificate or a waiver, as specified in Health and Safety Code section 124085, on or before the 90<sup>th</sup> day after the pupil's entrance into the first grade. (Health and Safety Code section 124105.) The exclusion shall commence with the 91<sup>st</sup> calendar day after the pupil's entrance into the first grade, unless school is not in session that day, then the exclusion shall commence on the next succeeding school day.

Under this Health and Safety Code Section 12405, a school district may not exclude a child if the pupil's parent or guardian provides to the district either a certificate or a waiver relating to Health and Safety Code section 124085. Existing law allows the parent or legal guardian having control or charge of any child enrolled in a public school to file annually a statement in writing, signed by the parent or legal guardian, that he or she will not consent to an

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<sup>1</sup>Education Code section 49452.8, is attached as Exhibit A.

examination of his or her child. A child from physical examinations once such a statement is filed with the principal.

**B. ACTIVITIES REQUIRED UNDER STATUTES AND EXECUTIVE ORDERS CONTAINING MANDATES**

AB 1433 adds Section 49452.8 to the Education Code, relating to pupil health.

1. Section 1 of Education Code 49452.8 was added to read:

“(a) Oral health is integral to overall health.

“(b) Tooth decay is the most common chronic childhood disease, experienced by more than two-thirds of California's children and five times more common than asthma.

“(c) California's schoolchildren, ages 6 to 8, inclusive, experience oral disease at twice the rate of schoolchildren in other states.

“(d) Oral diseases are infectious, are not self-limiting, contribute to many lost school hours, negatively impact learning, interfere with eating, contribute to poor self-esteem, and can cause considerable pain.

“(e) Tooth decay is preventable.”

2. Section 2 of the Education Code 49452.8 was added to read:

“(a) A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, shall, no later than May 31 of the school year, present proof of having received an oral health assessment by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

“(b) The parent or legal guardian of a pupil may be excused from complying with subdivision (a) by indicating on the form described in subdivision (d) that the oral health assessment could not be completed because of one or more of the reasons provided in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (d).

“(c) A public school shall notify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement. The notification shall, at a minimum, consist of a letter that includes all of the following:

“(1) An explanation of the administrative requirements of this section.

“(2) Information on the importance of primary teeth.

“(3) Information on the importance of oral health to overall health and to learning.

“(4) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.

“(5) Contact information for county public health departments.

“(6) A statement of privacy applicable under state and federal laws and regulations.

“(d) In order to ensure uniform data collection, the department, in consultation with interested persons, shall develop and make available on the Internet Web site of the department, a standardized notification form as specified in subdivision (c) that shall be used by each school district. The standardized form shall include all of the following:

“(1) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on the oral health assessment form developed by the Association of State and Territorial Dental Directors.



“(2) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The reasons for not completing an assessment shall include all of the following:

“(A) Completion of an assessment poses an undue financial burden on the parent or legal guardian.

“(B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional.

“(C) The parent or legal guardian does not consent to an assessment.

“(e) Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following:

“(1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).

“(2) The total number of pupils described in paragraph (1) who present proof of an assessment.

“(3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.

“(4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.

(5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.

“(6) The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.

“(7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

“(f) Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.

“(g) This section does not prohibit any of the following:

“(1) County offices of education from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis.

“(2) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for purposes of conducting research and analysis on the oral health status of public school pupils in California.

“(h) This section does not preclude a school district or county office of education from developing a schoolsite-based oral health assessment program to meet the requirements of this section.

“(i) The Office of Oral Health of the Chronic Disease Control Branch of the State Department of Health Services shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2010, that discusses any

improvements in the oral health of children resulting from the imposition of those requirements.

The Office of Oral Health may receive private funds and contract with the University of California to fulfill the duties described in this subdivision.”

3. Section 3 of the Education Code 49452.8 was added to read:

“Funds allocated to local educational agencies pursuant to Item 6110-268-0001 of Section 2.00 of the Budget Act of 2006 (Chapters 47 and 48 of the Statutes of 2006) shall first be used to offset any reimbursement to local educational agencies provided pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act.

4. Section 4 of the Education Code 49452.8 was added to read:

“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.”

C. COSTS INCURRED OR EXPECTED TO BE INCURRED FROM MANDATE.

1. Chapter 413 results in school districts incurring costs mandated by the state, as defined in Government Code section 17514, by creating new state-mandated duties related to the uniquely governmental function of providing public education to children. Chapter 413 applies only to schools and does not apply generally to all residents and entities in the state.

There are new duties imposed upon public school districts subject to reimbursement:

- (1) To train district staff in order to implement the mandated activities.
- (2) To review the requirements in Chapter 413 and any regulations, and develop and implement procedures relating to the Oral Health Assessment (OHA) program
- (3) To prepare of a letter and issuance, or other reasonable method of communication, for the purpose of notifying each parent or guardian of their obligation to obtain an oral health assessment. The notification must consist, at a minimum, of a letter that includes all of the following:
  1. An explanation of the administrative requirements of this Education Code §49452.8.
  2. Information on the importance of primary teeth.
  3. Information on the importance of oral health to overall health and to learning.
  4. A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.
  5. Contact information for county public health departments.
  6. A statement of privacy applicable under state and federal laws and regulations.
- (4) To notify parents or legal guardian of pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, of the provisions of oral health assessment requirement and to notify parents or legal guardians of

pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, of their responsibilities relative to Education Code §49452.8.

- (5) To report compliance results, by December 31 of each year, to the county office of education upon receipt of all completed assessments.

In addition, Education Code section 49452.8 as added by Chapter 413 requires county offices of education to perform a certain activity. The new duty imposed upon county offices of education subject to reimbursement:

- (1) Each county office of education shall maintain the data described in subdivision (e)<sup>2</sup> in a manner that allows the county office to release it upon request.

2. Most of the Oral Health Assessment activities performed to comply with the requirements of the Oral Health Assessment legislation seem to be identical to that of the Pupil Health Screenings Program (Health and Safety Code Sections 1424100 and 124105). Since all reimbursable components of Pupil Health Screenings are based on a uniform cost allowance, the same should be applied to the Oral Health Assessment components—Notification to Parents, Obtaining Compliance, and Statistical Reporting.

3. Funding for the OHA program in Fiscal Year 2006/07 is appropriated by Chapter

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<sup>2</sup> Subdivision (e) reads, "Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following: (1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a). (2) The total number of pupils described in paragraph (1) who present proof of an assessment. (3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden. (4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional. (5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment. (6) The total number of pupils described in paragraph (1) who are assessed and found to

413/2006 in Item 6110-268-0001 of the Budget Act of 2006 (Chapter 47, Statutes of 2006) as amended by Section 43 of Assembly Bill 1811 (Chapter 48, Statutes of 2006). These funds support the OHA program pursuant to the California Education Code (EC) Section 49452.8. San Diego Unified School District's estimated entitlement for 2006/07 is \$67,488.

4. In fiscal year 2007/08, the CDE expects eligible local educational agencies to receive approximately \$8.40/student enrolled in 1st grade. \$4,048,000 will be allocated to local educational agencies based on 2006 CBEDS enrollment for first grade. \$352,000 will be allocated to County Offices of Education for data storage and retrieval.

5. Future appropriation for the OHA program is not guaranteed as it is contingent upon the approval of the budget each year. In the event that future appropriation is not approved or is insufficient to support the OHA program, any payments received for activities listed in this test claim will be credited by the district.

6. Based on prior Commission on State Mandates rulings, schools districts are not required to use Title I funds to offset the activities in the OHA program.

7. There is no other Federal or State constitutional provisions, statutes or executive orders impacted.

---

have untreated decay. (7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

**EXHIBITS**


The following exhibits are attached to and incorporated into this test claim:

Exhibit A: Chapter 413, Statutes of 2006

**CERTIFICATION**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Executed on September 25, 2007, at San Diego, California, by:



Arthur M. Palkowitz  
San Diego Unified School District

# EXHIBIT A

AB 1433 Assembly Bill - CHAPTEREDBILL NUMBER: AB 1433 CHAPTERED

## BILL TEXT

### CHAPTER 413

FILED WITH SECRETARY OF STATE SEPTEMBER 22, 2006

APPROVED BY GOVERNOR SEPTEMBER 22, 2006

PASSED THE ASSEMBLY AUGUST 29, 2006

PASSED THE SENATE AUGUST 28, 2006

AMENDED IN SENATE AUGUST 23, 2006

AMENDED IN SENATE AUGUST 10, 2006

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN SENATE JUNE 5, 2006

AMENDED IN SENATE AUGUST 25, 2005

AMENDED IN ASSEMBLY MAY 23, 2005

AMENDED IN ASSEMBLY APRIL 27, 2005

AMENDED IN ASSEMBLY APRIL 5, 2005

INTRODUCED BY Assembly Members Emmerson and Laird  
(Coauthors: Assembly Members Daucher, Jerome Horton, Nakanishi,  
Richman, Ridley-Thomas, Saldana, and Wolk)  
(Coauthors: Senators Aanestad, Alquist, Ducheny, and Figueroa)

FEBRUARY 22, 2005

An act to add Section 49452.8 to the Education Code, relating to pupil health.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1433, Emmerson Pupil health: oral health assessment.

Existing law requires the governing board of any school district to make rules for the physical examination of pupils that will ensure proper care of the pupils and proper secrecy with regard to any defect noted. Existing law allows the parent or legal guardian having control or charge of any child enrolled in a public school to file annually a statement in writing, signed by the parent or legal guardian, that he or she will not consent to an examination of his or her child. Existing law exempts a child from physical examinations once such a statement is filed with the principal.

This bill would require a pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, to present proof, no later than May 31 of the school year, of having received an oral health assessment by a licensed dentist or other licensed or registered dental health professional operating within his or her scope of practice that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil. The bill would excuse a parent or legal guardian from complying with the above requirement by indicating on a specified form that the oral health assessment could not be completed because of one or more specified reasons. The bill would require public schools to send a notification of the assessment requirement to the parent or legal guardian of the pupil subject to that requirement, including a standardized form that can be used for an assessment or on which the parent or legal guardian can indicate one of several specified reasons why an assessment cannot be completed. The bill would require all public schools, after receiving completed assessments, and by December 31 of each year, to send a report, as specified, to the local health officer of the county office of education in which the school is located. The bill would not preclude a school district or county office of education from developing a school-site-based oral health assessment to comply with these provisions. The bill would require the Office of Oral Health of the Chronic Disease Control Branch of the State Department of Health



Services to conduct an evaluation of the requirements imposed by the bill and prepare and submit a report to the Legislature by January 1, 2010, that discusses any improvements in the oral health of children resulting from the imposition of those requirements. The bill would authorize the Office of Oral Health to receive private funds and contract with the University of California to fulfill those duties.

By requiring public schools to perform additional duties, this bill would impose 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.

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 bill would require that funds from a specified item of the Budget Act of 2006 be used to offset any reimbursement to local educational agencies provided pursuant to those provisions regarding costs mandated by the state pursuant to the bill.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Oral health is integral to overall health.

(b) Tooth decay is the most common chronic childhood disease, experienced by more than two-thirds of California's children and five times more common than asthma.

(c) California's schoolchildren, ages 6 to 8, inclusive, experience oral disease at twice the rate of schoolchildren in other states.

(d) Oral diseases are infectious, are not self-limiting, contribute to many lost school hours, negatively impact learning, interfere with eating, contribute to poor self-esteem, and can cause considerable pain.

(e) Tooth decay is preventable.

SEC. 2. Section 49452.8 is added to the Education Code, to read:

49452.8. (a) A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, shall, no later than May 31 of the school year, present proof of having received an oral health assessment by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

(b) The parent or legal guardian of a pupil may be excused from complying with subdivision (a) by indicating on the form described in subdivision (d) that the oral health assessment could not be completed because of one or more of the reasons provided in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (d).

(c) A public school shall notify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement. The notification shall, at a minimum, consist of a letter that includes all of the following:

(1) An explanation of the administrative requirements of this section.

(2) Information on the importance of primary teeth.

(3) Information on the importance of oral health to overall health and to learning.

(4) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.

(5) Contact information for county public health departments.

(6) A statement of privacy applicable under state and federal laws and regulations.

(d) In order to ensure uniform data collection, the department, in consultation with interested persons, shall develop and make available on the Internet web site of the department, a standardized notification form as specified in subdivision (c) that shall be used by each school district. The standardized form shall include all of the following:

(1) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on the oral health assessment form developed by the Association of State and Territorial Dental Directors.

(2) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The reasons for not completing an assessment shall include all of the following:

(A) Completion of an assessment poses an undue financial burden on the parent or legal guardian.

(B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional.

(C) The parent or legal guardian does not consent to an assessment.

(e) Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following:

(1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).

(2) The total number of pupils described in paragraph (1) who present proof of an assessment.

(3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.

(4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.

(5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.

(6) The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.

(7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

(f) Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.

(g) This section does not prohibit any of the following:

(1) County offices of education from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis.

(2) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for purposes of conducting research and analysis on the oral health status of public school pupils in California.

(h) This section does not preclude a school district or county office of education from developing a schoolsite-based oral health assessment program to meet the requirements of this section.

(i) The Office of Oral Health of the Chronic Disease Control Branch of the State Department of Health Services shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2010, that discusses any improvements in the oral health of children resulting from the imposition of those requirements. The Office of Oral Health may receive private funds and contract with the University of California to fulfill the duties described in this subdivision.

SEC. 3. Funds allocated to local educational agencies pursuant to Item 6110-268-0001 of Section 2.00 of the Budget Act of 2006 (Chapters 47 and 48 of the Statutes of 2006) shall first be used to offset any reimbursement to local educational agencies provided

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act.

SEC. 4. 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.



ARNOLD SCHWARZENEGGER, GOVERNOR

STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

November 9, 2007

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

RECEIVED

NOV 26 2007

COMMISSION ON  
STATE MANDATES

Dear Ms. Higashi:

As requested in your letter of October 12, 2007, the Department of Finance has reviewed the test claim submitted by the San Diego Unified School District (claimant) asking the Commission to determine whether specified costs incurred under Chapter 413, Statutes of 2006, (AB 1433, Emmerson and Laird) are reimbursable state mandated costs (Claim No. 07-TC-04 "Oral Health Assessment"). Based on our review of the claim, as well as relevant statutes and regulations, we do not believe that activities detailed in Education Code Section 49452.8 result in a reimbursable state mandate.

This test claim does not demonstrate that the Oral Health Assessment program created reimbursable state mandated costs because there is sufficient funding appropriated for this program in the annual Budget Act via Item 6110-268-0001. Specifically, the Budget Acts of 2006 and 2007 appropriated \$4,400,000 for these activities with the later act including the following provisional language:

"The funds appropriated in this item 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 child oral health assessments. Local education agencies accepting funding from this item shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from this item."

The claimant indicates that during the 2007 calendar year, the claimant would incur \$67,488 in costs to perform the oral health assessment activities and the claimant further estimates statewide annual costs of \$4,048,000.

Clearly, the costs reported by the claimant are in line with amounts appropriated in the annual Budget Act and state law specifically prohibits the Commission from finding costs mandated by the state when such a situation exists. Specifically, Government Code Section 17556 states, in part, 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 any one of the following:...

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for

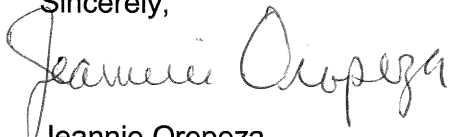
offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.”

Due to the argument expressed above, we believe the Commission should not find that the test claim constitutes a state-reimbursable mandate.

As required by the Commission’s regulations, we are including a “Proof of Service” indicating that the parties included on the mailing list which accompanied your October 12, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Ryan Storm, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,



Jeannie Oropeza  
Program Budget Manager

Attachment

Attachment A

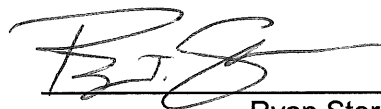
DECLARATION OF RYAN STORM  
DEPARTMENT OF FINANCE  
CLAIM NO. CSM-07-TC-04

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter 413, Statutes of 2006, (AB 1433, Emmerson and Laird) sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

*November 9, 2007*

at Sacramento, CA



Ryan Storm

## PROOF OF SERVICE

Test Claim Name: Oral Health Assessment  
Test Claim Number: 07-TC-04

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7<sup>th</sup> Floor, Sacramento, CA 95814.

On November 9, 2007, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7<sup>th</sup> Floor, for Interagency Mail Service, addressed as follows:

A-16  
Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Facsimile No. 445-0278

Education Mandated Cost Network  
C/O School Services of California  
Attention: Dr. Carol Berg, PhD  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Sixten & Associates  
Attention: Keith Petersen  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

E-8  
Department of Education  
School Business Services  
Attention: Marie Johnson  
560 J Street, Suite 170  
Sacramento, CA 95814

Mandated Cost Systems, Inc.  
Attention: Steve Smith  
2275 Watt Avenue, Suite C  
Sacramento, CA 95825

San Diego Unified School District  
Attention: Arthur Palkowitz  
4100 Normal Street, Room 3159  
San Diego, CA 92103-2682

E-8  
State Board of Education  
Attention: Bill Lucia, Executive Director  
721 Capitol Mall, Room 532  
Sacramento, CA 95814

California Teachers Association  
Attention: Steve DePue  
2921 Greenwood Road  
Greenwood, CA 95635

Girard & Vinson  
Attention: Paul Minney  
1676 N. California Blvd., Suite 450  
Walnut Creek, CA 95496

Mr. Steve Smith  
Steve Smith Enterprises, Inc.  
3323 Watt Avenue #291  
Sacramento, CA 95821

B-08  
Mr. Jim Spano  
State Controller's Office  
Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

Mr. Steve Shields  
Shields Consulting Group, Inc.  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

E-08  
Ms. Carol Bingham  
California Department of Education  
Fiscal Policy Division  
1430 N Street, Suite 5602  
Sacramento, CA 95814

Ms. Sandy Reynolds  
Reynolds Consulting Group, Inc.  
P.O. Box 894059  
Temecula, CA 92589

Mr. Joe Rombold  
School Innovations & Advocacy  
11130 Sun Center Drive, Suite 100  
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B-08  
Ms. Ginny Brummels  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

Mr. J. Bradley Burgess  
Public Resource Management Group  
1380 Lead Hill Boulevard, Suite #106  
Roseville, CA 95661

Ms. Juliana F. Gmur  
MAXIMUS  
2380 Houston Avenue  
Clovis, CA 93611

Ms. Beth Hunter  
Centration, Inc.  
8570 Utica Avenue, Suite 100  
Rancho Cucamonga, CA 91730

Ms. Harmeet Barkschat  
Mandate Resource Services  
5325 Elkhorn Blvd. #307  
Sacramento, CA 95842

Mr. Robert Miyashiro  
Education Mandated Cost Network  
1121 L Street, Suite 1060  
Sacramento, CA 95814

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

Mr. David Cichella  
California School Management Group  
1111 E Street  
Tracy, CA 95376

A-15  
Ms. Jeannie Oropeza  
Department of Finance  
Education Systems Unit  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

A-15  
Ms. Susan Geanacou  
Department of Finance  
915 L Street, Suite 1190  
Sacramento, CA 95814

Mr. Keith B. Petersen  
Sixten & Associates  
3841 North Freeway Blvd., Suite 170  
Sacramento, CA 95834



B-8  
State Controller's Office  
Division of Accounting & Reporting  
Attention: William Ashby  
3301 C Street, Room 500

B-29  
Legislative Analyst's Office  
Attention: Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 9, 2007 at Sacramento, California.

  
Annette Waite

ICC: OROPEZA, SCHWEIZER, STORM, MCCABE, FEREBEE, GEANACOU, FILE

I:\Wp\Mandate.07\07-TC-04 Oral Health Assessment.doc

Hearing Date: September 28, 2012  
 J:\MANDATES\2007\TC\07-TC-03 (Oral Health)\TC\DSA.docx

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**

Education Code Section 49452.8  
 Statutes 2006, Chapter 413 (AB 1433)

*Pupil Health: Oral Health Assessment*

07-TC-03

San Diego Unified School District, Claimant

**EXECUTIVE SUMMARY**

**Overview**

This test claim seeks reimbursement for costs incurred by school districts resulting from a 2006 test claim statute that added section 49452.8 to the Education Code to address the oral health of first-year public school children.

The Legislature's purpose in enacting the test claim statute was to promote oral health in young children by requiring an assessment to be conducted by a dental professional upon a child's first entry into public school.<sup>1</sup> The statute requires that children enrolling in kindergarten, or in first grade if not previously enrolled in kindergarten, shall present proof of having received an oral health assessment by a licensed dentist or other health professional, not more than 12 months before enrollment. Children whose parents or legal guardians indicate financial hardship, lack of access to a licensed dentist, or non-consent to the assessment are exempt from this requirement and may be granted a waiver. Either the assessment, or a waiver form, must be provided to the school district by May 31 of the year of enrollment. The statute requires public schools to notify

<sup>1</sup> The Legislature made the following findings: "(a) Oral health is integral to overall health; (b) Tooth decay is the most common chronic childhood disease, experienced by more than two-thirds of California's children and five times more common than asthma; (c) California's schoolchildren, ages 6 to 8, inclusive, experience oral disease at twice the rate of schoolchildren in other states; (d) Oral diseases are infectious, are not self-limiting, contribute to many lost school hours, negatively impact learning, interfere with eating, contribute to poor self-esteem, and can cause considerable pain; (e) Tooth decay is preventable." (Stats. 2006, ch. 413 (AB 1433), § 1.)

the parents or legal guardians of the requirement, collect the completed assessments and waiver forms, and submit an annual report to the county office of education, as specified.<sup>2</sup>

Section 3 of Statutes 2006, Chapter 413 (AB 1433) provides that funds allocated to local educational agencies pursuant to Item 6110-268-0001 of the 2006 Budget Act shall first be used to offset any reimbursement for costs mandated by the state.

### **Procedural History**

Claimant San Diego Unified School District filed the test claim on September 25, 2007. On October 12, 2007, Commission staff deemed the filing complete and numbered it 07-TC-04. On November 9, 2007, the Department of Finance submitted written comments. No other interested parties have submitted comments to date. On July 23, 2008, the test claim was renumbered as 07-TC-03.

### **Positions of the Parties and Interested Parties**

#### **A. Claimant's Position**

The claimant alleges that the test claim statute imposes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, in that school districts are newly required to notify parents of the necessity of an oral health assessment, and to collect and compile records of those assessments and submit a report describing the degree of compliance.<sup>3</sup>

Claimant alleges actual costs of \$67,488 incurred in 2007, and estimates expenses of \$70,000 per year going forward in 2007-2008 and beyond. The claimant alleges estimated statewide costs incurred by school districts totaling \$4,048,000. The claimant notes that the budget act of 2006 dedicates \$4,048,000 to this program (although it appears that the figure is actually \$4,400,000). The claimant expresses concern that “[f]uture appropriation for the OHA program is not guaranteed as it is contingent upon the approval of the budget each year.” The claimant asserts that school districts should not be required to use Title I funds to offset the activities of the Oral Health Assessment program, should a future budget appropriation not be available.<sup>4</sup> Finally, the claimant seeks a determination that the mandate is reimbursable, and requests a unit rate be applied, similar to that available under the Pupil Health Screenings program.<sup>5</sup>

#### **B. Department of Finance's Position**

The Department of Finance submitted written comments on November 9, 2007, in which Finance asserts that the Oral Health Assessment program does not create reimbursable state-mandated costs because sufficient funding was provided in the annual Budget Act in both 2006

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<sup>2</sup> Education Code section 49452.8, as added by Statutes 2006, chapter 413 (AB 1433), section 2.

<sup>3</sup> Exhibit A. Test Claim, pp. 9; 19 [citing Cal. Const. Art. XIII B, § 6; Govt. Code § 17514].

<sup>4</sup> Exhibit A. Test Claim, pp. 2; 6; 16-18.

<sup>5</sup> Exhibit A. Test Claim, p. 6.

and 2007.<sup>6</sup> Finance notes a \$4.4 M appropriation in both budget years, and quotes the following language from the 2006-2007 budget:

The funds appropriated in this item 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 child oral health assessments. Local education agencies accepting funding from this item shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from this item.<sup>7</sup>

Finance also specifically refers to the claimant's estimate of statewide costs. Finance notes that the funding allocated in the 2006 and 2007 Budget Acts would seem to be "in line with" the reported costs. Finance concludes in its comments that the applicable law prohibits the Commission from finding a reimbursable mandate where funding has been appropriated to cover the costs of the mandate.<sup>8</sup>

### **Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local agencies, including school districts, are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions: all members of the class have the opportunity to participate in the test claim process, and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.<sup>9</sup>

### **Claims**

The following chart provides a summary of the claims and issues raised and staff's recommendation.

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<sup>6</sup> Exhibit B. Department of Finance Comments, p. 1. See also Statutes 2006, chapter 48 (AB 1811), section 43: Item 6110-268-0001; Statutes 2007, chapter 171 (SB 77): Item 6110-268-0001.

<sup>7</sup> Exhibit B. Department of Finance Comments, p. 1 [citing Budget Act of 2006-2007, Stats. 2007, chapter 171 (SB 77), Item 6110-268-0001].

<sup>8</sup> Exhibit B. Department of Finance Comments, p. 1

<sup>9</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

<b>Subject</b>	<b>Description</b>	<b>Staff Recommendation</b>
Oral Health Assessment Program – Education Code section 49452.8	<p>The statute directs school districts to notify parents of children entering their first year of public school of a requirement to seek an oral health assessment from a dentist or other dental professional.</p> <p>The statute directs school districts to collect written evidence of the oral health assessments, or a waiver form, and to report to the county office of education regarding participation in the program and the results of the assessments.</p> <p>County offices of education are required to maintain the data in a manner that allows the county office to release it upon request.</p>	<i>Deny</i> – This claim does not allege any costs mandated by the state. All costs for this program have been fully funded in the budget from 2006-2007 to 2012-2013.

### Analysis

The test claim statute requires new activities to be performed by school districts and county offices of education: existing law prior to 2006 placed no responsibility on these school districts to monitor or report on the oral health of new students. The additional responsibilities imposed by the test claim statute were intended to provide a service to the public. As noted above, the Legislature declared its findings in section 1 of the statute, including that oral health is integral to overall health and well-being, that oral disease contributes to lost school hours and negatively impacts learning, and that tooth decay is preventable.

The only issue in dispute is whether and to what extent the mandate falls within the statutory exception for reimbursement of a mandate that is funded by offsetting revenue in a targeted appropriation. The Department of Finance pointed out, in its November 2007 comments, that the mandate was specifically funded in 2006 and 2007. Additionally, all Budget Acts from 2006-2007 to 2012-2013, of which the Commission is permitted to take judicial notice, show a continuation of that specific appropriation. Therefore, the statutory exception to “costs mandated by the state” pursuant to Government Code section 17556(e) applies here to deny the claim.

The claimant expresses concern that the funding of the mandate is conditional upon the whim of the Legislature, and that appropriate funding in the future is not guaranteed. Although not guaranteed, sufficient funding for the mandate is currently available, and as such the claimant cannot allege, and has no evidence of, increased costs mandated by the state, within the meaning of Government Code section 17514.

### **Conclusion and Staff Recommendation**

Based on the foregoing, staff concludes that Education Code section 49452.8, as added by Statutes 2006, chapter 413, does not impose a reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution.

Staff recommends that the Commission adopt this analysis and deny the test claim.

## STAFF ANALYSIS

### Claimant

San Diego Unified School District

### Chronology

- 09/25/2007 Claimant filed the test claim with the Commission on State Mandates (Commission).
- 10/12/2007 Commission staff deemed the filing complete.
- 11/9/2007 The Department of Finance submitted written comments.

### I. Introduction

This test claim seeks reimbursement for costs incurred by school districts resulting from a 2006 test claim statute that added section 49452.8 to the Education Code to address the oral health assessment of first-year public school children.

In enacting the test claim statute, the Legislature declared that its purpose was to promote oral health in young children, by requiring an assessment to be conducted by a dental professional upon a child's first entry into public school.<sup>10</sup> The statute requires that children enrolling in kindergarten, or in first grade if not previously enrolled in kindergarten, shall present proof of having received an oral health assessment by a licensed dentist or other health professional, not more than 12 months before enrollment. Children whose parents or legal guardians indicate financial hardship, lack of access to a licensed dentist, or non-consent to the assessment are exempt from this requirement and may be granted a waiver. Either the assessment, or a waiver form, must be provided to the school district by May 31 of the year of enrollment. The statute requires public schools to notify the parents or legal guardians of the requirement, collect the completed assessments and waiver forms, and submit an annual report to the county office of education, as specified.<sup>11</sup>

Section 3 of Statutes 2006, Chapter 413 provides that funds allocated to local educational agencies pursuant to Item 6110-268-0001 of the 2006 Budget Act shall first be used to offset any reimbursement for costs mandated by the state.

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<sup>10</sup> The Legislature made the following findings: "(a) Oral health is integral to overall health; (b) Tooth decay is the most common chronic childhood disease, experienced by more than two-thirds of California's children and five times more common than asthma; (c) California's schoolchildren, ages 6 to 8, inclusive, experience oral disease at twice the rate of schoolchildren in other states; (d) Oral diseases are infectious, are not self-limiting, contribute to many lost school hours, negatively impact learning, interfere with eating, contribute to poor self-esteem, and can cause considerable pain; (e) Tooth decay is preventable." (Stats. 2006, ch. 413 (AB 1433), § 1.)

<sup>11</sup> Education Code section 49452.8, as added by Statutes 2006, chapter 413 (AB 1433), section 2.



## II. Positions of the Parties and Interested Parties

### A. Claimant's Position

The claimant alleges that the test claim statute constitutes a reimbursable state-mandated program. The claimant requests reimbursement for the following new activities under the statute:

- (1) To train district staff in order to implement the mandated activities.
- (2) To review the requirements [of the statute] and any regulations relating to the *Pupil Health: Oral Health Assessment* mandate.
- (3) To prepare [and issue a letter], or other reasonable method of communication. The notification must consist, at a minimum, of a letter that includes all of the following:
  - (a) An explanation of the administrative requirements of Education Code section 49452.8.
  - (b) Information on the importance of primary teeth.
  - (c) Information on the importance of oral health to overall health and to learning.
  - (d) A toll-free telephone number to request application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.
  - (e) Contact information for county public health departments.
  - (f) A statement of privacy applicable under state and federal laws and regulations.
- (4) To notify parents or legal guardians of pupils, enrolled in kindergarten or while enrolled in first grade if not previously enrolled in kindergarten, concerning the oral health assessment requirement.
- (5) To collect completed letters from the parents or legal guardians of kindergarten or first-grade pupils to ensure compliance with the oral health assessment requirements no later than May 31<sup>st</sup> of the school year.
- (6) To excuse parents or legal guardians who indicate on the letter that the oral health assessment could not be completed because one or more of the [reasons enumerated in subdivision (d), paragraph (2) is applicable].
- (7) To prepare and submit a report, by December 31 of each year, to the county office of education upon receipt of completed assessments. School districts must include in that report:
  - (a) The total number of pupils in the district, by school, who are subject to the oral health assessment requirement (i.e., the number of kindergarten

students plus the number of first grade students who did not attend public school kindergarten).

- (b) The total number of pupils who present proof of an assessment.
- (c) The total number of pupils who could not complete an assessment due to financial burden.
- (d) The total number of pupils who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.
- (e) The total number of pupils who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.
- (f) The total number of pupils who are assessed and found to have untreated decay.
- (g) The total number of pupils who did not return either the assessment or the waiver request to the school.<sup>12</sup>

The claimant states that it distributed 9,872 Oral Health Assessment/Waiver forms to parents or legal guardians of children subject to the requirement in 2006/2007. The claimant states that 3,458 assessments were returned, and 397 waivers were collected.<sup>13</sup>

The claimant alleges that it incurred \$67,488 in increased costs between January 1, 2007 and December 30, 2007, pursuant to the new activities. That total cost estimate includes (1) \$1,442 to train district staff; (2) \$13,266 to implement the *Oral Health Assessment* program, distribute information and forms, answer questions, collect and input data, and prepare forms for the county office of education; (3) \$1,307 to prepare the letters to be sent to notify parents or guardians of the requirement (4) \$46,901 to distribute and collect assessment/waiver forms; and (5) \$4,571 to report compliance results and statistics to the county office of education.<sup>14</sup>

The claimant notes that the 2006-2007 Budget Act (the most recent budget act available at the time of filing this test claim) contained an appropriation for the program. The amount allocated for that budget year was sufficient to meet claimant's estimate of statewide costs. However, the claimant expresses concern that continuing funding for the program is at the discretion of the Legislature, and that the claimant should not be forced to resort to its Title I funding to cover any future shortfall should a budget appropriation not be made.<sup>15</sup>

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<sup>12</sup> Exhibit A. Test Claim, p. 2.

<sup>13</sup> Exhibit A. Test Claim, p. 6.

<sup>14</sup> Exhibit A. Test Claim, pp. 6; 16.

<sup>15</sup> Exhibit A. Test Claim, pp. 7; 18.

### B. Department of Finance's Position

The Department of Finance argues that because the activities mandated by the test claim statute were fully funded as of the date of filing, the Commission should not, and may not, find that the statute creates a reimbursable mandate. Finance argues that Government Code section 17556(e) specifically prohibits the Commission from finding “costs mandated by the state,” as defined in section 17514, where the costs incurred are provided for with offsetting savings or additional revenue in an amount sufficient to fund the mandate.<sup>16</sup>

### III. Discussion

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

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

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>17</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”<sup>18</sup>

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

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>19</sup>
2. The mandated activity either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>20</sup>

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<sup>16</sup> Exhibit B. Department of Finance Comments, p. 1.

<sup>17</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>18</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>19</sup> *San Diego Unified School Dist. v. Commission on State Mandates (San Diego Unified School Dist.)* (2004) 33 Cal.4th 859, 874.

<sup>20</sup> *Id.* at 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>21</sup>
4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>22</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>23</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>24</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>25</sup>

**A. The test claim statute does not impose a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution because the program has been funded and there is no evidence of school districts incurring increased costs mandated by the state.**

Education Code section 49452.8 requires school districts and county offices of education to perform the following activities:

- [N]otify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement.<sup>26</sup>
- The notification shall include all of the following information:
  - An explanation of the administrative requirements of this section.
  - Information on the importance of primary teeth.

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<sup>21</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>22</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>23</sup> *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487; Government Code section 17551 and 17552.

<sup>24</sup> *County of San Diego*, *supra*, 15 Cal.4th 68, 109.

<sup>25</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>26</sup> Education Code section 49452.8 (c), as added by Statutes 2006, chapter 413 (AB 1433), section 2.

- Information on the importance of oral health to overall health and to learning.
- A toll free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.
- Contact information for county public health departments.
- A statement of privacy applicable under state and federal laws and regulations.<sup>27</sup>
- Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located.<sup>28</sup>
- The report shall include the following information:
  - The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).
  - The total number of pupils described in paragraph (1) who present proof of an assessment.
  - The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.
  - The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.
  - The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.
  - The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.
  - The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.<sup>29</sup>
- Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.<sup>30</sup>

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<sup>27</sup> Education Code section 49452.8 (c) (1-6), as added by Statutes 2006, chapter 413 (AB 1433), section 2.

<sup>28</sup> Education Code section 49452.8 (e), as added by Statutes 2006, chapter 413 (AB 1433), section 2.

<sup>29</sup> Education Code section 49452.8 (e) (1-7), as added by Statutes 2006, chapter 413 (AB 1433), section 2.

These activities are new requirements, effective in the 2006-2007 school year, and were intended to provide a service to the public. As previously noted, the Legislature declared its findings in section 1 of the statute, including a finding that oral health is integral to overall health and well-being, that oral disease contributes to lost school hours and negatively impacts learning, and that tooth decay is preventable. The Legislature thereby signified its purpose, in enacting the Oral Health Assessment requirement, as it affects both parents and schools, to promote oral health in school children by ensuring that first-year public school children are screened for tooth decay.<sup>31</sup>

However, school districts and county offices of education have received funding for these activities in all fiscal years since 2006, and there is no evidence in the record that the claimant, or any other school district, has incurred increased costs mandated by the state beyond those budget appropriations.

Government Code section 17514 defines “costs mandated by the state” as any increased cost that a local agency is required to incur as a result of a statute that mandates a new program or higher level of service.” Government Code section 17556 (e) provides that the Commission “shall not find costs mandated by the state, if the Commission finds that:

- (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.

Here, the Department of Finance asserts, and the claimant admits, that the program imposed by the test claim statute has been fully funded in the budget.<sup>32</sup> Section 3 of Statutes 2006, Chapter 413 (AB 1433), provides that “[f]unds allocated to local educational agencies pursuant to Item 6110-268-0001 of Section 2.0 of the Budget Act of 2006...shall be used to offset any reimbursement to local educational agencies provided pursuant to [Government Code §17500 et seq].” Budget line item 6110-268-0001 provides for \$4,400,000 for the Oral Health Assessment program.<sup>33</sup>

The amount of the funding appropriated pursuant to section 3 of the statute is slightly higher than the claimant’s estimate of statewide costs (\$4,048,0000), and beginning in 2007, the Budget Act contained language specifically naming the Oral Health Assessment program in the appropriate line item. The language of the appropriation provides as follows:

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<sup>30</sup> Education Code section 49452.8 (f), as added by Statutes 2006, chapter 413 (AB 1433), section 2.

<sup>31</sup> Statutes 2006, Chapter 413 (AB 1433), section 1.

<sup>32</sup> Exhibit B. Department of Finance Comments, p. 1.

<sup>33</sup> Statutes 2006, Chapter 48 (AB 1811), section 43.

The funds appropriated in this item 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 child oral health assessments. Local educational agencies accepting funding from this item shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from this item.<sup>34</sup>

Government Code section 17556(e) applies to limit the Commission’s findings where there are offsetting revenues specifically intended to fund the mandate. Those offsetting revenues may be authorized in the statute, or in a Budget Act or other bill, and must result in no net costs to the claimant. If available funding does not result in zero net costs, the test claim may still succeed, and the funding would be treated only as an offset. But here, the monies allocated are specifically intended to fund the mandate, and according to the claimant’s own statewide cost estimate, the appropriation is sufficient to cover the full costs of implementation. Therefore the exception in section 17556(e) applies, and there are no “costs mandated by the state,” within the meaning of section 17514.

Claimant argues that the Commission should still find that the statute imposes a reimbursable state-mandated program because of fears that someday the Legislature might not fund the program.<sup>35</sup> Specifically, the test claim and the declaration of Jennifer Gorman, Nursing and Wellness Program Manager at San Diego Unified School District, suggest that future appropriations are “not guaranteed.”<sup>36</sup> However, the claimant’s concern over the possibility of lost funding in the future, resulting in unspecified costs, is not sufficient to allege reimbursable costs mandated by the state. Government Code section 17564 states that no claim shall be made unless the claim results in costs exceeding \$1,000. If the Legislature were to discontinue funding the program, resulting in districts incurring costs of at least \$1,000, then a test claim could be filed pursuant to Government Code section 17551(c) within one year of first incurring costs alleging an unfunded mandate. Until that time, however, there is no evidence of school districts incurring costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

A review of recent Budget Acts from 2006-2007 through 2012-2013 reveals that the funding of the mandate, at line item 6110-268-0001, has continued, despite the claimant’s fears. The line item appearing in the 2006-2007 and 2007-2008 budgets, which specifically referred to the Oral Health Assessment program, reappears in subsequent enactments for 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013. Each of those budgets contains the same \$4,400,000 appropriation at line item 6110-268-0001, and each states that “[t]he funds appropriated in this item shall be considered offsetting revenues within the meaning of subdivision (e) of Section 17556 of the Government Code.” It is telling that the Budget Acts specifically refer to the

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<sup>34</sup> Statutes 2007, chapter 171 (SB 77), Budget Line Item 6110-268-0001 [emphasis added].

<sup>35</sup> Exhibit A. Test Claim, p. 18.

<sup>36</sup> *Id.*

offsetting revenue exception of section 17556(e), presumably with the intent to undermine a test claim such as the one filed here. Thus the mandate is specifically and fully funded within the meaning of section 17556(e), up to and including in the 2012-2013 budget year.<sup>37</sup>

Thus, staff finds that Budget Act appropriations have provided 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 within the meaning of Government Code section 17556(e), and that there is no evidence of increased costs mandated by the state.

#### **IV. Conclusion**

Based on the foregoing, staff concludes that Education Code section 49452.8, as added by Statutes 2006, chapter 413, does not impose a reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution.

#### **Recommendation**

Staff recommends the Commission adopt this staff analysis and deny this test claim.

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<sup>37</sup> Statutes 2008, chapter 268 (AB 1781): Item 6110-268-0001; Statutes 2009, Fourth Extraordinary Session, chapter 1 (ABX4 1), section 458: Item 6110-268-0001; Statutes 2010, chapter 712 (SB 870), section 2.00: Item 6110-268-0001; Statutes 2011, chapter 33 (SB 87): Item 6110-268-0001.