

COMMISSION ON STATE MANDATES

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April 4, 2014

Mr. Arthur M. Palkowitz
Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Adopted Statement of Decision, Draft Expedited Parameters and Guidelines, and Notice of Hearing**
Race to the Top, 10-TC-06
Education Code Sections 48353 et al.
Statutes 2009-2010, 5th Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.
California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)
Twin Rivers Unified School District, Claimant

Dear Mr. Palkowitz:

On March 28, 2014, the Commission on State Mandates (Commission) adopted the statement of decision partially approving the above-entitled matter. State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

- **Draft Expedited Parameters and Guidelines.** Pursuant to California Code of Regulations, title 2, section 1183.12, the Commission staff is expediting the parameters and guidelines process by enclosing draft parameters and guidelines to assist the claimant. The proposed reimbursable activities are limited to those approved in the statement of decision by the Commission.
- **Claimant's Review of Draft Parameters and Guidelines.** Pursuant to California Code of Regulations, title 2, sections 1183.12(b) and (c), the successful test claimant may file modifications and comments on the proposal with Commission staff by **April 24, 2014**. The claimant may also propose a reasonable reimbursement methodology pursuant to Government Code section 17518.5 and California Code of Regulations, title 2, section 1183.13.

State Agencies and Interested Parties Comments and Rebuttals. State agencies and interested parties may submit recommendations and comments by **April 21, 2014**. (Cal. Code Regs., tit. 2, § 1183.11(d).) State agencies and interested parties may also submit written rebuttals within 15 days of service of the claimant's modifications and comments. (Cal. Code Regs., tit. 2, § 1183.12(d).)

Claimant Rebuttals to State Agency and Interested Party Comments. The claimant and other interested parties may submit written rebuttals within 15 days of service of state agency and interested party modifications and comments. (Cal. Code Regs., tit. 2, § 1183.11(f).)

- **Adoption of Parameters and Guidelines.** After review of the draft expedited parameters and guidelines and all proposed modifications and comments, Commission staff will prepare the proposed parameters and guidelines and statement of decision and recommend adoption by the Commission.

Reasonable Reimbursement Methodology and Statewide Estimate of Costs

- **Test Claimant and Department of Finance Submission of Letter of Intent.** Within 30 days of the Commission's adoption of a statement of decision on a test claim, the test claimant(s) and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1—17557.2 and section 1183.30 of the Commission's regulations to develop a *reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The letter of intent shall include the date on which the test claimant and the Department of Finance will submit a plan to ensure that costs from a representative sample of eligible claimants are considered in the development of a reasonable reimbursement methodology.
- **Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.
- **Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** Upon receipt of the jointly developed proposals, Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within fifteen (15) days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.
- **Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** At least ten days prior to the next hearing, Commission staff shall issue review comments and a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for

Mr. Palkowitz

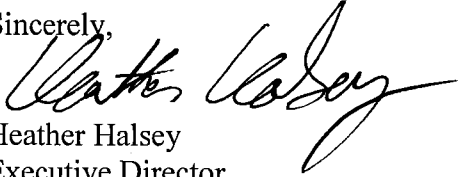
April 4, 2014

Page 3

instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

The parameters and guidelines are tentatively set for hearing on **May 30, 2014**. Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey", written in a cursive style.

Heather Halsey
Executive Director

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Education Code Sections 48354(b)(1), 48356(d), 48357, 53202(a), 53202(b), 53300, and 53301

Statutes 2009-2010, 5th Extraordinary Session, Chapter 2 (SBX5 1)

Statutes 2009-2010, 5th Extraordinary Session, Chapter 3 (SBX5 4)

California Code of Regulations, Title 5, Section 4702(a) (Register 2010, No. 32)

Race to the Top

10-TC-06

Twin Rivers Unified School District, Claimant

Period of reimbursement begins April 12, 2010

I. SUMMARY OF THE MANDATE

These parameters and guidelines address activities mandated by the state to compete in the federal *Race to the Top* (RTTT) competitive grant program established by the federal American Recovery and Reinvestment Act of 2009. Under the federal grant program, the states competed for approximately \$4.35 billion in funds awarded to states that are creating conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in four core education reform areas. To make California's application for RTTT grant funds competitive, the Legislature added and amended the Education Code by enacting the Race to the Top program (Ed. Code §§ 53100-53203), the Parent Empowerment Act (Ed. Code sections §§53300-53303) and the Open Enrollment Act (Ed. Code sections 48350-48361). The California Department of Education (CDE) also adopted a regulation (Cal. Code Regs., tit. 5, § 4702) to implement the Open Enrollment Act.

On March 28, 2014, the Commission on State Mandates (Commission) adopted a statement of decision on the *RTTT* program, 10-TC-06, finding that the test claim statutes and regulation impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved the test claim for the reimbursable activities identified in Section IV. of these parameters and guidelines.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the test claim on November 23, 2010, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the test claim statutes did not become operative and effective until April 12, 2010.

As a result, any costs incurred for the activities in these parameters and guidelines are reimbursable beginning on or after April 12, 2010.

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

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

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable to and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

1. Race to the Top

School districts that receive notice that a school or schools within the district have been identified by the Superintendent of Public Instruction (SPI) as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, §53202(b); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the *RTTT* program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
 - The turnaround model.
 - The restart model.
 - School closure.
 - The transformational model. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)
- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, §53202(a); Stats. 2009-2010, 5th Ex. Sess., ch. 2, §8 (SBX5 1).)

The following schools are *exempt* from the requirements of Education Code section 53202(a) and (b) and are, therefore, *not* mandated by the state to comply with the above activities:

- Schools identified by the SPI and State Board of Education (SBE) as already having implemented a reform that conforms to the intervention requirements of the *RTTT* program, and are showing significant progress in its reform pursuant to Education Code section 53202(a); and
- Schools listed in Education Code section 53201(e) (i.e., county community schools, juvenile court schools, schools that provide educational services exclusively to individuals with exceptional needs, and schools that have experienced academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index (API)).

2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently

lowest-achieving school, but is subject to corrective action pursuant to No Child Left Behind (NCLB), continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, §53300; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)
 - b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, Title 20 United States Code section 6301 et seq.. (Ed. Code, §53301; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §2 (SBX5 4).)
3. Open Enrollment Act
- a) The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction. If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the California Department of Education's (CDE) Web site at <http://www.cde.ca.gov/>. (Ed. Code, §48354(b)(1); Cal. Code Regs., tit. 2, §4702(a).)
 - b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, §48356(d); Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)
 - c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, §48357; Stats. 2009-2010, 5th Ex. Sess., ch. 3, §1 (SBX5 4).)

Court, community, community day schools, and charter schools are *exempt and not mandated* by the state to comply with the Open Enrollment Act.¹

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

¹Education Code section 48352(a)(2)(B) and (C).

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs may include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs; and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the CDE approved indirect cost rate for the year that funds are expended.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim. Specifically, the School Improvement Grant funds under the state Budget Act Item 6110-134-0890 must be identified as offsetting revenue and deducted from the costs claimed by the district for implementing an intervention model pursuant to Education Code section 53202.

² This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the statements of decision on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 4, 2014, I served the:

**Adopted Statement of Decision, Draft Expedited Parameters and Guidelines,
and Notice of Hearing**

Race to the Top, 10-TC-06

Education Code Sections 48353 et al.

Statutes 2009-2010, 5th Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 April 4, 2014 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/28/14

Claim Number: 10-TC-06

Matter: Race to the Top

Claimant: Twin Rivers Unified School District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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