



JOHN CHIANG
California State Controller
Division of Accounting and Reporting

September 29, 2011

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Request to Amend Consolidation of Parameters and Guidelines,
AIDS Instruction (CSM 4422)
Education Code Sections 51201.5 and 51229.8
Chapter 818, Statutes 1991 and
AIDS Prevention Instruction (99-TC-07, 00-TC-01)
Education Code Sections 51201.5, 51554 and 51553, Subdivision (b)(1)(A)
Chapter 403, Statutes 1998

Dear Mr. Bohan:

The State Controller's Office (SCO) is requesting to amend the Consolidation of Parameters and Guidelines (P's and G's) for the AIDS Instruction and AIDS Prevention Instruction programs to reflect the changes to the following Education Code sections:

1. Education Code section 51201.5 was repealed by Statutes 2003, Chapter 650, Section 5.
2. Education Code section 51229.8 was repealed by Statutes 2003, Chapter 650, Section 8.
3. Education Code sections 51553 and 51554 were repealed by Statutes 2003, Chapter 750, Section 10.
4. Education Code sections 51930-51939 were added by Statutes 2003, Chapter 650.
5. The content of Education Code section 51201.5 was moved to Education Code sections 51934, 51938, and 51939.
6. The content of Education Code section 51229.8 was moved to Section 51935.
7. The content of Education Code section 51553 was moved to Section 51933.
8. The content of Education Code section 51554 was moved to Sections 51938 and 51939.

Although Education Code sections 51201.5, 51229.8, 51553, and 51554 were repealed and Education Code sections 51930-51939 were added, the reimbursable activities remain unchanged.

Enclosed are excerpts from the P's and G's indicating our proposed amendments. Boilerplate language to bring the parameters and guidelines in sync with current parameters and guidelines are also included. Proposed additions are underlined and deletions are indicated with strikethrough.

PROPOSED AMENDMENT TO CONSOLIDATION OF PARAMETERS AND GUIDELINES

**Education Code Sections ~~51201.5 and 51229.8~~ 51934, 51938, and 51939
~~Statutes 1991, Chapter 818~~ Statutes 2003, Chapter 650
*AIDS Instruction (CSM 4422)***

and

**Education Code Sections ~~51201.5, 51554 and 51553~~, Subdivision (b)(1)(A) 51934, 51938,
51939, and 51933, subdivision (b)(2)
~~Statutes 1998, Chapter 403~~ Statutes 2003, Chapter 650
*AIDS Prevention Instruction (99-TC-07, 00-TC-01)***

I. SUMMARY OF THE MANDATE

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Statutes 2003, Chapter 650 repealed Education Code sections 51201.5, 51229.8, 51553, and 51554. It also added Education Code sections 51933, 51934, 51938, and 51939. The Statutes became operative on January 1, 2004. The reimbursable activities remain unchanged.

COMMENT: We recommend adding the above paragraph at the end of the Summary of the Mandate to indicate the changes made by Statutes 2003, chapters 650.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, with students in grades 7 to 12, which incurs increased costs due to as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

~~Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim for *AIDS Prevention Instruction* was filed on March 20, 2000. However, Statutes 1998, chapter 403 became effective January 1, 1999. Therefore, this consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.~~

~~Costs for *AIDS Instruction* (CSM 4422) that have been claimed for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the State Controller's claiming instructions for program 123 may not be claimed and are not reimbursable under these parameters and guidelines. Reimbursement for costs for *AIDS Prevention Instruction* (99-TC-07 and 00-TC-01) for fiscal years 1998-1999 through 2002-2003 may be claimed for activities specified in section IV. Of these parameters and guidelines designated with "Beginning January 1, 1999..."~~

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions.

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except otherwise allowed by Government Code section 17564.

Government Code section 17557 (d)(1), states a local agency, school district, or the state may file a written request with the commission to amend the parameters and guidelines. The Commission may, after public notice and hearing, amend the parameters and guidelines. A parameters and guidelines amendment submitted within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year. The parameters and guidelines amendment was filed on September 29, 2011; therefore, the amended parameters and guidelines apply to reimbursement claims beginning fiscal year 2010-11.

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, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, subdivision (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. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 17560, subdivision (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.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

COMMENT: We recommend using the current boilerplate language in the "Eligible Claimant" and "Period of Reimbursement" sections.

IV. REIMBURSABLE ACTIVITIES

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A. Instructional Costs

Beginning January 1, ~~1999~~, 2004, instruction includes the following: (1) emphasis on monogamy and the avoidance of multiple sexual partners; (2) discussion of compassion for persons suffering from debilitating handicaps and terminal diseases; (3) prohibiting the instruction be conducted so as to advocate drug use, a particular sexual practice, or sexual activities; and (4) requiring that the instruction be consistent with sex education course criteria of Education Code section ~~51553 (Ed. Code, §51201.5, subd. (b).) 51933 (Ed. Code, § 51934, subd. (b).)~~

4. Instructional materials

The salaries and benefits of the employees of the school district and of the county office of education involved in the selection process that identifies instructional materials and the cost of those materials are reimbursable.

Beginning January 1, ~~1999~~, 2004, instructional material must accurately reflect Education Code section ~~51201.5, subdivision (b) 51934, subdivision (b).~~

B. Notification

2. Parent Notification of Guest Speaker and/or Assembly on AIDS Prevention

- a. Beginning January 1, ~~1999~~, 2004, notifying parents or guardians by mail or other method used by the school district to provide notices each time an outside organization or guest speaker is scheduled to deliver AIDS prevention instruction, and each time an assembly is held to deliver AIDS prevention instruction, including: (a) the date of the instruction, (b) the name of the organization or affiliation of each guest speaker, and (c) informing parents or guardians of their right to obtain a copy of Education Code sections ~~51201.5 and 51533 51933, 51934 and 51938~~ from the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction (ED. Code, § ~~51201.5, subd. (d)(3)-~~ §51938, subd. (a)(2).)

COMMENT: The effective date of Statutes 2003, Chapter 650 is January 1, 2004 and we recommend updating the date in the P's & G's. Also, Parents' right to obtain a copy of Sections 51933, 51934 and 51938 is indicated in Section 51938.

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- a. Beginning January 1, ~~1999~~, 2004 notifying parents or guardians at the beginning of each school year, or for pupils that enroll thereafter, at the time of that pupil's enrollment, about instruction on sexually transmitted diseases, AIDS, human sexuality or family life that is delivered in an assembly by a teacher or school district administrator personnel that is employed by the district. This activity is reimbursable only if the notification is due to the twice-required (once in junior high or middle school and once in high school) AIDS prevention instruction. (Ed. Code, § ~~51554, subd. (b) §51938, subd. (a)(2).~~)

COMMENT: We recommend use of “school district personnel” instead of “district administrator” to conform to the Education Code section.

C. Education Code sections ~~51201.5 and 51553~~ 51933, 51934, and 51938

1. Beginning January 1, ~~1999~~, 2004, the one-time cost of revising the annual parent or guardian notification regarding the right to obtain a copy of Education Code sections ~~51201.5 and 51553~~ 51933, 51934, and 51938 from the school district.
2. Beginning January 1, ~~1999~~, 2004, Keeping on file copies of Education Code section ~~51201.5 and 51553~~ 51933, 51934, and 51938 to give out on request.

V. **CLAIM PREPARATION AND SUBMISSION**

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A. Direct Cost Reporting

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. ~~Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services. If the 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 were 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.~~

COMMENT: Please use the current boilerplate language for consistency.

4. Fixed Assets ~~and Equipment~~

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

COMMENT: The terminology, “fixed assets” includes equipment.

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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 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 J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

~~County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.~~

School districts and County offices of education must use indirect cost rate from the Restricted Indirect Cost Rates for K-12 Local Educational Agencies (LEAs) Five Year Listing issued by the California Department of Education (CDE) School Fiscal Services Division, for the fiscal year of costs.

COMMENT: The J-380 and J-580 forms previously used by school districts and county offices of education respectively have become obsolete.

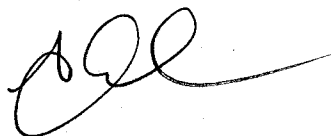
VII. OFFSETTING SAVINGS REVENUES AND OTHER REIMBURSEMENTS

Any offsetting ~~savings-revenues~~ the claimant experiences in the same program as a ~~direct~~ result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds (e.g., Instructional Materials Fund), shall be identified and deducted from this claim.

COMMENT: Please apply the current boilerplate language in the above paragraph.

If you have any questions, please contact Afsana Saida at (916) 324-7870, or email asaida@sco.ca.gov.

Sincerely,



JAY LAL, Manager
Local Reimbursements Section