

ITEM ____
PROPOSED PARAMETERS AND GUIDELINES AMENDMENTS
DRAFT STAFF ANALYSIS

Education Code Section 48262
Chapter 1184, Statutes of 1975
Chapter 1023, Statutes of 1994
Amended to Add Education Code Section 48264.5
Chapter 1023, Statutes of 1994

Habitual Truants
09-PGA-01, 01-PGA-06 (CSM-4487)

Clovis Unified School District and
San Jose Unified School District, Requestors

Executive Summary

This matter involves two requests to amend the parameters and guidelines for the *Habitual Truants* program. The first was submitted to the Commission on State Mandates (Commission) on April 29, 2002 by the Clovis Unified School District (Clovis).¹ The second was submitted on January 13, 2010 by the San Jose Unified School District (San Jose).² Both request that the Commission establish a uniform cost allowance of \$32.15 per habitual truant to reimburse school districts for the costs of the mandate, which requires school districts to verify a pupil's prior truancies, make a conscientious effort to schedule a parent conference, schedule and hold a conference, and reclassify pupils. The second specifically requests that the Commission adopt a reasonable reimbursement methodology (RRM). Pursuant to Government Code section 17554, staff proposes that these matters be consolidated. *Staff recommends that the Commission deny both requests to amend the parameters and guidelines.*

Staff Analysis

Requestors

Clovis Unified School District and San Jose Unified School District

Chronology

09/28/1995 Test Claim filed with the Commission on State Mandates by Tustin Unified School District

09/25/1997 Commission adopts statement of decision

¹ Exhibit A, Clovis's request to amend parameters and guidelines to establish uniform cost allowances, April 29, 2002 (Clovis's Request).

² Exhibit B, San Jose's request to amend the parameters and guidelines, January 13, 2010 (San Jose's Request).

01/29/1998	Commission adopts parameters and guidelines
04/29/2002	Clovis Unified School District files request to amend parameters and guidelines
05/01/2002	San Jose Unified School District added as a requesting party
07/19/2002	Department of Finance submits comments on the request to amend parameters and guidelines
07/25/2002	State Controller's Office submits comments on the request to amend parameters and guidelines
05/02/2003	Claimant representative sends letter to Commission proposing a unit cost allowance of \$32.15
07/30/2003	Department of Finance submits comments on the request to amend parameters and guidelines
08/01/2003	State Controller's Office submits comments on the request to amend parameters and guidelines
01/13/2010	San Jose Unified School District files request to amend parameters and guidelines
03/03/2010	State Controller's Office submits comments on the request to amend parameters and guidelines

I. Background

The statement of decision for this test claim was adopted on September 25, 1997. The Commission found that Education Code section 48264.5 (Statutes of 1994, Chapter 1023) imposes a state-mandated program on school districts within the meaning of Article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission found that the statute requires school districts to verify pupil truancy, make a conscientious effort to notify parents or guardians of a child's truancy, schedule and hold conferences with students and parents or guardians, and classify pupils as habitual truants.

On January 29, 1998, the Commission adopted the original parameters and guidelines. On April 29, 2002, Clovis Unified School District filed a request to amend the parameters and guidelines.³ The letter accompanying the request stated that "[u]ntil the data is determined, the claimant's proposed rate is an arbitrary \$999 per workload multiplier." After reviewing claims data submitted for fiscal year 2000-2001, Clovis sent a letter to the Commission dated May 2, 2003 proposing a unit cost allowance of \$32.15 per habitual truant.

This request was made prior to the adoption of AB 2856 (Stats. 2004, ch. 890) which deleted the provision of the Government Code⁴ that authorized the Commission to adopt unit cost allowances, and added provisions to allow instead for the use of a reasonable reimbursement methodology (RRM)⁵. On January 13, 2010, San Jose Unified School District filed a request to amend the parameters and guidelines to adopt an RRM in the form of a unit cost of \$32.15 per habitual truant. Pursuant to Government Code section 17554, staff recommends that these matters be consolidated.

³ On May 1, 2002, San Jose Unified School District was added as a requesting party.

⁴ Government Code section 17557(b).

⁵ See Government Code sections 17518.5, and 17557(b) and (f).

II. Commission's Responsibility for Adopting or Amending Parameters and Guidelines

If the Commission approves a test claim, the Commission is required by Government Code section 17557 to adopt parameters and guidelines for the reimbursement of any claims. As of January 1, 2011, Commission hearings on the adoption of proposed parameters and guidelines and amendments thereto are conducted under Article 7 of the Commission's regulations.⁶ Article 7 hearings are quasi-judicial hearings. The Commission is required to adopt a decision that is based on substantial evidence in the record, and oral or written testimony is offered under oath or affirmation.⁷

Each party has the right to present witnesses, introduce exhibits, and submit declarations. However, the hearing is not conducted according to the technical rules of evidence. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence shall be excluded. Hearsay evidence may be used to supplement or explain, but is not sufficient in itself to support a finding unless the hearsay evidence would be admissible in civil actions.⁸

III. Positions of Parties and Interested Parties

A. Requestors

Requestors argue that they should be reimbursed using a unit cost rate methodology, and that the rate and methodology proposed is appropriate under the RRM standard or the pre-RRM standard.

B. Department of Finance

For a number of reasons, Finance disagrees with the requestors' proposals to amend the parameters and guidelines to establish a unit cost. Finance questions whether a unit cost reimbursement method will be less time-consuming than for districts to prepare claims. Finance opposes reimbursement standards that would allow reimbursement for a district in excess of that district's actual costs or overall reimbursement in excess of statewide actual costs. Finance also states:

In the past, we have asserted that standards should be developed using three years of actual (audited) claim data, not counting the initial year's claims, as this approach would provide some assurance that the activities and procedures have stabilized sufficiently to accurately reflect necessary time and/or costs In the absence of three years of audited claim data, we would alternatively expect to see unit standards developed using audited claim samples, credible time studies, or another analytically and statistically valid approach.⁹

C. State Controller's Office

The State Controller's Office opposes the adoption of a unit cost rate for this program because it believes that the unit cost methodology for this mandate does not accurately represent the actual costs to perform the mandated activities. The State Controller argues that the actual cost for the

⁶ California Code of Regulations, Title 2, section 1187.

⁷ Government Code section 17559(b); California Code of Regulations, Title 2, section 1187.5.

⁸ California Code of Regulations, Title 2, section 1187.5.

⁹ Exhibit C, letter dated July 19, 2002 from the Department of Finance to the Commission, p. 2.

reimbursable activities (e.g. reviewing records, scheduling and holding conferences) would vary so much that it might be more accurate to create RRM's for each activity rather than blending all activities into a single rate. The State Controller conducted its own statistical analysis of the data and arrived at an RRM rate of \$22.01 as compared to requestors' proposal of \$32.15. The State Controller concludes that requestors' costs are overstated. Finally, the State Controller argues that it cannot support a unit cost methodology based on unaudited claim data.

IV. Discussion

A. Clovis's proposed unit rate is not reasonable and its request to amend the parameters and guidelines should be denied by the Commission.

The adopted parameters and guidelines for the Habitual Truant program provide reimbursement for the following activities:

A. Verifying Prior Truancies

Review of school district records to verify that the pupil has been reported as a truant at least four times during the same school year.

B. Making a Conscientious Effort to Schedule a Parent Conference

Make a conscientious effort to schedule a conference with the pupil's parent or guardian, the pupil and an appropriate school district employee, by:

1. Sending notice (by certified mail, if necessary) to the pupil's parent or guardian inviting the parent or guardian and the pupil to attend a conference with an appropriate school district employee; and
2. Making a final effort to schedule a conference by placing a phone call to the parent/guardian, and by placing return calls to the parent/guardian.

C. Scheduling and Holding a Conference

If the conscientious effort results in the parent's or guardian's agreement to confer, schedule and hold a conference.

D. Reclassifying Pupils

After the school district has made a conscientious effort to schedule a conference (whether or not this effort resulted in a conference), reclassify the pupil as a habitual truant.¹⁰

Clovis requests that the Commission amend the parameters and guidelines to establish a uniform cost allowance of \$32.15 per habitual truant. Clovis asserts that this approach financially benefits both the school districts and the state:

School districts and county offices of education benefit from having annual reimbursement claims changed from actual cost to unit cost allowances, which significantly reduces the data collection and documentation burden. The State of California benefits from reduced Mandate Reimbursement Process annual claim amounts. The State Controller benefits from a reduced claim processing workload. It is a "win-win" solution for both the claimants and the state.¹¹

¹⁰ Exhibit A, Clovis's Request, Exh. 2.

¹¹ Exhibit B, San Jose's Request, Exh. A (letter dated May 2, 2003 from Requestors to the Commission, p. 1-2).

Prior to the passage of AB 2856 that established the reasonable reimbursement methodology process, Government Code section 17557 provided:

(a) If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvented to local agencies and school districts for reimbursement. . . .

(b) In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

Based on the language in section 17557(b), the Commission has very broad authority to adopt an allocation formula or uniform allowance.

To arrive at its proposed uniform allowance of \$32.15 per habitual truant, Clovis analyzed all of the 618 annual claims filed in fiscal year 2000-2001. Requestors “removed 16 claims for lack of student statistics and removed 45 high and 21 low statistical outliers.”¹² Requestors then calculated the average per-truant cost across the remaining 536 districts to arrive at the \$32.15 per truant figure.

Staff finds that this is not a reasonable figure for the following reasons. First, the range of per-truant costs across all districts is very wide. The lowest unit cost for any school district is \$1.71 per truant while the highest cost is \$331.00. The highest cost is nearly 200 times higher than the lowest cost. Clovis proposes to adjust these figures to arrive at what it calls a “weighted average” by first removing “45 high and 21 low statistical outliers.” Even after this is done, however, the lowest unit cost is \$7.35 and the highest is \$110.50 (15 times higher than the lowest cost). Moreover, these high and low figures are not statistical anomalies because even after eliminating what Clovis describes as “statistical outliers,” 15 districts have unit costs under \$10 and 18 districts have unit costs over \$100. This is a very wide range of unit costs.

The State Controller puts it this way:

We feel that the data provided by SixTen and Associated does not support the single weighted average cost rate for each mandate proposed by them. This is because the unaudited claim data used by SixTen and Associates contains a variance that is too great and does not lend itself to adopting a fair and reasonable single uniform cost allowance.¹³

The Department of Finance makes a similar argument:

The data used to calculate the proposed unit costs is based on claims that have not been audited. That fact, coupled with the large observed range in the unit costs of each program, leads us to question whether these programs are suitable for a unit

¹² Requestors state: “We did not use any scientific method to select the outliers, rather the data was arrayed from high to low and a ‘break-point’ was drawn where it appeared that the cost data was becoming extreme. This is of course subjective and other reasonable persons could select other reasonable high and low break points. Also, in some cases we removed the data for a few districts which reported the largest number of workload units in order to avoid skewing the workload data reported by most of the other districts.” (Exh. B, San Jose’s Request, Exh. A.)

¹³ Exhibit D, letter dated August 11, 2003 from the State Controller to the Commission, p. 1.

cost. If the observed variance is accurate, it is too great for any single unit cost to accurately capture this range.¹⁴

Finance concludes, “Thus only if district actual costs fall within a fairly narrow range is a unit cost approach appropriate.”

Staff finds persuasive the arguments advanced by the State Controller and Finance regarding the wide range of unit costs in this matter.

In addition, staff questions whether the variability of the reimbursable activities makes this matter unsuitable for a unit cost. The mandate imposes four distinct obligations on districts: to verify pupil truancy, to make an effort to reach the pupil’s parent or guardian, to schedule and hold a conference if the parent or guardian is reached and agrees to meet, and to reclassify the pupil as a habitual truant.

Staff finds no evidence in the record to support the conclusion that it is reasonable to develop one unit cost for all four activities. It appears that the amount of effort required to perform the required mandated activities likely varies widely from one habitual truant to another. The data suggests that school districts might in some cases verify a prior truancy and then make a conscientious but failed effort to schedule a parent conference, in which case the cost to the district would be relatively small. In other instances, the parent may respond and a conference would be held. This latter situation would likely be substantially more costly than the prior situation because the district would need to expend more resources to schedule and conduct a conference. While the use of a single unit cost methodology in this situation is not per se inappropriate, the evidence suggests that this type of mandate is not well suited for a single unit cost methodology.

The State Controller states:

The actual cost for a claimant’s employees to review school district records, make a effort to schedule a conference with a pupil’s parent or guardian, schedule and hold a conference with an appropriate school district employee, and reclassify the pupil as a habitual truant may vary greatly, both in time and productive hourly rate, depending on staff assigned to the activity. . . . Due to the variation in required time and productive hourly rate of these activities, we believe it may be more accurate to create RRM’s for each of the reimbursable activities rather than blend all activities into a single rate.¹⁵

For the foregoing reasons, staff finds that the proposed unit cost rate is not reasonable and recommends that the Commission deny Clovis’s request to amend the parameters and guidelines.

B. San Jose’s proposed reasonable reimbursement methodology does not meet the required elements of the Government Code and should be denied by the Commission.

Government Code section 17518.5 defines “reasonable reimbursement methodology” as a formula for reimbursing local agencies and school districts for costs mandated by the state. An RRM can be proposed by the Department of Finance, the Controller, an affected state agency, a

¹⁴ Exhibit E, letter dated July 30, 2003 from Finance to the Commission, p. 1.

¹⁵ Exhibit F, letter dated March 3, 2010 from the State Controller to the Commission, p. 2.

claimant, or an interested party. Government Code section 17518.5(b) states that an RRM “shall be based on cost information from a representative sample of eligible claimants” Subsection (c) states that an RRM “shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.” Subdivision (d) states that, whenever possible, an RRM “shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual costs.”

Issue 1: Is the proposed RRM based on cost information from a representative sample of eligible claimants?

As noted above, a total of 618 annual claims were filed for fiscal year 2000-2001, and requestors “removed 16 claims for lack of student statistics and removed 45 high and 21 low statistical outliers” to arrive at a proposed per-truant figure of \$32.15 for the remaining 536 districts. These 536 districts represent 87% of the total number of districts that filed claims, and include large and small districts, rural and urban districts, and geographically diverse districts. Staff finds that the proposed RRM meets the criterion of being based on cost information from a representative sample of eligible claimants.

Issue 2: Does the proposed RRM consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner?

San Jose proposes that the Commission adopt an RRM to cover all of these activities by adding the following language to the parameters and guidelines:

The reasonable reimbursement methodology for the mandated activities shall consist of a uniform cost allowance calculated as follows: Multiply the total number of students reported as habitual truants each fiscal year by the relevant unit cost rate for the fiscal year. The unit cost rate for FY 2008-09 is \$(to be determined).) The unit cost rate shall be adjusted for each subsequent year by the Implicit Price Deflator.¹⁶

San Jose proposes “a FY 2000-01 unit cost allowance of \$32.15 per student reported as a habitual truant” and asks that the State Controller calculate the allowance for subsequent years by applying the implicit price deflator.¹⁷ San Jose argues:

This calculation will result in at least 50% of the districts receiving reimbursement in an amount sufficient to fully offset their projected costs to implement the mandate in a cost-efficient manner.

. . . .

The proposed unit cost rates are derived from annual reimbursement claim cost data submitted by the claimants pursuant to the statement of reimbursable activities in the parameters and guidelines adopted by the Commission. The activities enumerated by the parameters and guidelines are adopted after public comment and hearing and are therefore presumed to be the most cost efficient manner of implementing the mandated activities for the program.¹⁸

¹⁶ San Jose’s Request, p. 9.

¹⁷ San Jose’s Request, p. 2.

¹⁸ San Jose’s Request, p. 11-12.

The State Controller disagrees with San Jose for several reasons. First, the State Controller argues that “the unit cost methodology proposed for creating a single RRM for all of the reimbursable activities of this mandate does not represent an accurate representation of the actual costs to perform the mandated activities.” The State Controller further states that “[d]ue to the variation in required time and productive hourly rate of [the reimbursable] activities, we believe it may be more accurate to create RRMs for each of the reimbursable activities rather than blend all activities into a single rate.”¹⁹

Second, while the State Controller is not proposing that the Commission adopt an RRM, the State Controller did perform its own statistical analysis using the same raw data (the 618 claims filed in FY 2000-2001) that San Jose used. According to the State Controller, “[o]ur analysis of Fiscal Year 2007-2008 claim data, using a statistically valid method similar to the proposed method, resulted in a RRM of \$22.01. This compares to the proposed RRM of \$32.15”²⁰ San Jose’s proposed rate of \$32.15 is 46% higher than the State Controller’s figure of \$22.01.

The State Controller also generated a straight average (as compared to San Jose’s “weighted average”) based on all claims. This yielded a figure of \$25.72 per habitual truant. San Jose’s proposed figure is 25% higher than this straight average figure.

Third, the State Controller argues that “thirty-five percent of the claimants included in our sample of fiscal year 2007-08 data reported holding more parent conferences than the number of reported truant students. The P’s & G’s limit reimbursement to a single conference. This leads us to believe the reported cost of holding parent conferences is overstated.”²¹ San Jose submitted no evidence to rebut this contention.

Fourth, the State Controller argues that “the proposed RRM calculations were based on unaudited claim data and cannot be supported by the SCO.”²² While there is no legal requirement that RRM calculations be based on audited claim data, the State Controller believes that using only audited data is an appropriate policy. Staff takes no position on this policy judgment.

Government Code section 17518.5(c) requires that that the proposed RRM “implement the mandate in a cost-efficient manner.” Neither the Government Code nor the Commission’s regulations elaborate on how the Commission should determine whether a proposed RRM amount meets this requirement. Accordingly, the Commission has broad discretion to make this determination.

Staff understands that the purpose of an RRM is not to develop a figure that reflects with precision what the actual costs would be. Rather, the purpose is to allow claimants in appropriate circumstances to prepare reimbursement claims without the burden of preparing detailed documentation of actual costs. This can also benefit the state, as requestors note, by reducing the amount of claims filed by local governments for the mandate reimbursement process. In addition, “[t]he State Controller benefits from a reduced claim processing workload. It is a win-win’ solution for both the claimants and the state.”²³

¹⁹ Exh. F, p. 2.

²⁰ Exh. F, p. 2.

²¹ Exh. F, p. 2.

²² Exhibit G, letter dated July 28, 2010 from the State Controller to the Commission, p. 1.

²³ Exh. B, San Jose’s Request, Exh. A, p. 1-2.

However, Commission staff finds that the Government Code clearly requires that proposed RRM be “cost-efficient.” Staff finds that San Jose’s proposed RRM fails to meet this requirement for all of the reasons discussed above in sections IV (A) and (B) of this analysis.

V. Recommendation

Staff recommends that the Commission adopt this staff analysis and deny the requests made by the Clovis Unified School District and the San Jose Unified School District to amend the parameters and guidelines.