

# SixTen and Associates

## Mandate Reimbursement Services

KEITH B. PETERSEN, President

San Diego  
5252 Balboa Avenue, Suite 900  
San Diego, CA 92117  
Telephone: (858) 514-8605  
Fax: (858) 514-8645  
www.sixtenandassociates.com

Sacramento  
P.O. Box 340430  
Sacramento, CA 95834-0430  
Telephone: (916) 419-7093  
Fax: (916) 263-9701  
E-Mail: kbpsixten@aol.com

July 27, 2011

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

Dear Mr. Bohan:

Re: 96-358-03, 03A, 03B 15/96 Pupil Expulsions II  
98-TC-22 Pupil Expulsions II, 3rd amendment  
01-TC-18 Pupil Expulsions II, 4<sup>th</sup> Amendment  
96-358-04, 04A, 04B 972/95 Pupil Suspensions II  
98-TC-23 Pupil Suspensions II, 3rd amendment  
01-TC-17 Pupil Suspensions II, 4<sup>th</sup> amendment  
97-TC-09 1052/96 Educational Services Plan for Expelled Pupils  
Test Claims of San Juan Unified School District  
Proposed Terminating, Transition, and Merger Parameters and Guidelines

I have received the Commission's Statement of Decision and Draft Staff Analysis (DSA) for the parameters and guidelines proposed for the above referenced test claims transmitted by your letter dated May 20, 2011, to which I respond on behalf of the test claimant.

### Transition Parameters and Guidelines

The May 20, 2011, transmittal included six sets of new draft parameters and guidelines. Attachments (Sets) 1-5 are transition period parameters and guidelines covering the period of July 1, 1995, through June 30, 2012, which encompass only the new activities that result from the Commission decision for the San Juan test claims. The test claimant agrees with the approach of separate parameters and guidelines for the activities approved by the San Juan test claims only, rather than a retroactive merger with the San Diego test claim parameters and guidelines which pertain to the statutes for this subject matter effective prior to 1995.

### Merger Parameters and Guidelines

Attachment (Set) 6 is the merger of the San Juan test claim activities with the existing

Drew Bohan, Executive Director

2

July 27, 2011

San Diego test claims decision parameters and guidelines. The test claimant agrees with the merger of the San Juan and San Diego test claim parameters and guidelines effective July 1, 2012.

The test claimant proposes several changes to Attachment 6 to facilitate the annual claiming process. Those proposed changes are indicated in the attached document: "Revised Attachment 6." To the extent that these changes are included in the Final Staff Analysis for Attachment 6, they can also be retroactively applied to the transition parameters and guidelines, Attachments 1-5, as they apply to the San Juan test claim activities.

#### Terminating Parameters and Guidelines

The May 20, 2011, transmittal also includes the May 27, 2010, amendment of the San Diego test claim parameters and guidelines, modified only for the purpose of terminating those parameters and guidelines effective June 30, 2012. The test claimant agrees that the parameters and guidelines for the San Diego test claims should be terminated once the merged parameters and guidelines commence.

However, it appears that this is the wrong version of the San Diego parameters and guidelines for the currently reimbursed program. The May 27, 2010, version is an amendment of the August 20, 1998, original parameters and guidelines from the San Diego test claims that resulted from the Controller's April 7, 2006, request to incorporate "boilerplate" language. On July 28, 2006, after the filing date of the Controller's boilerplate request, the Commission amended the San Diego test claims parameters and guidelines principally to establish the reasonable reimbursement methodology for the expulsion hearings. It is this July 28, 2006, version that is the basis for current annual claim reimbursement. The May 27, 2010, amendment for boilerplate language is without legal effect since it amended the original August 20, 1998, parameters and guidelines and not the amended parameters and guidelines dated July 28, 2006.

Sincerely,



Keith B. Petersen

C: Linda Simlick, General Counsel, San Juan Unified School District

Attachment: Revised Attachment 6

Test Claimant's Proposed Parameters and Guidelines Drafted by:  
Keith B. Petersen, SixTen and Associates

**DATED 7/27/2011**

**ATTACHMENT 6**

**PROPOSED NEW TITLE:           CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

***PUPIL EXPULSIONS II (96-358-03, 03A, 03B, 98-TC-22, 01-TC-18)***

***PUPIL SUSPENSIONS II (96-358-04, 04A, 04B, 98-TC-23, 01-TC-17)***

***EDUCATIONAL SERVICES PLAN FOR EXPELLED PUPILS (97-TC-09)***

Education Code Sections 48900.8, 48915, 48915.2, 48916, 48916.1,  
48918, 48918.5, 48923, 48926

As Amended by Statutes 1995, Chapters 972 and 974;  
Statutes 1996, Chapters 915 937, and 1052; Statutes 1997, Chapter 637;  
Statutes 1998, Chapter 498; Statutes 1999, Chapter 332; Statutes 2000, Chapter 147;  
Statutes 2001, Chapter 116

Consolidated With

***PUPIL SUSPENSIONS FROM SCHOOL (CSM-4456)***

Education Code Section 48911, Subdivisions (b) and (e)  
Statutes 1977, Chapter 965; Statutes 1978, Chapter 668; Statutes 1980, Chapter 73;  
Statutes 1983, Chapter 498; Statutes 1985, Chapter 856; Statutes 1987, Chapter 134

***PUPIL EXPULSIONS FROM SCHOOL (CSM-4455)***

Education Code Sections 48915, Subdivisions (a) and (b),  
48915.1, 48915.2, 48916 and 48918  
Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;  
Statutes 1982, Chapter 318; Statutes 1983, Chapter 498; Statutes 1984, Chapter 622;  
Statutes 1987, Chapter 942; Statutes 1990, Chapter 1231; Statutes 1992, Chapter 152;  
Statutes 1993, Chapters 1255, 1256, and 1257; Statutes 1994, Chapter 146

***PUPIL EXPULSION APPEALS (CSM-4463)***

Education Code Sections 48919, 48921, 48924  
Statutes 1975, Chapter 1253; Statutes 1977, Chapter 965; Statutes 1978, Chapter 668;  
Statutes 1983, Chapter 498

**Period of Reimbursement: From July 1, 2012 Forward**

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

**I. SUMMARY OF THE MANDATE**

No change

**II. ELIGIBLE CLAIMANTS**

No change

**III. PERIOD OF REIMBURSEMENT**

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The *Pupil Expulsions II* and *Pupil Suspensions II* test claims were filed on December 23, 1996, so the filing dates of these test claims establish eligibility for reimbursement operative July 1, 1995, pursuant to Government Code section 17557, subdivision (e). The *Educational Services Plan for Expelled Pupils* test claim was filed December 29, 1997, so the filing date of this test claim establishes eligibility for reimbursement operative July 1, 1996.

These consolidated parameters and guidelines are for the period of reimbursement beginning July 1, 2012. Reimbursement for state-mandated costs may be claimed as follows:

1. Costs for one fiscal year shall be included in each claim.
2. ~~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. (Gov. Code, § 17561, subd. (b)(1)(A).)~~
3. A local agency 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. (Gov. Code, § 17560, subd. (a).)
4. In the event revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a local agency 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, subd. (b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

shall be allowed except as otherwise allowed by Government Code section 17564, subdivision (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**

No change to preamble on contemporaneous documentation.

The claimant may claim and be reimbursed for increased costs for reimbursable activities identified below by the actual cost method (except for Section IV.D. 3-6 which shall be by the reasonable reimbursement methodology) for additional expulsion hearing costs. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate. Only increased costs for reimbursable activities identified below are reimbursable. For each eligible claimant, the following activities are reimbursable:

**A. POLICIES AND PROCEDURES (ONE-TIME ACTIVITIES)**

1. Adoption and Revision of Rules and Procedures for School Districts and County Boards/Offices of Education
  - (a) Adopt and revise rules and regulations establishing procedures pertaining to pupil expulsions to conform to amendments of section 48915 by Statutes 1995, chapters 972 and 974 (operative July 1, 1996), Statutes 1996, chapters 915 and 1052, Statutes 1998, chapter 489, and Statutes 1999, chapter 332 (including revising the pupil notification required by Stats. 1999, ch. 332).
  - (b) Adopt rules and regulations establishing the procedure for the filing and processing of requests for readmission pursuant to Education Code section 48916, and revise those rules and regulations to conform to the amendments of Statutes 1995, chapter 974, operative July 1, 1996.
  - (c) Amend expulsion rules and regulations to provide for issuing subpoenas, as specified in subdivision (i) of section 48918 (Stats. 1995, ch. 974, §§ 7.5 & 10, operative July 1, 1996).
  - (d) Adopt rules and regulations establishing the procedures for expelling a pupil based on an allegation of sexual assault or attempted sexual assault, or sexual battery, as defined in subdivision (n) of section 48900. (§ 48918, subd. (b) &



Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

48918.5, Stats 1996, ch. 915 and ch. 1052, operative Jan. 1, 1997.)

(e) Adopt rules and regulations establishing the procedures for suspending a pupil who possesses an explosive at school or at a school activity off school grounds. (Statutes 2001, chapter 116.)

(f) Printing and disseminating rules and procedures to each school site.

2. County Board Offices of Education-Expulsion Appeals

(a) Adopting rules and procedures pertaining to pupil expulsions appeals and revising those rules and procedures to conform to amendment of the statutory requirements.

(b) Print and disseminate rules and procedures to each school district in the county.

3. School Districts-Adoption of Education Services Plan for Expelled Pupils

If the county superintendent of schools develops a plan for providing education services to all expelled pupils in the county, for school district governing boards to adopt the plan. (§ 48926, Stats. 1995, ch. 974, operative July 1, 1996.)

~~4. Training (one-time per employee)~~

~~(a) Training school district personnel about the mandated suspension, expulsion, and expulsion appeal activities. This reimbursable component includes the labor time of administrators and other school district personnel involved with preparation of training sessions and the labor time of administrators and other school district personnel who conduct or attend training sessions. Labor time for teachers is not reimbursable. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.~~

**~~B. ON-GOING ACTIVITIES: PUPIL SUSPENSIONS I and II~~**

~~If the suspension is for possession of a firearm, then the following activities are reimbursable:~~

~~1. Attendance at Informal Conference~~

~~The attendance of the teacher, supervisor, or other school district employee who referred the pupil to the principal for suspension in the pre-suspension conference~~

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

~~between the principal (or principal's designee) or superintendent and the pupil. (§ 48911, subd. (b).)~~

~~2. Reporting the Cause to the District Office~~

~~Reporting the cause of the suspension to the school district's superintendent or governing board in accordance with the regulations of the school district's governing board. Such report may be oral or written. (§ 48911, subd. (e).)~~

~~3. Pupil Records~~

~~Identifying by offense, in all appropriate official records of a pupil, each suspension of that pupil. (§ 48900.8, Stats. 1997, ch. 637, eff. Jan. 1, 1998.)~~

If the immediate suspension is for any of the following offenses:

- Brandishing a knife at another person (§ 48915, subd. (c)(2), Stats. 1995, ch. 972);
- Selling a controlled substance, including the first offense for selling not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, as defined (§ 48915, subd. (c)(3), Stats. 1995 ch. 972);
- Possession, selling or furnishing a firearm, as specified (§ 48915, subd. (c)(1), Stats. 1995, ch. 972);
- Committing or attempting to commit a sexual assault or sexual battery as defined (§ 48915, subd. (c)(4), Stats. 1996, chs. 915 & 1052, operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats. 2001, ch. 116, eff. Jan. 1, 2002);

Then the following suspension activities pursuant to section 48911 are reimbursable:

~~2 1. Parent Contact~~

~~Making a reasonable effort to contact the pupil's parent or guardian in person or by telephone. (§ 48911, subd. (b).)~~

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

† 2. Informal Conference

Conducting an informal conference (by the principal or the principal's designee or the superintendent of schools) between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. Informing the pupil of the reason for the disciplinary action and the evidence against him or her and giving the pupil the opportunity to present his or her version and evidence in his or her defense. (§ 48911, subd. (b).)

3. Parent Written Notice

Notifying the parent or guardian in writing of the suspension whenever the pupil is suspended from school. (§ 48911, subd. (d).)

4. Governing Board Report

Reporting the suspension of the pupil including the cause therefor, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. (§ 48911, subd. (e).)

5. Pupil Records

Identify by offense, in all appropriate official records of a pupil, each suspension of that pupil. (§ 48900.8, Stats. 1997, ch. 637.)

**C. ~~ON-GOING ACTIVITIES:~~ RECOMMENDATION OF FOR EXPULSION**

The preparation of the principal's or superintendent's recommendation to expel a pupil for the following offenses:

- Brandishing a knife at another person (§ 48915, subd. (c)(2), Stats. 1995, ch. 972);
- Selling or furnishing a firearm, as specified (§ 48915, subd. (c)(1), Stats. 1995, ch. 972);
- Unlawful possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915, subd. (a)(3), Stats. 1995, ch. 972);



Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

- The first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915, subd. (c)(3), Stats. 1995, ch. 972);
- Committing or attempting to commit a sexual assault or sexual battery as defined in section 48900 (§ 48915, subd. (c)(4), Stats. 1996, chs. 915 & 1052, operative Jan. 1, 1997);
- Assault or battery on any school employee (§ 48915, subd. (a)(5) Stats. 1996, chs. 915 & 1052, operative Jan. 1, 1997);
- Causing serious physical injury to another person, except in self defense (§ 48915, subd. (a)(1));
- Possession of any knife or other dangerous object of no reasonable use to the pupil (§ 48915, subd. (a)(2));
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code (§ 48915, subd. (c)(3));
- Robbery or extortion. (§ 48915, subd. (a)(4).)

**D. ~~ON-GOING ACTIVITIES:~~ EXPULSION HEARING PROCEDURES AL-  
REQUIREMENTS**

If the expulsion hearing is for any of the following offenses:

- Brandishing a knife at another person (§ 48915, subd. (c)(2), Stats. 1995, ch. 972);
- Selling or furnishing a firearm, as specified (§ 48915, subd. (c)(1), Stats. 1995, ch. 972);
- Unlawful possession of a controlled substance, as defined (except for the first offense of possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis) (§ 48915, subd. (a)(3), Stats. 1995, ch. 972);
- The first offense of a sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis (§ 48915, subd. (c)(3), Stats. 1995, ch. 972 );
- Committing or attempting to commit a sexual assault or sexual battery as defined

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

in section 48900 (§ 48915, subd. (c)(4), Stats. 1996, chs. 915 & 1052, operative Jan. 1, 1997);

- Assault or battery on any school employee (§ 48915, subd. (a)(5) Stats. 1996, chs. 915 & 1052, operative Jan. 1, 1997);
- Causing serious physical injury to another person, except in self defense (§ 48915, subd. (a)(1));
- Possession of any knife or other dangerous object of no reasonable use to the pupil (§ 48915, subd. (a)(2));
- Unlawful sale of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code (§ 48915, subd. (c)(3));
- Robbery or extortion; (§ 48915, subd. (a)(4));

Then the following activities are reimbursable:

1. Hearing Notice

Including in the notice of hearing to the pupil

- (a) A copy of the disciplinary rules of the district that relate to the alleged violation;
- (b) A notice of the parent's, guardian's, or pupil's obligation, pursuant to Education Code section 48915.1, subdivision (b), to notify a new school district, upon enrollment, of the pupil's expulsion;
- (c) Notice of the opportunity for the pupil or the pupil's parent or guardian to inspect and obtain copies of all documents to be used at the hearing (§ 48918, subd. (b)); and
- (d) Notice of the opportunity for the pupil or the pupil's parent or guardian to be represented by counsel or by a non-attorney adviser. (§ 48918, subd. (b)(5), Stats. 1999, ch. 332, eff. Jan. 1, 2000.)

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

2. Document Inspection

Allowing a pupil or pupil's parent or guardian to inspect and obtain copies of documents to be used at the expulsion hearing, as follows:

- (a) If the requesting party is a pupil less than 18 years of age or the parent or guardian of a pupil who is 18 years of age or older, all documents; or
- (b) If the requesting party is the parent or guardian of a pupil under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).<sup>5</sup> (§ 48918, subd. (b).)

~~3. Expulsion hearing costs:~~

~~(a) Preparation for Expulsion Hearing~~

3. Hearing Preparation

Preparing and reviewing documents to be used during the expulsion hearing. Arranging hearing dates and assigning panel members and translators as needed. (§ 48918, subd. (c).) This activity is reimbursed based on a uniform cost allowance reasonable reimbursement methodology.

~~(b) Conducting Expulsion Hearing~~

4. Hearing

The attendance of the review panel and other district employees required to attend the expulsion hearing. (§ 48918, subd. (c).) This activity is reimbursed based on a uniform cost allowance reasonable reimbursement methodology.

~~(c) Hearing Officer or Panel's Expulsion Recommendation to the Governing Board~~

---

<sup>5</sup>The Federal Education Rights and Privacy Act of 1974 ("FERPA") defines "education records" as those records, files, documents, and other materials which (i) contain information directly related to a student, and (ii) are maintained by the school district or a person acting for the school district. 20 U.S.C. Section 1232g(a)(4)(B) provides certain exceptions to the general definition (for example, records maintained by a law enforcement unit of a school district that were created by that law enforcement unit for the purpose of law enforcement).

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

5. Written Recommendation

Preparation and submission of the hearing officer or panel's findings of fact based solely on the evidence adduced at the hearing to recommend the expulsion of a pupil to the governing board. (§ 48918, subds. (d) and (f).) This activity is reimbursed based on a uniform cost allowance reasonable reimbursement methodology.

(d) — Record of Hearing

6. Hearing Record

Maintaining a record of the hearing by any means which would allow for a reasonably accurate and complete written transcript of the proceedings to be made. (§ 48918, subd. (g).) This activity is reimbursed based on a uniform cost allowance reasonable reimbursement methodology.

**E. ~~ON-GOING ACTIVITIES: EXPULSIONS BASED ON ALLEGATIONS OF SEXUAL ASSAULT OR ATTEMPTED SEXUAL ASSAULT OR SEXUAL BATTERY (operative Jan. 1, 1997.)~~ EXPULSION HEARING PROCEDURES: SEXUAL ASSAULT ALLEGATIONS**

When a pupil is recommended for an expulsion involving allegations of sexual assault or attempted sexual assault, as defined, or sexual battery, as defined in section 48900, subdivision (n), the following activities are reimbursable:

8 1. Advisory Against Party Contact

Immediately advise the complaining witnesses and accused pupils to refrain from personal or telephonic contact with each other during the pendency of any expulsion process. (§ 48918.5, subd. (d), Stats. 1996, ch. 915.)

4 2. Notice to Complaining Witness

Provide the complaining witness with a copy of the applicable disciplinary rules and advise the witness of his or her right to: (1) receive five days' notice of the complaining witness's scheduled testimony at the hearing; (2) have up to two adult support persons of his or her choosing present in the hearing at the time he or she testifies; and (3) have the hearing closed during the time he or she testifies pursuant to subdivision (c) of section 48918. (§ 48918.5, subd. (a), Stats. 1996, ch. 915.)

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

2 Give the complaining witness five days' notice prior to being called to testify. (§ 48918, subd. (b), Stats. 1996, ch. 915.)

3. Complaining Witness Accommodations

~~4.~~ If the hearing is conducted at a public meeting, hear the witness' testimony in a session closed to the public if testifying would threaten serious psychological harm and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television. (§ 48918, subd. (c), Stats. 1996, ch. 915.)

6. Provide a nonthreatening environment for a complaining witness in order to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. (§ 48918.5, subd. (c), Stats. 1996, ch. 915.)

7. Provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. (§ 48918.5, subd. (c), Stats. 1996, ch. 915.)

4. Support Person as Witness Protocol

3. Before the complaining witness' testimony, admonish the witness' support person(s) that the hearing is confidential. (§ 48918, subd. (b), Stats. 1996, ch. 915.)

5. Follow the provisions of section 868.5 of the Penal Code at the hearing if the complaining witness has one or more support persons, and one or more of the support persons is also a witness. (§ 48918, subd. (b), Stats. 1996, ch. 915.) The section 868.5 procedures include: (1) Only one support person may accompany the witness to the witness stand, although the other may remain in the room during the witness' testimony; (2) For the prosecution to present evidence that the support person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness; (3) For the governing board, on the prosecution's showing in (2), to grant the request for the support person unless information presented by the defendant or noticed by the district establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony; (4) The governing board shall inform the support person or persons that the proceedings are confidential and may not be

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

discussed with anyone not in attendance at the proceedings; (5) For the governing board to admonish the support person or persons to not prompt, sway, or influence the witness in any way; (6) For the testimony of the support person or persons who are also witnesses to be presented before the testimony of the prosecuting witnesses and excluding the prosecuting witnesses from the courtroom during the support person's testimony; and (7) When the evidence given by the support person would be subject to exclusion because it has been given before the corpus delicti<sup>6</sup> has been established, for the evidence to be admitted subject to the governing board or defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

**F. ~~ON-GOING ACTIVITIES:~~ POST-EXPULSION HEARING PROCEDURES**

If the expulsion hearing is for any of the following offenses:

- Possessing, selling, or otherwise furnishing a firearm (§ 48915, subd. (c)(1));
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery (§48915, subd. (c)(4), Stats. 1996, ch. 1052, operative Jan. 1, 1997);

Then the following activities are reimbursable:

1. Expulsion Order

Issuing the expulsion order. (§ 48915, subd. (d).)

2. Parent Notice

Sending written notice to the pupil or the pupil's parent or guardian of: (a) any decision by the governing board to expel or suspend the enforcement of an expulsion order during a period of probation; (b) the right to appeal the expulsion to the county board of education; (c) the education alternative placement at the time of expulsion order, and (d) the obligation of the pupil, parent or guardian under Education Code section

---

<sup>6</sup>The corpus delicti is the basic element or fact of a crime.



Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

48915.1 to notify a new school district, upon enrollment, of the pupil's expulsion. Costs of postage for mailing the notice is reimbursable under this activity. (§ 48918, subd. (j).)

3. Pupil Records

Maintaining a record of the expulsion, including the cause of the expulsion. (§ 48918, subd. (k).)

4. Recording the expulsion order and the cause of the expulsion in the pupil's mandatory interim record. (§ 48918, subd. (k).)

5. Forwarding the pupil's mandatory interim record to any school in which the pupil subsequently enrolls upon the request of such school. (§ 48918, subd. (k).)

**G. ~~ON-GOING ACTIVITIES: REFERRAL OF EXPELLED PUPIL TO DIFFERENT  
SCHOOLSITE, REHABILITATION PLAN, AND ALTERNATIVE EDUCATIONAL  
PROGRAMS~~**

When the pupil is expelled for one of the following offenses:

- Possessing, selling, or otherwise furnishing a firearm (§ 48915, subd. (c)(1));
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§48915, subd. (c)(4), Stats. 1996, ch. 1052, operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats., ch. 116, eff. Jan. 1, 2002);

Then the following activities are reimbursable:

1. Referral to Alternative Education Program

Refer the expelled pupil to a program of study that meets the following criteria: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems; (2) is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and (3) is not housed at the schoolsite attended by the pupil at the

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

time of suspension. (§ 48915, subd. (d), Stats. 1995, ch. 972.)

2. Notice to Parents

Send written notice to the pupil or the pupil's parent or guardian of the education alternative placement at the time of the expulsion order. (§ 48918, subd. j., Stats. 1995, ch. 974.)

3. Rehabilitation Plan

Recommend a rehabilitation plan for the pupil, at the time of the expulsion order. (§ 48916, subd. (b), Stats. 1995, ch. 974, operative July 1, 1996.)

4. Alternative Educational Program Costs

Ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. The educational program may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools. The educational program may not be situated within or on the grounds of the school from which the pupil was expelled (§ 48916.1, Stats. 1995, ch. 974, operative July 1, 1996.) State attendance-based funding or other state or federal sources of funding for these programs are an offset to the reimbursable cost of providing the alternative educational programs.

**H. ~~ON-GOING ACTIVITIES:~~ READMISSION TO THE DISTRICT PROCEDURES**

If the governing board expelled a pupil for any of the following offenses:

- Possessing, selling or otherwise furnishing a firearm (§ 48915, subd. (c)(1));
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§ 48915, subd. (c)(4), Stats. 1996, ch. 1052, operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats., ch. 116, eff. Jan. 1, 2002);

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

Then the following activities are reimbursable:

~~3. Review the pupil for readmission. (operative July 1, 1996.)~~

1. Readmission Determination

~~(a)~~ Ordering the expelled pupil's readmission or making a finding to deny readmission if the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. (§ 48916, subd. (c), Stats. 1995, ch. 974.)

~~(b)~~ If readmission is denied, the governing board: , ~~(1)~~ [m]aking the determination to either continue the placement of the expelled pupil in the alternative education program, or ~~to placing~~ the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. (§ 48916, subd. (d).)

2. Pupil/Parent Notice

1. Setting a date when the pupil may apply for readmission to a district school.

~~2.~~ Providing a description of the procedure for readmission to the pupil and the pupil's parent or guardian. (§ 48916.) Or,

~~(b)(2)~~ Providing written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying readmission to the regular school program. The written notice shall include the determination of the alternative education program for the expelled pupil. (§ 48916, subd. (e).)

**I. ON-GOING ACTIVITIES: APPLICATION BY EXPELLED PUPIL TO  
ATTENDANCE AT A NEW DISTRICT**

RECEIVING DISTRICT ACTIVITIES

If a pupil ("applicant") seeking application to the receiving school district has been expelled by another school district for *any offense* and the receiving school district does not have a voluntary interdistrict transfer agreement with the expelling district, then the following activities associated with the receiving district's hearing are reimbursable:

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

1. Notice of Hearing

Including in the notice of hearing to the applicant: (a) a copy of the hearing procedure rules of the receiving district; and (b) notice of the opportunity for the applicant or the applicant's parent or guardian to inspect and obtain copies of all documents to be used at the hearing.

2. Document Inspection

Allowing an applicant or applicant's parent or guardian to inspect and obtain copies of documents to be used at the admission hearing, as follows:

- (a) if the requesting party is an applicant less than 18 years of age, or the parent or guardian of an applicant who is 18 years of age or older, all documents; or
- (b) if the requesting party is the parent or guardian of an applicant under the age of 18, only those documents which are not "education records" as defined in 20 U.S.C. section 1232g(a)(4).

3. Admission Determination

Determination by the governing board whether a pupil expelled by another school district would pose a danger to the pupils and employees of the receiving district and whether to admit, deny admission, or conditionally admit the pupil during or after the period of expulsion.

4. Maintaining a record of each admission denial, including the cause of the denial.

5. Notifying the applicant and the applicant's parent or guardian of the governing board's determination of whether the applicant poses a potential danger to the pupils or employees of the receiving district and whether to admit, deny admission, or conditionally admit the applicant during or after the period of expulsion. (§§ 48915.1 & 48915.2)

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

~~J. ON-GOING ACTIVITIES: RESPONDING TO REQUESTS FOR  
RECOMMENDATIONS FOR ADMISSION TO A RECEIVING SCHOOL  
DISTRICT~~

SENDING DISTRICT ACTIVITIES

If the governing board expelled a pupil for any of the following offenses:

- Possessing, selling or otherwise furnishing a firearm (§ 48915, subd. (c)(1));
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery (§48915, subd. (c)(4), operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats., ch. 116, eff. Jan. 1, 2002);

4. Request for Recommendation

~~And the expelled pupil applies for admission to another school district (the "receiving district") then;~~ Unless the expelling district entered into a voluntary interdistrict transfer agreement with the receiving district, the activities of the expelling district in responding to the receiving district's request for a recommendation regarding the admission of the applicant are reimbursable. (§ 48915.2.)

**~~K-J. ON-GOING ACTIVITIES: EXPULSION APPEAL HEARINGS~~**

~~County Boards of Education (applies to expulsion appeals for all offenses)~~

COUNTY OFFICES OF EDUCATION

For all offenses:

1. Providing Notice to the Parties
  - (a) Notifying the pupil and the pupil's parent(s) or guardian(s) of the procedures for the appeal. (§ 48919.)

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

- (b) Notifying the school district and pupil in writing of the final order of the county board of education, either by personal service or certified mail. (§ 48924.)

2. Review of District Hearing Record

Reviewing the filed appeal and the transcript and record of the hearing conducted by the school district governing board. (§§ 48921-48922.)

3. De Novo Conducting Hearings

Conducting the initial appeal hearing and rendering a decision. Reimbursement for this component is limited to appeals for which the county board of education decides to grant a hearing de novo. (§§ 48919 & 48923.)

5 4. Remand to District

Remanding an expulsion decision to a school district for adoption of the required findings if the school district's decision is not supported by the findings required by section 48915, but evidence supporting the required findings exists in the record of the proceedings. (§ 48923, subd. (b), Stats. 2000, ch. 147, eff. Jan. 1, 2001.)

4 5. Preserving Hearing Records

Preserving the record of appeal. (§ 48919.)

SCHOOL DISTRICTS

If the governing board expelled a pupil for any of the following:

- Possessing, selling or otherwise furnishing a firearm § 48915, subd. (c)(1);
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery. (§48915, subd. (c)(4), Stats. 1996, ch. 1052, operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats., ch. 116, eff. Jan. 1, 2002);



Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

Then the following activities are reimbursable:

4 6. Providing Copies of Documents

- (a) Providing copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is less than 18 years of age. (§ 48919.)
- (b) Providing copies of supporting documents and records from the district's expulsion hearing (other than the transcript) to a pupil who is 18 years of age or older, or to the parent or guardian of a pupil who is less than 18 years of age, if the documents or records are not "education records" as defined in 20 U.S.C. section 1232g (a)(4). (§ 48919.)

2 7. Participation in Hearings

Participation by a school district in the county board of education's hearing on appeal if the county board of education grants a hearing de novo. (§ 48919.)

4 8. Remand Hearings

If the county board of education remanded the expulsion to the school district's governing board following an appeal, sending notice of the hearing, conducting a hearing on remand, and rendering a decision in the remand hearing. (§ 48923.)

~~5. Notice and Adoption of Required Findings on Remand (operative Jan. 1, 2001)~~

If following an appeal, the county board of education remanded the expulsion to the governing board, then:

- (a) Providing notice to the pupil or the pupil's parent or guardian of the following: the expulsion decision, the right to appeal to the county board, the education alternative placement to be provided during the expulsion, and the obligation of the parent or guardian to inform a new school district in which the pupil may enroll of the pupil's expulsion; and maintain a record of each expulsion and the cause therefor.
- (b) Adopting the required findings on remand from the county board of education in a public session. (Holding a hearing is not reimbursable.) (§ 48923, subd. (b), Stats. 2000, ch. 147.)

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS**

(Effective Beginning July 1, 2012)

**3 9. Expunging Records**

Expunging the school district's and pupil's records concerning the expulsion, when ordered by the county board of education. (§ 48923.)

**~~L K.~~ ON-GOING ACTIVITIES: SCHOOL DISTRICT DATA COLLECTION**

If the governing board expelled a pupil for any of the following offenses:

- Selling, or otherwise furnishing a firearm (§ 48915, subd. (c)(1));
- Brandishing a knife at another person (§ 48915, subd. (c)(2));
- Unlawfully selling any controlled substance (§ 48915, subd.(c)(3));
- Committing or attempting to commit a sexual assault or committing a sexual battery (§48915, subd. (c)(4), Stats. 1996, ch. 1052, operative Jan. 1, 1997);
- Possession of an explosive at school or at a school activity off school grounds (§ 48915, subd. (c)(5), Stats., ch. 116, eff. Jan. 1, 2002);

It is ~~reimbursable for the school district to~~ Maintaining data on the following and reporting it data to the California Department of Education about:

- a. [w]hether the expulsion order was suspended;
- b. [t]he type of referral made after the expulsion; and
- e. [t]he disposition of the pupil after the end of the period of expulsion. (§ 48916.1, subd. (e), Stats. 1996, ch. 937.)

**L. TRAINING**

Training school district personnel (one-time per employee) about the mandated suspension, expulsion, and expulsion appeal activities. This reimbursable component includes the labor time of administrators and other school district personnel involved with preparation of training sessions and the labor time of administrators and other school district personnel who conduct or attend training sessions. Labor time for teachers is not reimbursable. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

**V. CLAIM PREPARATION AND SUBMISSION FOR ACTUAL COSTS**

No change

**VI. CLAIM PREPARATION AND SUBMISSION: REASONABLE REIMBURSEMENT METHODOLOGY**

The Commission ~~is adopting~~ has adopted a *reasonable reimbursement methodology* to reimburse school districts for all direct and indirect costs, as authorized by Government Code section 17557, subdivision (b), *in lieu of payment of total actual costs incurred for the reimbursable activities specified in Section IV.D.3 above.*

**A. Reasonable Reimbursement Methodology**

The definition of reasonable reimbursement methodology is in Government Code section 17518.5, as follows:

Government Code Section 17518.5

- (a) *Reasonable reimbursement methodology* means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:
  - (1) the total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.
  - (2) for 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.
- (b) Whenever possible, a *reasonable reimbursement methodology* 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 local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
 EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

- (c) A reasonable reimbursement methodology may be developed by any of the following:
- (1) The Department of Finance.
  - (2) The Controller.
  - (3) An affected state agency.
  - (4) A claimant.
  - (5) An interested party.

**B. Uniform Cost Allowances and Formula for Reimbursable Activities**

The *reasonable reimbursement methodology* shall consist of uniform cost allowances to cover all direct and indirect costs of performing activities in Section IV.D.3-6 and applied to a formula for calculating claimable costs.

1. The uniform cost allowances for reimbursement of activities in Section IV.D. 3-6 are as follows:

Reimbursable Component	Uniform Cost Allowance
IV.D.3 (a) <del>Preparation for Expulsion Hearing</del> <u>Preparation</u>	\$115.72
IV.D. 3(b) <del>4 Conducting Expulsion Hearing</del>	\$144.58
IV.D. 3(c) <del>5 Hearing Officer or Panel's Expulsion Written Recommendation to the Governing Board</del>	\$171.00
IV.D. 3(d) <del>6 Record of Hearing</del> <u>Record</u>	\$ 1.47
Total	\$432.77

The uniform cost allowances shall be adjusted each subsequent year by the Implicit Price Deflator.

2. Formula

Reimbursement of Activities IV.D.3 (a)-(d) ~~-6~~ is determined by multiplying the

Test Claimant's Proposed Parameters and Guidelines

7/27/11

**CONSOLIDATED PUPIL SUSPENSIONS,  
EXPULSIONS, AND EXPULSION APPEALS** (Effective Beginning July 1, 2012)

uniform cost allowance for the appropriate fiscal year by the number of mandatory recommendations for expulsion that resulted in expulsion hearings. If a hearing does not result, claimant may claim increased costs incurred for Section IV.D.3 (a), Preparation for Expulsion Hearing.

**VII. RECORD RETENTION**

no change

**VIII. OFFSETTING REVENUES AND REIMBURSEMENTS**

No change

**IX STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

No change

**X. REMEDIES BEFORE THE COMMISSION**

No change

**XI. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

No change