CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number B140704 in the Appellate Court of California, Second Appellate District, Division 2.
2. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number D0 38027, in the Appellate Court of California, Fourth Appellate District, Division 1.
3. *Department of Finance v. Commission on State Mandates, et al.*, Case Number 00CS01446, in the Superior Court of the State of California, County of Sacramento.
4. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al,* Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
5. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara,* Case Number C037645, in the Court of Appeal, Third Appellate District.
6. *City of San Diego v. Commission on State Mandates, et al.* Case Number GIC751187, in the Superior Court of the State of California, County of San Diego.
7. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.
8. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number BS06911, in the Superior Court of the State of California, County of Los Angeles.
9. *County of San Bernardino v Commission on State Mandates of the State of California et al.*, Case Number SCVSS72444, in the Superior Court of the State of California, County of San Bernardino.
10. *County of San Diego v. Commission on State Mandates, et al.*, Case Number GIC762953, in the Superior Court of the State of California, County of San Diego.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

Hearing no further comments, Chairperson Porini adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Porini reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

ADJOURNMENT

Hearing no further business, Chairperson Porini adjourned the meeting at 10:56 a.m.

Paula Higashi

PAULA HIGASHI
Executive Director

f:/meetings/minutes/2001/102501

COMMISSION ON STATE MANDATES
PROPOSED NOTICE AND AGENDA [1]

State Capitol, Room 126
Sacramento, California

January 24, 2002

9:30 A.M. - PUBLIC SESSION

I. CALL TO ORDER AND ROLL CALL

II. ELECTION OF OFFICERS

Item 1 Election of Chairperson and Vice Chairperson

III. APPROVAL OF MINUTES

Item 2 December 12, 2001

IV. PROPOSED CONSENT CALENDAR (action)

Note: If there are no objections to any of the following action items designated by an asterisk (*), the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.

V. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

Note: Witnesses will be sworn in en masse before consideration of Items 3-5

A. TEST CLAIMS

Item 3 *Community College District Budget and Financial Reports, Fiscal Management Reports, and Financial and Compliance Audits*
97-TC-10, 11, 12.
Santa Monica Community College District, Claimant
Education Code Sections 84030, 84040 and 84040.5
Statutes of 1977, Chapters 36 and 936; Statutes of 1978, Chapter 207; Statutes of 1979, Chapter 221; Statutes of 1980, Chapter 884; Statutes of 1981, Chapters 470, 471, 930 and 1178; Statutes of 1983, Chapter 1206; Statutes of 1984, Chapters 609 and 1282; Statutes of 1986, Chapter 1486; Statutes of 1987, Chapter 1025; Statutes of 1990, Chapter 1372; Statutes of 1994, Chapter 20; California Code of Regulations, Title 5, Sections 58300-58301, 58303- 58308, 58310-58312, 58314, 58316, 58318, 59100, 59102, 59104, 59106, 59108, 59110, 59112, and 59114; 1991 California Community Colleges Contracted District Audit Manual and subsequent revisions through June 1996; 1993 California Community Colleges Budget and Accounting Manual and subsequent Accounting Advisories dated through May 30, 1997

[1] This public meeting notice is available on the Internet at http://www.csm.ca.gov.

B. PROPOSED STATEMENTS OF DECISION - INCORRECT REDUCTION CLAIMS

Item 4* *Graduation Requirements*, 4435-I-35
Grossmont Union High School District, Claimant
Education Code Section 51225.3
Statutes of 1983, Chapter 498

Item 5* *Graduation Requirements,* 4435-I-06 & 4435-I-38
Clovis Unified School District, Claimant
Education Code Section 51225.3
Statutes of 1983, Chapter 498

VI. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

Item 6* *School District Fiscal Accountability Reporting,* 97-TC-19 (Formerly known as, Budget Process Financial Statements, and County Oversight)
Alameda County Office of Education, Claimant
Education Code Sections 42100, 42127, 42127.5, 42127.6, 42128, 42131, and Government Code Section 3540.2
Statutes of 1981, Chapter 100; Statutes of 1985, Chapter 185; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1990, Chapter 525; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapter 650 and 1002; and Statutes of 1995, Chapter 525

Item 7* *County Office of Education Fiscal Accountability Reporting (formerly known as, County Office Budget Process and Financial Statements),* 97-TC-20
Alameda County Office of Education, Claimant
Education Code Sections 1240, subdivision (j) 1240.2, 1620, 1622, 1625, 1628, 1630
Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1990, Chapter 1372; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapters 650 and 1002; Statutes of 1995, Chapter 525

Item 8* *Employee Benefits Disclosure,* CSM-4502, 98-TC-03
Clovis Unified School District & Sweetwater Unified High School District, Claimants
Education Code Sections 42140 and 42142
Statutes of 1994, Chapter 650; Statutes of 1995, Chapter 525; Statutes of 1996, Chapter 1158

Item 9* *Law Enforcement College Jurisdiction* (formerly known as Campus Safety Plans), 98-TC-20
Contra Costa Community College District, Claimant
Education Code Sections 67381
Statutes of 1998, Chapter 284

Item 10 *Standardized Testing and Reporting,* 97-TC-23
San Diego Unified School District, Claimant
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828; Title 5, California Code of Regulations, Sections 850-904

B. STATEWIDE COST ESTIMATES

Item 11* *Sexual Harassment Training in the Law Enforcement Workplace*, 97-TC-07
County of Los Angeles, Claimant
Penal Code Section 13519.7
Statutes of 1993, Chapter 126

Item 12* *Mentally Disordered Offenders' Extended Commitment Proceedings,* 98-TC-09
County of Los Angeles, Claimant
Penal Code Sections 2970, 2972, and 2972.1
Statutes of 1985, Chapter 1418; Statutes of 1986, Chapter 858; Statutes of 1987, Chapter 687; Statutes of 1988, Chapters 657 and 658; Statutes of 1989, Chapter 228; Statutes of 1991, Chapter 435; and Statutes of 2000, Chapter 324

Item 13* *Elder Abuse Law Enforcement Training,* 98-TC-12
City of Newport Beach, Claimant
Penal Code Section 13515
Statutes of 1997, Chapter 444

Item 14* *Extended Commitment – Youth Authority,* 98-TC-13
County of Alameda, Claimant
Welfare and Institutions Code Sections 1800, 1801 and 1801.5
Statutes of 1984, Chapter 546; Statutes of 1998, Chapter 267

C. ADOPTION OF ANNUAL RULEMAKING CALENDAR

Item 15* 2002 Rulemaking Calendar (Gov. Code, § 11017.6.)

EXECUTIVE DIRECTOR'S REPORT (info)

Item 16 Workload, Legislation, Next Agenda

VII. PUBLIC COMMENT

VIII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time or may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.,* Case Number B140704, in the Appellate Court of California, Second Appellate District, Division 2.
2. *San Diego Unified School District v. Commission on State Mandates, et al.,* Case Number D038027, in the Appellate Court of California, Fourth Appellate District, Division 1.
3. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.,* Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
4. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara,* Case Number C037645, in the Appellate Court of California, Third Appellate District.
5. *City of San Diego v. Commission on State Mandates, et al.,* Case Number D039095 in the Appellate Court of California, Fourth Appellate District.
6. *County of Los Angeles v. Commission on State Mandates, et al.,* Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.
7. *County of San Bernardino v. Commission on State Mandates, et al.,* Case Number BS069611, in the Superior Court of the State of California, County of Los Angeles.
8. *County of San Bernardino v Commission on State Mandates of the State of California et al.*, Case Number SCVSS72444, in the Superior Court of the State of California, County of San Bernardino.
9. *County of San Diego v. Commission on State Mandates, et al.,* Case Number GIC762953, in the Superior Court of the State of California, County of San Diego.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i)).

B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

IX. REPORT FROM CLOSED EXECUTIVE SESSION

ADJOURNMENT

For information, contact:

Paula Higashi, Executive Director
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
(916) 445-0278 Fax

ITEM 10

Staff Analysis
Claimant's Proposed Parameters and Guidelines, As Modified By Staff

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-874

Standardized Testing and Reporting

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ITEM 10

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-904

Standardized Testing and Reporting

EXECUTIVE SUMMARY

Summary of the Mandate

The test claim legislation established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates (Commission), in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of article XIII B, section 6 of California Constitution, and costs mandated by the state pursuant to Government Code section 17514. Accordingly, the Commission approved the test claim for reimbursable activities to administer the designated achievement and primary language tests.

The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

Staff Analysis

The claimant submitted its proposed parameters and guidelines on September 5, 2000. Staff received comments from the Department of Finance (DOF), the State Controller's Office (SCO), and Mandated Cost Systems (MCS), and rebuttal to the DOF and SCO comments from the claimant. To date, staff issued two staff analyses on these parameters and guidelines. Comments were also received from MCS and the claimant on those analyses. The staff analysis for the January 24, 2002 hearing includes revisions based on those comments.

On October 26, 2001, the Commission conducted a workshop for the parties to meet and discuss parameters and guidelines boilerplate language, which includes sections V through IX, and the preamble to section IV. For purposes of consistency, staff modified these sections to match the boilerplate language in the other four parameters and guidelines set for the January 24, 2002 hearing.

A summary of the most pertinent issues raised by the parties and staff's changes to the proposed parameters and guidelines are discussed below:

Eligible Claimants

MCS requested that charter schools be added as eligible claimants. When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519, which defines school districts eligible for reimbursement, does not include charter schools as a separate potential claimant. Therefore, staff did not include charter schools as eligible claimants.

Period of Reimbursement

The claimant's proposal indicated that the period of reimbursement began July 1, 1997. However, Statutes of 1997, chapter 828 was an urgency statute effective October 10, 1997. Therefore, staff clarified that costs incurred for this mandate after October 10, 1997 for compliance with the mandate are reimbursable, *unless otherwise specified*. Staff inserted a footnote to explain that the implementing regulations became effective January 2, 1998.

Reimbursable Activities

At the request of the SCO and DOF, staff narrowed the claimant's proposed language for acquiring test materials, supplies, and equipment to purchases that are required by the mandate. Requesting additional materials from the contract test provider is optional and, therefore is not reimbursable.

At the request of the claimant and MCS, staff clarified language that reimburses school districts for collating and submitting pupil demographic information. Staff deleted language allowing reimbursement for additional sums paid to teachers for time spent administering the tests, since this activity was not included as a reimbursable activity in the Commission's Statement of Decision. Staff also clarified that payment of sales tax to the publisher is reimbursable during a specified reimbursement period.

Offsetting Savings and Reimbursements

Staff specified in this section that reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding provided each year in the state budget for the STAR Program.

Staff made other non-substantive, technical revisions to the claimant's proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 15.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

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Claimant

San Diego Unified School District

Chronology

08-24-00	Commission on State Mandates (Commission) adopted Statement of Decision[1]
08-31-00	Claimant submitted proposed Parameters and Guidelines[2]
10-18-00	State Controller's Office (SCO) submitted comments on the claimant's proposal[3]
11-15-00	Claimant filed a rebuttal to the SCO's comments[4]
11-20-00	Department of Finance (DOF) submitted comments on the claimant's proposal[5]
11-29-00	Claimant filed a rebuttal to the DOF's comments[6]
12-29-00	Spector, Middleton, Young & Minney (SMYM), on behalf of Mandated Costs Systems (MCS), interested party, filed comments on the claimant's proposal[7]
03-15-01	MCS filed additional comments on the claimant's proposal[8]
04-26-01	MCS filed comments on boilerplate language[9]
10-15-01	Commission issued staff analysis
10-26-01	Commission conducted a boilerplate language workshop
11-28-01	Commission issued revised staff analysis[10]
12-10-01	Commission issued supplemental staff analysis[11]
12-10-01	MCS filed comments on staff's revised staff analysis[12]
01-10-02	Claimant filed comments on staff's revised and supplemental staff analyses[13]
01-11-02	Commission issued final staff analysis

Summary of the Mandate

The test claim legislation established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the

[1] Exhibit A
[2] Exhibit B
[3] Exhibit C
[4] Exhibit D
[5] Exhibit E
[6] Exhibit F
[7] Exhibit G
[8] Exhibit H
[9] Exhibit I
[10] Exhibit J
[11] Exhibit K
[12] Exhibit L
[13] Exhibit M

State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission, in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, and costs mandated by the state pursuant to Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities to administer the designated achievement and primary language tests:

- Administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.
- Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Costs are only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.
- Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Inclusion of STAR Program test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Reporting of individual STAR Program test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)

- Reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)
- Submission of a report on the STAR Program to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)
- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)
- Exemption of pupils from the STAR Program tests upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
- Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff.
- Implementation of procedures relating the administration of the STAR Program.

The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

Staff Analysis

Staff reviewed the claimant's proposal and the comments received. Non-substantive changes were made for the purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision, statutory language, and the implementing regulations.

On October 26, 2001, the Commission conducted a workshop for the parties to meet and discuss parameters and guidelines boilerplate language, which includes sections V through IX

and the preamble to section IV. For purposes of consistency, staff modified these sections to match the boilerplate language in the other four parameters and guidelines set for the January 24, 2002 hearing.[14]

Staff modified the claimant's proposed parameters and guidelines, as discussed below:

II. Eligible Claimants

MCS commented that the test claim legislation specifically requires charter schools to comply with the STAR program, and therefore concluded that charter schools are treated as a "school district" for compliance with the STAR program. In a letter dated December 10, 2001, MCS requested inclusion of charter schools in these parameters and guidelines in the same manner that they were included in the *Criminal Background Checks* parameters and guidelines, in which a footnote was added in the Eligible Claimants section that "the activities under this mandate also apply to charter schools."

When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519 defines "school districts" as follows: "School districts means any school district, community college district, or county superintendent of schools." Although costs incurred by a charter school may be included in a school district claim, the definition in section 17519 does not include charter schools as a separate individual claimant. Therefore, staff did not include charter schools as eligible claimants.[15]

II. Period of Reimbursement

The claimant's proposal indicated that the period of reimbursement began July 1, 1997. However, Statutes of 1997, chapter 828 was an urgency statute effective October 10, 1997. Therefore, staff clarified that costs incurred for this mandate after October 10, 1997 for compliance with the mandate are reimbursable, *unless otherwise specified*. Staff inserted a footnote to explain that the implementing regulations became effective January 2, 1998.

IV. Reimbursable Activities

MCS proposed adding the phrase "and any other reasonable costs incurred to effectuate" in the preamble for this section.[16] Staff finds that the proposed phrase is overbroad because this section of the parameters and guidelines must specifically define the reimbursable activities. Instead, the preamble was modified to match proposed boilerplate language.

MCS also proposed that the parameters and guidelines include the detailed activities that are listed in the regulations, rather than just citing to the regulations, as was done in these parameters and guidelines. Staff did include specific activities when it provided needed clarification. However, it would be redundant to repeat the regulations in the parameters and

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[14] *School District Fiscal Accountability Reporting*, 97-TC-19; *County Office of Education Fiscal Accountability Reporting*, 97-TC-20; *Employee Benefits Disclosure*, CSM-4502, 98-TC-03; and *Law Enforcement College Jurisdiction*, 98-TC-20.

[15] Staff notes that a test claim entitled *Charter Schools III* (99-TC-14) has been filed and directly raises the issue whether charter schools are proper claimants under article XIII B, section 6 of the California Constitution.

[16] Exhibit H, comments dated March 15, 2001.

guidelines. Rather, staff attached the regulations to the parameters and guidelines for distribution to claimants.

In a letter dated January 10, 2002, the claimant contends that:

> [T]he standards-based achievement test must be considered as part of the test claim as it is supported by ample authority contained in the test claim, it is administered concurrently with the other achievement tests, consists of fifty percent of the STAR program and it is anticipated to be in place until the year 2005.[17]

The claimant also argued that Education Code section 60640, subdivision (b), was subsequently amended as follows:

> Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and from funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 through 11, inclusive, the achievement test designated by the State Board of Education pursuant to Section 60642 and *the standards-based achievement test provided for in Section 60642.5*. (Emphasis added.)

The original test claim legislation does not include the standards-based achievement test described in Education Code section 60642.5. Rather, section 60642.5 was added by Statutes of 2000, chapter 576.[18] This test claim was decided before chapter 576 was enacted and a new test claim has not been filed submitted on section 60642.5. Thus, the Commission has not made a finding that Education Code section 60642.5 imposes a new program or higher level of service within the meaning of article XIII B, section 6 of California Constitution, and costs mandated by the state pursuant to Government Code section 17514. Therefore, staff finds that reimbursement for the standards-based achievement test outlined in section 60642.5 goes beyond the scope of the Statement of Decision and is not reimbursable.

For each reimbursable activity, staff made technical clarifying amendments to conform the period of reimbursement to the operative and effective dates of the test claim regulations.

A. Training, Policies, and Procedures

The DOF argued that the training required for this mandate is minimal and that review of the STAR Program requirements does not appear to create a state-mandated cost. The DOF submitted that all coordinators will be fully trained on the legal requirements and, since a school must comply with all applicable laws, reviewing laws and regulations to ensure compliance would be within the existing responsibilities of a school.

The Commission found in its Statement of Decision that the activity of "Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff" is reasonably necessary to carry out the mandate, and therefore constitutes a reimbursable activity. Staff therefore retained the claimant's language regarding reimbursement for reviewing the requirements and conducting or attending training, but deleted the language that allowed for training on successor testing programs selected by the

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[17] Exhibit M.

[18] Exhibit P, text and committee analysis of chapter 576.

State Board of Education. A new test claim may be filed if the State Board of Education selects a new testing *program* to succeed the STAR program.

The claimant points out in a January 10, 2002 letter that since tests are conducted differently at each site, an employee will need additional training if he or she transfers to another school. Therefore, staff clarified that training to review the requirements of the STAR program on a one-time basis, per employee, per test site is reimbursable. Multiple training for the same person who remains at the same school is not reimbursable.

Staff also added "Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the labor time of the teacher spent in attending training sessions during that teacher's normal classroom hours is not reimbursable." This language is consistent with past Commission decisions regarding teacher training.[19]

Consistent with recently adopted parameters and guidelines, staff modified the claimant's proposed activity of preparing policies, procedures, and forms to provide one-time reimbursement for "*developing* policies, procedures, and forms to implement the STAR program."

B. Test Materials, Supplies and Equipment

The claimant's proposal included reimbursement for contacting the test provider and preparing the contract. The proposal further included the Commission's finding in the Statement of Decision that preparation of the contract with the test publisher is limited to completion of the contract.

The SCO requested deletion of the phrase "without limitation" to prevent unnecessary reimbursement of excessive purchases beyond the amount that is required by the mandate. Staff agrees with the SCO that this language is too broad and therefore made the modification.

The DOF argued that the contractor is responsible for producing all testing materials required for the STAR Program in sufficient quantities to test all required students (including a 15 percent overage), which is provided for in the state budget. Further, to the extent that districts request additional material and/or services, such requests are voluntary on the part of the district and would not be reimbursable.

Consistent with DOF's argument, staff added the Commission's finding that; "Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable."

MCS proposed that the costs for collecting, collating, and providing the publisher demographic information on all pupils tested be added in this section pursuant to California Code of Regulations, title 5, section 861, subdivision (a). Staff added this activity in E. Reporting and Record Keeping.

MCS also proposed adding sales tax paid to the publisher. The Commission's Statement of Decision allows for reimbursement of the payment of sales tax to the publisher added to the purchase price of the tests, pursuant to California Code of Regulations, title 5, section 856.

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[19] Physical Performance Testing, CSM 96-365-01.

However, section 856 of the regulations was repealed, deleting payment of the sales tax, because the state now purchases the tests for the STAR program. Therefore, staff added language that payment of the sales tax is reimbursable until December 16, 1999.

Finally, MCS proposed adding replacement costs for lost or destroyed testing materials. California Code of Regulations, title 5, section 870, subdivision (a)(3)(A), specifically states that "replacement costs for test materials lost or destroyed while in possession of the school district" are not reimbursable. These costs are outside the scope of the mandate and thus, staff did not make the addition.

C. Pretest and Posttest Coordination

The claimant included "collect, collate, and submit pupil demographic information" as a reimbursable activity. Staff added this activity in E. Reporting and Record Keeping.

The DOF submitted that reimbursement for the activities of designating site and district coordinators, exempting pupils from STAR Program tests upon request of the parents or guardians, and coordination of testing at the test site should be offset by the amount provided in the annual state budget. Staff notes that the budget acts for each fiscal year eligible for reimbursement for this mandate include an appropriation to the California Department of Education for local assistance for administration of the STAR Program.[20] Staff identified the line-item appropriations in section VII. Offsetting Savings and Reimbursements.

The DOF further submitted that districts that choose to pre-identify test forms receive funding to provide the information to the test publisher as an incentive, and therefore, the costs incurred should not be claimed through the mandate claiming process. Staff notes that the activity of pre-identifying test forms is optional and was not found to be reimbursable in the Statement of Decision.

MCS suggested that the duties of the STAR program district coordinator and the STAR program test site coordinator be specified in the parameters and guidelines. Staff agreed that listing the duties for each coordinator would clarify each coordinator's duties, and thus, listed their respective duties pursuant to California Code of Regulations, title 5, sections 857-859, 865, 867, and 868.

In addition, under the claimant's proposed activity of determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils, MCS proposed the following:

> ...as determined at an [Individualized Education Program] meeting, such as large print, Braille, extended time, or the use of a reader, scribe, or a calculator; nonstandard accommodations for English language learners shall be utilized only if the school district has adopted a policy to be applied at each school to identify those English learners enrolled in the school district for less than one year for whom nonstandard accommodations may be appropriate due to the pupil's limited English proficiency; costs associated with providing nonstandard accommodations may include, but are not

[20] Exhibit E, State Budget Act line item funding for the Star Program for fiscal years: 1998-99, 1999-00, 2000-01, and 2001-02.

limited to, reading and translating the test instructions into the pupil's primary language and use of a bilingual dictionary[.]

This activity is already included under activity C. Pretest and Posttest Coordination, and is authorized by California Code of Regulations, title 5, section 852, subdivision (b), which provides the authority for appropriate testing adaptations or accommodations for special education pupils.

D. Test Administration

The claimant proposed that "time spent by the classroom teacher during his or her normal classroom hours for this activity is not reimbursable, unless the teacher is paid an additional sum for such time."

The SCO requested deletion of the phrase, "unless the teacher is paid an additional sum for such time" because the mandate does not require the STAR test to be given at any time other than normal school hours. In addition, the SCO submitted that the mandate does not require a district to pay teachers more during normal classroom hours when pupils are taking the STAR test.

The DOF noted that, in its Statement of Decision, the Commission found costs associated with teacher time are not reimbursable. The DOF submitted that teacher time would not be reimbursable since districts already receive a per pupil funding rate for up to 180 days (or its equivalent minutes) of instruction and that administration of the STAR Program tests falls within the time allotted for regular instruction.

Staff agrees with DOF and the SCO. In its Statement of Decision, the Commission found that administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive, and administration of the additional test to pupils of limited English proficiency are reimbursable. However, the Commission further found for both tests that "Costs associated with teacher time to administer the test are not reimbursable." This language is consistent with past decisions regarding teacher time. The Commission did not find, nor do the test claim statutes or regulations require, reimbursement for additional sums paid to teachers for time spent administering the tests. Staff therefore deleted that language.

MCS proposed that the following activity be added to this section: "Each school district shall provide for at least two makeup days of testing for any pupil absent during normal testing dates. Only a certificated employee of the school district or an employee of a nonprofit school can administer a test in a private home or location." In addition, MCS suggested making a reference to classroom aides being able to conduct and monitor the STAR program tests.

The claimant's proposal includes the activity of "conduct[ing] and monitor[ing] the STAR Program tests given to all pupils in grades 2 through 11, inclusive." Staff added a citation to Education Code sections 60640, subdivisions (b) and (c), and 60641, subdivision (a); and California Code of Regulations, title 5, sections 851, 852, subdivision (b), 853, and 855. Since this citation already includes the authority for the amendments proposed by MCS, staff did not make the changes MCS proposed.

E. Reporting and Record Keeping

The claimant's proposal included reimbursement for the cost of materials and supplies used for reports "including, without limitation, paper and envelopes." The SCO requested deletion of the phrase "without limitation" to prevent a district from claiming excessive purchases. The SCO submitted that reimbursement is provided only for the cost of materials and supplies that are consumed or expended for the mandate. Staff agrees with SCO that this language is too broad, and therefore, made the modification.

MCS proposed adding to this section: 1) time spent to prepare an individual record of accomplishment for each pupil that includes STAR Program results, end-of-course exams, and vocational education certification exams, if applicable; and 2) submission to the State Department of Education whatever information the Department deems necessary to permit the Department to prepare reports analyzing, on a school-by-school basis, the results and test scores of the STAR Program.

First, the claimant's proposal includes the activity of "recording and maintaining individual records of the tests in pupil records." Staff added a citation to Education Code sections 60607, subdivision (a), and 60641, subdivision (a), which includes the authority for the amendment proposed by MCS. Therefore, staff did not add "time spent to prepare an individual record of accomplishment for each pupil that includes STAR Program results, end-of-course exams, and vocational education certification exams, if applicable."

Second, consistent with the Commission's finding in the Statement of Decision, staff added the reimbursable activity, "Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program."[21]

Moreover, the DOF argued that the recording and maintaining individual records of the tests in pupil records does not create a higher level of service and that, to the extent the district chooses to provide more information than provided by law, the costs would not be reimbursable. Staff finds that the activity of recording and maintaining individual records of the tests in pupil records is required by statute and was found to be reimbursable in the Commission's Statement of Decision. Staff agrees that the provision of additional information would not be reimbursable.

The DOF submitted that reporting data to the school district governing board or county office of education, and the submission of the report to the Superintendent of Public Instruction should be offset by the amount provided in the annual state budget. Staff notes that the budget acts for each fiscal year eligible for reimbursement for this mandate already include an appropriation to the California Department of Education for local assistance for administration of the STAR Program. Staff identified the line-item appropriations in section VII. Offsetting Savings and Reimbursements.

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[21] This activity encompasses the activity to collect, collate, and submit pupil data as provided under California Code of Regulations, title 5, section 861, (demographic information) as the claimant proposed in C. Pretest and Posttest Coordination, and as MCS proposed in B. Test Materials, Supplies and Equipment.

V. Claim Preparation and Submission

The claimant's proposal included reimbursement for travel expenses, "including, without limitation, mileage, transportation, meals.... " The SCO requested deletion of the phrase "without limitation" to prevent reimbursement of unnecessary travel costs beyond the requirement of the mandate. Staff agrees with SCO that this language is too broad. Staff modified this section to match proposed boilerplate language.

VII. Offsetting Savings and Reimbursements

In addition to proposed boilerplate language, staff specified in this section, as noted above in activities C and E, that reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding already provided each year in the state budget for the STAR Program.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 15.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

ITEM 10

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

~~Title 5,~~ California Code of Regulations, Title 5, Sections 850-~~874~~904[1]

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, ~~C~~chapter 828, ~~Statutes of 1997,~~ among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, c~~C~~hapter 828, ~~Statutes of 1997~~ and the implementing regulations at ~~title 5,~~ California Code of Regulations, title 5, ~~S~~sections 850-~~874~~904, established the Standardized Testing and Reporting (STAR) Program ~~a program~~ related to achievement testing that school districts must administer to pupils in the state ~~the Standardized Testing and Reporting (STAR) Program~~. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who ~~are~~ is enrolled in grades 2 through 11 if the pupil was initially enrolled in any ~~school district~~public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that ~~Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874~~ the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

[1] The implementing regulations were amended subsequent to the test claim filing. All references to the primary language test were renumbered to sections 880-904. This was not a substantive change, and therefore, the Statement of Decision findings still apply.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997.[2] Therefore, costs incurred on or after ~~July 1, 1997~~ October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified below.

Actual costs for one fiscal year ~~should~~ shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code s~~S~~ection 17561, subdivision (d)(~~3~~1), ~~of the Government Code,~~ all claims for reimbursement of initial year's~~'~~ costs shall be submitted within 120 days from the date on which ~~of issuance of the claiming instructions by~~ the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed $200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

~~The direct and indirect costs of labor, materials and supplies, contacted services, fixed assets, and travel incurred for the following mandate components are reimbursable~~ For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement:[3]

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site)
- Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

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[2] The implementing regulations, however, were effective January 2, 1998.

[3] Statutes of 2000, chapter 576 and the amended regulations added the "standards-based achievement test," a new test that is not a part of this claim.

~~Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and Travel expenses for the school district personnel who conduct or attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.~~

B. ~~Acquiring~~ Test Materials, Supplies, and Equipment

(Reimbursement period: January 2, 1998 – December 15, 1999)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.[4]) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.[5])

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.[6])

~~Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and Administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.~~

[4] Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.
[5] Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.
[6] Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

C. Pretest and Posttest Coordination *(Reimbursement period begins January 2, 1998)*

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)
- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),[7] and 882, subd (c).)
- Designating a school district employee as a STAR program district coordinator. ~~who shall be available through June 30 to complete school district testing.~~ The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
    - From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
    - Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.
- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
    - From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
    - Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

[7] Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

~~Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make up dates testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials is at test sites to appropriate teachers or other school districts personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test~~

~~data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.~~

D. Test Administration *(Reimbursement period begins January 2, 1998)*

- Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)

- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

~~Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive. , and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.~~

E. Reporting and Record Keeping *(Reimbursement period begins January 2, 1998)*

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)

- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)

- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)

- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)

- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

~~Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.~~

V. CLAIM PREPARATION AND SUBMISSION

Each claim for reimbursement pursuant to this mandate must be timely filed and ~~set forth a listing of each item for which reimbursement is claimed under this mandate. Claimed costs must be allocated according to the components of reimbursable activity described~~ identify each of the following cost elements to each reimbursable activity identified in Section IV of this document.

A. Direct Costs Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

1. ~~Employee~~ Salaries and Benefits

~~Identify the employee(s) and/or the classification of the employee(s) involved. Describe the mandated functions performed and specify the time devoted to each function by employee, productive hourly rate, and related fringe benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.~~

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

~~Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials and supplies which have been consumed or expended specifically for the purpose of this mandate.~~

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

~~Provide the name(s) of the contractor(s) who performed the service(s). Describe the activities performed by each named contractor and give the number of actual hours spent on the activities, if applicable, show the inclusive dates when services were performed and itemize all costs for those services. For fixed price contracts, list only the activities performed, the dates services were performed and the contract price. Attach a copy of the contract to the claim.~~

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.

4. Fixed Assets and Equipment

~~List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs and installation costs. If the equipment or other fixed asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price is reimbursable.~~

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.

5. Travel

~~Travel expenses, including, without limitation, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable in accordance with school district procedures. Provide the name(s) of the person(s) traveling, purpose of the travel, inclusive dates of travel, destination(s), and travel expenses.~~

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, 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.

6. Training

~~The cost of training for the activities specified in Section IV is reimbursable. Identify the employee(s) by name and job classification. Provide the name of the training session, the dates of attendance, and the location. Reimbursable costs include, but are not limited to, salaries and benefits of personnel conducting or attending the training, registration fees, and travel expenses.~~

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

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.

~~1.~~School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

~~2.~~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.

VI. SUPPORTING DATA

A. Source Documents

For auditing purposes, all incurred costs claimed must be traceable to source documents ~~and/or worksheets~~ that show evidence of the validity ~~of such costs~~ and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

B. Record Keeping

Pursuant to Government Code section 17558.5, subdivision (a), ~~these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. These documents must be made available to the State Controller on the request.~~ a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

VII. OFFSETTING SAVINGS AND ~~OTHER~~ REIMBURSEMENTS

~~Any offsetting savings provided in the test claim statute that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, any additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate shall be identified and deducted from this claim to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "under reimbursements."~~

Any offsetting savings 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 received 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, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant ~~will~~ shall be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.

STATE OF CALIFORNIA

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

August 25, 2000

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list)

RE: Adopted Statement of Decision
97-TC-23; *Standardized Testing and Reporting*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Cunningham:

The Commission on State Mandates adopted the attached Statement of Decision on August 24, 2000. This decision is effective on August 25, 2000.

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 the Commission during the parameters and guidelines phase.

- **Claimant's Submission of Proposed Parameters and Guidelines**. Pursuant to Government Code 17557 and Title 2, CCR sections 1183.1 et seq (the regulations), the claimant is responsible for submitting proposed parameters and guidelines by September 25, 2000. See Government Code section 17557 and Title 2, CCR sections 1183.1 et seq for guidance in preparing and filing a timely submission.
- **Review of Proposed Parameters and Guidelines**. Within ten days of receipt of completed proposed parameters and guidelines, the Commission will send copies to the Department of Finance, Office of the State Controller, affected state agencies, and interested parties who are on the enclosed mailing list. All recipients will be given an opportunity to provide written comments or recommendations to the

Commission within 30 days of service. The claimant and other interested parties may submit written rebuttals. See CCR section 1183.11.

- **Adoption of Parameters and Guidelines**. After review of the proposed parameters and guidelines and all comments, Commission staff will recommend the adoption of the claimant's proposed parameters and guidelines or adoption of an amended, modified, or supplemented version of the claimant's original submission. See CCR section 1183.12.

Please contact Nancy Patton at (916) 323-3562 if you have any questions.

Sincerely,

PAULA HIGASHI
Executive Director

Enclosure: Adopted Statement of Decision

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MAILED: Mail List FAXED:
DATE: 8-25 INITIAL: AS
CHRON: FILE:
WORKING BINDER: X

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828; Title 5, California Code of Regulations, Sections 850-874; and Filed on March 23, 1998 By the San Diego Unified School District, Claimant.	No. 97-TC-23 *Standardized Testing and Reporting* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7 *(Adopted on August 24, 2000)*

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on August 25, 2000.

Paula Higashi, Executive Director

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON:	No. 97-TC-23
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828; Title 5, California Code of Regulations, Sections 850-874; and Filed on March 23, 1998 By the San Diego Unified School District, Claimant.	*Standardized Testing and Reporting* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7 *(Adopted on August 24, 2000)*

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim on July 27, 2000 during a regularly scheduled hearing. James Cunningham, Richard Knott, and Robert Raines appeared for San Diego Unified School District. Jeannie Oropeza and Pete Zervinka appeared for the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq., article XIII B, section 6 of the California Constitution and related case law.

The Commission, by a vote of 7-0, approved this test claim.

BACKGROUND AND FINDINGS

Background on Statewide Achievement Tests

The test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts are also required to engage in numerous activities related to test administration and reporting.

The state has required school districts to administer achievement tests to pupils for decades. For example, achievement tests were required for pupils in grades 6 and 12 under the California School Testing Act of 1969.[1] In 1972, the Legislature expressed its intent regarding pupil testing as follows:

> "It is the intent of the Legislature . . . to determine the effectiveness of school districts and schools in assisting pupils to master the fundamental educational skills towards which instruction is directed. The program of statewide testing shall provide the public, Legislature, and school districts evaluative information regarding the various levels of proficiency achieved by different groups of pupils of varying socioeconomic backgrounds, so that the Legislature and individual school districts may allocate educational resources in a manner to assure the maximum educational opportunities for all pupils. The program or statewide testing shall identify unusual success or failure and the factors which appear to be responsible, so that appropriate action may be taken at the district and state level to obtain the highest quality education for all public school pupils."[2]

In 1990, the Legislature expressed that the purpose of California's public school system is to "facilitate the development of each and every one of its pupils to become a self-motivated, competent, and lifelong learner."[3] The Legislature stated that: "the current pupil assessment system does not meet [these] purposes."[4] The Legislature further declared that:

> "There is no consistent system that pupils and parents can use to assess the performance of schools and school districts in providing effective programs and to measure the academic achievement of pupils. The five grade levels currently tested under the California school assessment program do not provide the most efficient assessment of overall pupil achievement."[5]

Statutes of 1990, Chapter 760 modified the state's achievement testing to require the testing of pupils in grades 4, 5, 8, and 10. Former Education Code section 60600.1, as added by Statutes of 1990, Chapter 760, provided that:

> "[Chapter 760] shall remain in effect only until January 1, 1995, and as of that date is repealed unless a later enacted statute, which is enacted *before* January 1, 1995, deletes or extends that date." (Emphasis added.)

The Legislature did not enact a statute before January 1, 1995 that either deleted or extended the date regarding the administration of achievement tests. However, Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act,

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[1] *See* former Education Code section 12820 cited as Exhibit C in the claimant's test claim filing.

[2] *See* former Education Code section 12821 cited as Exhibit C in the claimant's test claim filing.

[3] Section 1 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant's test claim filing.

[4] Section 1.3 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant's test claim filing.

[5] *Ibid.*

which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission notes that the achievement-testing program enacted under Chapter 975 was optional. Since the Legislature did not enact a statute by the requisite deadline set forth in Chapter 760, the Commission found that mandatory achievement testing was repealed by operation of law effective January 1, 1995.

Does the Test Claim Legislation Impose a New Program or Higher Level of Service?

The Commission found that the test claim legislation and regulations involve the administration of pupil achievement tests. Public education in California is a peculiarly governmental function administered by school districts as a service to the public. Moreover, the test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, the Commission found that administering pupil achievement tests constitutes a "program" within the meaning of section 6, article XIII B of the California Constitution.[6]

Prior Law Related to Achievement Tests

The Commission noted that the law in effect immediately before the enactment of the test claim legislation did not require school districts to administer achievement tests to pupils. Rather, prior law set up an incentive program for school districts that administer achievement tests to all pupils in grades 2 though 10.[7] Former Education Code section 60640 provided $5 per pupil tested to those districts that certified to the Superintendent of Public Instruction that it would administer achievement tests to all pupils in grades 2 through 10. Section 60640 did not require districts to administer achievement tests to those pupils.

The Test Claim Legislation: Current Law Related to the Standardized Testing and Reporting (STAR) Program

The Commission found that the test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program.[8]

The Commission found that the STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education.[9] The Commission found that

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[6] *Long Beach Unified School Dist.* v. *State of California* (1990) 225 Cal.App.3d 155, 172.

[7] *See* former Education Code section 60640 cited as Exhibit F in the claimant's test claim filing.

[8] The Commission noted that the original test claim filing included portions of the Education Code that related to the Academic Skills Assessment Program. However, the Department of Education has yet to promulgate regulations to implement the Program. Therefore, the claimant filed a motion to partially sever and withdraw those portions of this test claim that relate to the Academic Skills Assessment Program.

[9] The State Department of Education is administered through (1) the State Board of Education, which is the governing and policy determining body of the Department and (2) the Director of Education who is responsible for all executive and administrative functions of the Department and is the executive officer of the State Board of Education. *See* Education Code sections 33301, 33303 The State Superintendent of Public Instruction oversees

school districts must also: designate a STAR Program district coordinator and STAR Program test site coordinator at each test site; administer an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was enrolled in the district for less than 12 months before the time the last STAR Program test was administered; exempt pupils under certain circumstances; include STAR Program test results in the pupil's record or achievement; report STAR Program test results to the district's governing board or county board of education and to the pupil's parent or guardian; submit a report to the Superintendent of Public Instruction; contract with a test publisher to receive the tests; and submit whatever information the State Department of Education deems necessary to permit the State Superintendent of Public Instruction to prepare reports on the results of the STAR Program.[10]

The Commission also found that the state had required school districts to administer achievement tests to pupils since the 1960's, until Statutes of 1991, Chapter 760, repealed the mandatory achievement-testing requirement as of January 1, 1995. Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act (Achievement Act), which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission found that under the Achievement Act, the law in effect between January 1, 1996 and October 10, 1997, the operative date of the test claim legislation, school districts could *voluntarily* administer achievement tests to district pupils. However, the test claim legislation reinstated mandatory achievement testing under the STAR Program beginning on October 10, 1997. Thus, the Commission found that the test claim legislation and regulations have imposed a new program or higher level of service upon school districts since the law in effect prior to the enactment of the test claim legislation did not require the administration of achievement tests.

Based on the foregoing, the Commission found that the test claim legislation and regulations impose a new program upon school districts for the administration of the STAR Program.

Does the Test Claim Legislation Constitute Costs Mandated by the State?

Testing In General

The Commission found that in order for the test claim legislation and regulations to impose a reimbursable program under section 6, article XIII B of the California Constitution, the newly required activities must be state mandated.[11] The issue of whether the test claim legislation and regulations imposed costs mandated by the state centers on whether Government Code section 17556, subdivision (e), applies.

The Commission recognized that Government Code section 17556, subdivision (e), provides:

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the schools of this state and executes, under the direction of the State Board of Education, the policies that have been decided upon by the Board. The Superintendent is also ex-officio the director and executive director of the State Department of Education. *See* Education Code sections 33301-33303, 33111, 33112.

[10] *See* Education Code sections 60607, 60615, 60630 60640, 60641, 60643, and Title 5, California Code of Regulations, sections 851-853, 855-860, 865, 867-869, 871, 873.

[11] *Lucia Mar Unified School Dist.*, *supra* 44 Cal.3d 830, 835.

> "The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:
>
> " .....
>
> "(e) The statute . . . includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate."

The Commission also noted that section 60640, subdivision (h), provides:

> "The Superintendent of Public Instruction shall apportion funds to enable school districts to meet the [STAR Program] requirements. . . . The State Board of Education shall establish the amount of funding to be apportioned. The amount to be apportioned shall be up to eight dollars ($8) per test administered to a pupil in grades 2 to 11, inclusive."

The claimant contended that section 17556, subdivision (e), is inapplicable to the present test claim because section 60640, subdivision (h), did not appropriate additional revenue in an amount sufficient to fund the mandate.[12] The claimant further contended that the State Board of Education's reimbursement rate of $6.65 per test, with an additional $0.15 per test for districts requesting preprinted answer sheets, is not enough to cover the cost of administering the STAR Program.[13]

The Commission found that the test claim legislation *authorized* the Superintendent of Public Instruction to apportion funds for administration of the STAR Program as established by the State Board of Education. However, the test claim legislation did not itself include "additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate." Thus, the Commission found that Government Code section 17556, subdivision (e), is inapplicable to this test claim. Accordingly, the Commission found that the test claim legislation imposed costs mandated by the state upon school districts.

The Commission noted that the Legislature has appropriated the following amounts for administration of the STAR Program in the state Budget Act: 1997-98 – $30,400,000; 1998-99 – $39,700,000; 1999-00 – $42,100,000. The Commission noted that funds received by school districts for the administration of the STAR Program pursuant to the State Board of Education's reimbursement rate should be offset against total claim amounts for this test claim.

Testing of Children with Disabilities

The Commission found that the test claim legislation requires that: (1) children with disabilities be exempted from testing for pupils if the pupil's individualized education program has an

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[12] The Commission noted that the Department of Finance states: "we have concluded that the statute may have resulted in some costs mandated by the State."

[13] *See* Claimant's test claim filing, Exhibit H, Nick Bohl's declaration. The claimant estimates it would cost San Diego Unified School District $14.00 per test per fiscal year to administer the STAR Program.

exemption provision; (2) districts determine the appropriate grade level test for each pupil in a special education program; and (3) districts provide appropriate testing adaptation or accommodations to pupils in special education programs.

DOF contended that these activities stem from federal law and therefore, pursuant to Government Code section 17556, subdivision (c), are not reimbursable.[14] The Commission recognized that Government Code section 17556, subdivision (c), provides:

> "The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:
>
> " .....
>
> "(c) The statute . . . implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute . . . mandates costs which exceed the mandate in that federal law or regulation."

Specifically, DOF cited to subdivision (a)(16), section 1412 of the United States Code, which provides:

> "(16) Performance goals and indicators
>
> "The State—
>
> "(A) has established goals for the performance of children with disabilities in the State that—
>
> "(i) will promote the purposes of this chapter, as stated in section 1400(d) of this title; and
>
> "(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;
>
> "(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;
>
> "(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and
>
> "(D) based on its assessment of that progress, will revise its State improvement plan under part A of subchapter IV of this chapter as may be needed to improve its performance, if the State receives assistance under that part."

The Commission found that, based on the plain reading of subdivision (a) above, that federal law *does not* require testing exemptions; the determination of appropriate test levels; or the

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[14] Department of Finance's July 10, 2000 filing at page 2.

provision of testing accommodations for children with disabilities. Therefore, the Commission found that these activities are reimbursable and that funding received by school districts for administration of the STAR Program shall be offset against reimbursement claims.

CONCLUSION

Based on the foregoing, the Commission concluded that the test claim legislation and regulations for the STAR Program impose a reimbursable state-mandated program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.
- Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.
- Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Inclusion of STAR Program test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Reporting of individual STAR Program test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)
- Reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)

- Submission of a report on the STAR Program to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)
- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)
- Exemption of pupils from the STAR Program tests upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
- Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff.
- Implementation of procedures relating the administration of the STAR Program,

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 350, Sacramento, California 95814.

August 25, 2000, I served the:

Adopted Statement of Decision
97-TC-23; *Standardized Testing and Reporting,* San Diego Unified School District Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, Statutes of 1997, Chapter 828, Title 5, California Code of Regulations, Sections 850-874

by placing a true copy thereof in an envelope addressed to:

Mr. James A. Cunningham
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92130

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

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 August 25, 2000, at Sacramento, California.

Julie Shelton
JULIE SHELTON

List Date: 04/10/1998 **Mailing Information**

Mailing List

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Harmeet Barkschat, Interested person
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Mr. Jim Cunningham, Leg. Mandate Spclst.
San Diego City Schools

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Mr. William A. Doyle, Mandated Cost Administrator
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Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Mr. Dean Getz, Director
Vavrinek Trine Day & Co., LLP

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Mr. James Lombard (A-15), Principal Analyst
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Mr. Paul Minney,
Girard & Vinson

1676 N. California Blvd. Suite 450
Walnut Creek CA 94596

Tel: (925) 746-7660
FAX: (925) 935-7995

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Mr. John B. Mockler, Executive Director (E-8)
State Board of Education

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Sacramento CA 95814

Tel: (916) 657-5478
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Mr. Joseph D. Mullender, Jr.,
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Mr. Anthony Murray,
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Los Angeles CA 90017

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Mr. Andy Nichols,
Vavrinek Trine Day & Co., LLP

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Gold River CA 95670

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FAX: (916) 351-1020

Mr. Keith B. Petersen, President
Sixten & Associates

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San Diego CA 92117

Tel: (619) 514-8605
FAX: (619) 514-8645

Mr. Steve Smith, CEO (Interested Person)
Mandated Cost Systems

2275 Watt Avenue Suite C
Sacramento CA 95825

Tel: (916) 487-4435
FAX: (916) 487-9662

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

Issue Academic Assessments

Jim Spano,
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518 P.O. Box 942850 *Tel:* (916) 323-5849
Sacramento CA 95814 *FAX:* (916) 324-7223

Mr. Paige Vorhies (B-8), Bureau Chief
State Controller's Office
Division of Accounting & Reporting
3301 C Street Suite 500 *Tel:* (916) 445-8756
Sacramento CA 95816 *FAX:* (916) 323-4807

EXHIBIT B

SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 293-8205
Fax (619) 293-8474

FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

RECEIVED

SEP 05 2000

COMMISSION ON
STATE MANDATES

August 31, 2000

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

Re: STAR Program– Proposed Parameters and Guidelines
CSM 97-TC-23

Dear Ms. Higashi:

I am enclosing an original and seven copies of the proposed Parameters and Guidelines for the Standardized Testing and Reporting (STAR) mandate.

Please me with any questions.

Sincerely,

James A. Cunningham
Legislative Mandate Specialist

Enclosure

cc: Dr. Carol Berg, w/enclosure
Keith Petersen, w/enclosure

CSM 97-TC-23
PROPOSED PARAMETERS AND GUIDELINES

Chapter 828, Statutes of 1997
Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643
Title 5, California Code of Regulations sections 850-874

RECEIVED
SEP 0 5 2000
COMMISSION ON STATE MANDATES

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Chapter 828, Statutes of 1997, among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Chapter 828, Statutes of 1997 and the implementing regulations at title 5, California Code of Regulations, Sections 850-874, established a program related to achievement testing that school districts must administer to pupils in the state – the STAR Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874 impose a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Therefore, costs incurred on or after July 1, 1997 for compliance with the mandate are reimbursable.

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 Section 17561(d)(3) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of issuance of the claiming instructions by the State Controller.

If the total costs for a given fiscal year do not exceed $200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, and travel incurred for the following mandate components are reimbursable:

A. Training, Policies, and Procedures.

Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and travel and seminar expenses for the school district personnel who conduct or attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.

B. Acquiring Test Materials, Supplies and Equipment.

Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.

C. Pretest and Posttest Coordination.

Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials

needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make-up testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials at test sites to appropriate teachers or other school district personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.

D. Test Administration.

Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive, and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.

E. Reporting and Record Keeping.

Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and

envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.

V. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate. Claimed costs must be allocated according to the components of reimbursable activity described in Section IV.

A. Direct Costs.

1. Employee Salaries and Benefits

Identify the employee(s) and/or the classification of the employee(s) involved. Describe the mandated functions performed and specify the time devoted to each function by employee, productive hourly rate, and related fringe benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.

2. Materials and Supplies

Only the expenditures which can be identified as a direct cost of the mandate can be claimed. List cost of materials and supplies which have been consumed or expended specifically for the purpose of this mandate.

3. Contracted Services

Provide the name(s) of the contractors(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities, if applicable, show the inclusive dates when services were performed and itemize all costs for those services. For fixed price contracts, list only the activities performed, the dates services were performed and the contract price. Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs and installation costs. If the equipment or other fixed asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price is reimbursable.

5. Travel

Travel expenses, including, without limitation, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable in accordance with school

district procedures. Provide the name(s) of the person(s) traveling, purpose of travel, inclusive dates of travel, destination(s), and travel expenses.

6. Training

The cost of training for the activities specified in Section IV is reimbursable. Identify the employee(s) by name and job classification. Provide the name of the training session, the dates of attendance, and the location. Reimbursable costs include, but are not limited to, salaries and benefits of personnel conducting or attending the training, registration fees, and travel expenses.

B. Indirect Cost

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

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

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. These documents must be made available to the State Controller on the request.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings provided in the test claim statute that the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, any additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate shall be identified and deducted from this claim to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "other reimbursements."

VIII. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those cost mandated by the state contained herein.

EXHIBIT C

KATHLEEN CONNELL

Controller of the State of California

RECEIVED
OCT 24 2000
COMMISSION ON
STATE MANDATES

October 18, 2000

Ms. Shirley Opie
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: PROPOSED PARAMETERS AND GUIDELINES
STANDARDIZED TESTING AND REPORTING, 97-TC-23
EDUCATION CODE SECTIONS 60607, ET AL
STATUTES OF 1997, CHAPTER 828
TITLE 5, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 850 - 874

Dear Ms. Opie:

We have reviewed the proposed Parameters and Guidelines submitted by the San Diego Unified School District for the above subject matter. The following are suggested amendments:

1. Under B. Acquiring Test Materials, Supplies and Equipment, delete the phrase in the first sentence "Activities associated with the acquisition of any materials, supplies and /or equipment required by the STAR program, including, ~~without limitation~~, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable." (~~Deletion~~).

   This suggested change is necessary to prevent the reimbursement of excessive purchases beyond the amount that is required by the mandate.

2. Under D. Test Administration, delete the last phrase in the sentence "...that the time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, ~~unless the teacher is paid an additional sum for such time~~."

   This suggested change is necessary because the mandate does not require the STAR test to be given at any time other than normal school hours. In addition, the mandate does not require a district to pay extra gratuity to a teacher during normal classroom hours when pupils are taking the STAR test.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250
SACRAMENTO 300 Capitol Mall, Suite 1850, Sacramento, CA 95814 (916) 445-2636
LOS ANGELES 600 Corporate Pointe, Suite 1563 Culver City, CA 90230 (310) 342-5678

3. Under E. Reporting and Record Keeping, make an adjustment to the last sentence. "The cost of materials and supplies used for reports (including, ~~without limitation~~, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component."

   This suggested change is necessary to prevent a district from claiming excessive purchases. Reimbursement is provided only for the cost of materials and supplies that are consumed or expended for the mandate.

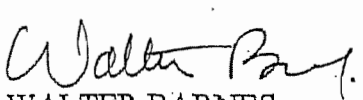
4. Under V.5. Travel, delete the phrase in the first sentence "Travel expenses, including, ~~without limitation~~, mileage, transportation, meals, per diem, lodging, parking, and telephone, are reimbursable accordance with school district procedures.

   This suggested change is necessary to prevent reimbursement of unnecessary travel costs beyond the requirement of the mandate.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list that accompanied your letter dated October 2, 2000, have been provided with copies of this letter via either U. S. Mail or, in the case of state agencies, Interagency Mail service.

If you have any questions, please contact Ms. Ginny Brummels, Supervising Analyst, at (916) 323-2364.

Sincerely,



WALTER BARNES
Chief Deputy State Controller, Finance

WB:WGA:glb

cc: Interested parties

PROOF OF SERVICE BY MAIL

CSM – 97-TC-23

I, the undersigned, declare as follows:

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of 18 years and not a party to the within action. My place of employment and business address is 3301 C Street, Suite 500, Sacramento, California 95816.

On October 20, 2000, I served the attached recommendation of the State Controller's Office by placing a true copy thereof enclosed in a sealed envelope addressed to each of the persons named below at the addresses shown and by depositing said envelopes in the United States mail at Sacramento, California, with postage thereon fully prepaid.

Mr. Paige Vorhies
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. James Lombard
Department of Finance
915 L Street
Room 8020
Sacramento, CA 95814

Mr. Jim Spano
State Controller's Office
Division of Audits (B-8)
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Harmeet Barkscat
Mandate Resource Services
8254 Health Peak Place
Antelope, CA 95843

Carol Berg, Ph.D.
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814

Ms. Laurie Mc Vay
DMG-MAXIMUS
4320 Auburn Blvd.,
Suite 2000
Sacramento, CA 95841

Mr. Paul Minney
Girard & Vinson
1676 N. California Blvd., Suite 450
Walnut Creek, CA 94596

Mr. Andy Nichols
Vavrinek Trine Day & Co., LLP
8300 Fair Oaks Blvd.,
Suite 403
Carmichael, CA 95608

Mr. Anthony Murray
Loeb & Loeb
1000 Wilshire Blvd., 18th Floor
Los Angeles, CA 90017

Mr. Allan Burdick
DMG MAXIMUS
4320 Auburn Blvd.,
Suite 2000
Sacramento, CA 95841

Mr. Keith B. Petersen
Sixten & Associates
5252 Balboa Avenue
Suite 807
San Diego, CA 92117

Mr. William A. Doyle
Mandated Cost Administrator
San Jose Unified School District
1153 El Prado Drive
San Jose, CA 95120

Mr. Steve Smith
Mandated Cost Systems
2275 Watt Avenue
Suite C
Sacramento, CA 95825

Mr. Wayne Martin
Director of Budget and Accounting
Stockton Unified School District
701 N. Madison Avenue
Stockton, CA 95202-1687

Mr. John B. Mockler
Executive Director
State Board of Education
721 Capital Mall, Room 532
Sacramento, CA 95814

Mr. Jim Cunningham
Legislative Mandate Specialist
San Diego City Schools
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

Mr. Dean Getz
Vavrinek Trine Day & Co., LLP
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Carmichael, CA 95608

Mr. Scott Hannan, Manager
Department of Education
School Business Services
560 J Street, Suite 170
Sacramento, CA 95814

Mr. Joseph D. Mullender, Jr.,
Attornet at Law
89 Rivo Alto canal
Long Beach, CA 90803

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2000, at Sacramento, California.

Emelda M. Lowi-Teng

Emelda M. Lowi-Teng

Exhibit D

SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

(619) 725-7565
Fax (619) 725-7580

FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

RECEIVED
NOV 17 2000
COMMISSION ON
STATE MANDATES

November 15, 2000

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

Re: Parameters and Guidelines: *Standardized Testing and Reporting*

Dear Ms. Higashi:

San Diego Unified School District ("District") files this rebuttal to the comments filed by the State Controller's Office ("SCO") on the proposed Parameters and Guidelines for the Standardized Testing and Reporting mandate. The District has no objection to the first, third, and fourth changes proposed by the SCO. The word "including" is a word of enlargement, not a word of limitation. Therefore, excluding the words "without limitation" has no substantive effect on the Parameters and Guidelines.

The District disagrees with the second change proposed by the SCO. The Commission limited reimbursement for some activities if those activities were performed by classroom teachers. The basis of that limitation was the "fixed environment" fiction, in which the Commission assumed that school districts do not incur costs if a classroom teacher performs a state-mandated activity during normal classroom hours. Assuming that this limitation is constitutionally valid, the limitation should not apply if a school district does pay something in addition to the teacher's normal salary, such as the payment of overtime or other additional pay, when a teacher performs the state-mandated activity. The Parameters and Guidelines should retain the proposed language that allows for reimbursement of additional payments, if any, made to teachers to perform these activities.

Please let me know if you have any questions or comments.

Sincerely,

James A. Cunningham,
Legislative Mandate Specialist

PROOF OF SERVICE

Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:
I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On November 15, 2000, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
Dr. Carol Berg School Services of California 1121 L Street , Suite 1060 Sacramento, CA 95814	Allan Burdick DMG-Maximus 4320 Auburn Blvd., Suite 2000 Sacramento, CA 95814
James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
Paul Minney Girard and Vinson 1676 N. California Blvd., Suite 450 Walnut Creek, CA 94596	John Mockler State Board of Education 721 Capitol Mall, Room 532 Sacramento, CA 95814
Joseph Mullender 89 Rivo Alto Canal Long Beach, CA 90803	Andy Nichols Vavrinek Trine Day & Co., LLP 8300 Fair Oaks Blvd., Suite 403 Carmichael, CA 95608
Keith Petersen SixTen and Associates 5252 Balboa Avenue, Suite 807 San Diego, California 92117	Gerry Shelton Dept. of Education, School Business Services 560 J Street, Suite 150 Sacramento CA 95814
Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 9581T	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 15, 2000 at San Diego, California.

Alta Toler

Alta Toler

EXHIBIT E

DEPARTMENT OF FINANCE
GRAY DAVIS, GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

November 20, 2000

RECEIVED
NOV 27 2000
COMMISSION ON STATE MANDATES

Ms. Paula Higashi
Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814

Dear Ms Higashi:

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997. We are responding to the following activities identified as reimbursable state mandates by the claimants:

Activity A: Training, Policies, and Procedures.

The requirement on a school district to train staff on the STAR Program requirements as outlined in the test claim legislation and regulations may involve some costs, but these costs will vary from district to district. DOF notes that that the training required is minimal. In terms of reviewing the STAR Program requirements as outlined in the test claim legislation and regulations, this does not appear to create a state-mandated cost. All coordinators will be fully trained on the legal requirements of the STAR Program. Since a school must comply with all applicable laws, and it would seem that reviewing the laws and regulations to ensure compliance would be within the existing responsibilities of a school. Thus, we believe that any cost associated with this portion of the bill would likely be minor and absorbable, and would not require a higher level of service and would not be reimbursable.

Activity B: Acquiring Test Materials, Supplies, and Equipment.

The contractor is responsible for producing all testing materials required for the STAR Program in sufficient quantities to test all required students (including a 15 percent overage), which is already provided for in the budget. To the extent that districts request additional material and/or services, such requests are voluntary on the part of the districts and would not be reimbursable.

Activity C: Pretest and Posttest Coordination.

The requirement to designate a STAR test site coordinator at each test site and a district coordinator would be reimbursable but should be offset by the amount provided in the budget. However, to the extent that a district or test site already has a coordinator, these costs should be minimal and should be offset by the amount provided in the budget. The requirement to exempt pupils from the STAR Program tests upon request of their parent or guardian would be reimbursable but should be offset by the amount provided in the budget. These costs will vary from district to district but should be minimal. Coordination of testing at the test site would be reimbursable but should be offset by the amount provided in the budget. DOF notes that during

the 1998 and 1999 STAR administrations, any district that chose to pre-identify test forms received $.15 per pupil to provide the information to the test publisher and any costs identified should be offset by the $.15 per pupil those districts received. Commencing with the 2000 STAR administration, all districts received $.32 per pupil as an incentive. Thus, the cost of this activity should not be claimed through the mandated claiming process.

Activity D: Test Administration

In its August 24, 2000 Statement of Decision, the Commission found that costs associated with teacher time are not reimbursable. Thus, this requirement would not be reimbursable, since districts already receive per pupil funding rate for up to 180 days (or its equivalent minutes) of instruction and the administration of the STAR falls within the time allotted for regular instruction.

Activities E: Reporting and Record Keeping

This requirement does not appear to be a higher level of service since the publisher provides individual reports for each student that may simply be placed in each pupil's records. Further, districts are already paid to keep records for all students as part of the normal course of operation. However, to the extent that districts choose to provide more information than is required by law, these costs would not be reimbursable. The reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education would be reimbursable but should be offset by the amount provided in the budget. The submission of a report on the STAR Program to the Superintendent of Public Instruction would be reimbursable but should be offset by the amount provided in the budget. According to the State Department of Education, the test publisher sends the results and test scores of the STAR Program directly to the department. The information identified in this activity is required to be submitted to the test publisher and not the department. Therefore, any costs to provide this information directly to the department should not be considered a state-mandated cost.

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

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328, or Jim Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

Randall Ward for

Kathryn Radtkey-Gaither
Program Budget Manager

Attachment

Attachment A

DECLARATION OF DEPARTMENT OF FINANCE
CLAIM NO: CSM 97-TC-23

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997.

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

2. We concur that the CSM 97-TC-23 sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

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

Nov. 20, 2000
at Sacramento, CA

Jeannie Orpeza
Jeannie Orpeza

PROOF OF SERVICE

Test Claim Name: Standardized Testing and Reporting
Test Claim Number: CSM 97-TC-23

As requested in your letter of October 2, 2000, the Department of Finance has reviewed the Parameter and Guidelines, Standardized Testing and Reporting (CSM-97-TC-23), submitted by the San Diego Unified School District related to costs incurred under Chapter No. 828, Statutes of 1997.

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

On November 20, 2000, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
1300 I Street, Suite 950
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Joseph D. Mullender, Jr.
Attorney at Law
89 Rivo Alto Canal
Long Beach, CA 90803

DMG-MAXIMUS
Attention: Laurie McVay
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95814

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

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

E-8
Department of Education
School Business Services
Attention: Gerry Shelton
560 J Street, Suite 150
Sacramento, CA 95814

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

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

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

DMG-MAXIMUS
Attention: Allan Burdick
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95814

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

San Jose Unified School District
Attention: William A. Doyle
1153 El Prado Drive
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Loeb & Loeb
Attention: Anthony Murray
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Vavrinek Trine Day & Co., LLP
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12150 Tributary Point Drive, Suite 150
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B-8
Mr. Paige Vorhies
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
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B-8
Mr. Jim Spano
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300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mandate Resource Services
Attention: Harmeet Barkschat
8254 Heath Peak Place
Antelope, CA 95843

Vavrinek Trine Day & Co., LLP
Attention: Dean Getz, Director
12150 Tributary Point Drive, Suite 150
Gold River, CA 95670

Mr. Wayne Martin
Director of Budget and Accounting
Stockton Unified School District
701 North Madison Street
Stockton, CA 95202-1687

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 20, 2000 at Sacramento, California.

Jennifer Nelson

Jennifer Nelson

EXHIBIT F

SAN DIEGO CITY SCHOOLS

EDUCATION CENTER • 4100 Normal Street, San Diego, CA 92103-2682

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FINANCIAL ACCOUNTING DEPARTMENT
MANDATED COST UNIT, ROOM 3159

November 29, 2000

RECEIVED
DEC 04 2000
COMMISSION ON
STATE MANDATES

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

Re: Parameters and Guidelines: *Standardized Testing and Reporting*

Dear Ms. Higashi:

San Diego Unified School District ("District") files this rebuttal to the comments filed by the Department of Finance ("DOF") on the proposed Parameters and Guidelines for the Standardized Testing and Reporting mandate. The DOF is attempting to reargue issues that were determined by the Commission on State Mandates ("Commission") and, therefore, are not appropriate for comment. Further, the DOF continues its practice of offering unverified opinions as evidence, a violation of the Commission's regulations.

With respect to *Component* (*not* Activity) A, the DOF argues that the activities "do not appear to create a state-mandated cost" or "would not require a higher level of service." The Commission determined that these activities do impose reimbursable state-mandated new programs or higher levels of service. The DOF's arguments to the contrary at the Parameters and Guidelines stage of the proceedings are outrageous and offensive. The DOF also offers its unsupported opinion that training would be "minimal." This opinion is irrelevant. No change to this section is warranted.

With respect to *Component* B, in the initial years of this new program, school districts were required to purchase test materials directly. Although the state changed this practice in recent years, the DOF provides no evidence (nor could the DOF offer relevant evidence) that the state will continue to pay the cost of the tests directly. If a school district does not purchase tests because the state has contracted with and directly paid the test publisher for the tests, then school districts will not claim reimbursement for those costs. If the state requires school districts to purchase the tests, then school districts will claim reimbursement. Further, the tests are not the only materials that a school district would reasonably and necessarily purchase in order to carry out the state's new program. Materials provided by the test publisher, including administrative manuals, administrative materials, and practice tests are specifically included under section 850 of the Department of Education's regulations. No change to this section is warranted.

With respect to *Component* C, the DOF attempts to reargue matters decided by the Commission at the test claim hearing. The DOF also argues that costs are "minimal" or "offset by the amount provided in the budget." These are factual allegations for which the DOF offers no relevant evidence. As such, these comments are entitled to no weight. Further, these arguments are inappropriate for the Parameters and Guidelines. The costs will be determined by the reimbursement claims and any funds received by a school district for this program will be shown as an offset in those reimbursement claims. No change to this section is warranted.

With respect to *Component* D, the Commission's decision to exclude time spent by teachers conducting tests from reimbursement was based upon the assumption that school districts do not incur costs if a classroom teacher performs a state-mandated activity during normal classroom hours. Assuming that this limitation is constitutionally valid, the limitation should not apply if a school district does pay something in addition to the teacher's normal salary, such as the payment of overtime or other additional pay, when a teacher performs the state-mandated activity. The Parameters and Guidelines should retain the proposed language that allows for reimbursement of additional payments, if any, made to teachers to perform these activities. In addition, the funding identified by the DOF is not an offset, because it does not meet the criteria in Government Code section 17556, subdivision (e) (that is, was not included in the statute, is not additional funding, and is not specifically intended to fund the costs of mandate). No change to this section is warranted.

With respect to *Component* E, the DOF's arguments are either that the activities are not reimbursable or that the costs are minimal or offset by funds in the budget. For the reasons set forth above, the first argument is no longer open to debate and the other arguments are inappropriate for the Parameters and Guidelines. No change to this section is warranted.

The DOF does not raise any pertinent reason for changing the proposed Parameters and Guidelines. The Commission should adopt the proposed Parameters and Guidelines as submitted. Please proceed with the Staff Analysis and schedule this item for hearing.

Please let me know if you have any questions or comments.

Sincerely,

James A. Cunningham,
Legislative Mandate Specialist

PROOF OF SERVICE

Test Claim: CSM 97-TC-23 (*Standardized Testing and Reporting*)

I, the undersigned, declare as follows:
I am employed in the County of San Diego, State of California. I am 18 years of age or older and not a party to the within entitled cause. My business address is 4100 Normal Street, Room 3159, San Diego, California 92103. On November 29, 2000, I served the attached letter to the Commission on State Mandates and the following state agencies and interested parties by placing a true copy thereof in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid:

Paula Higashi, Executive Director Commission on State Mandates 980 Ninth Street, Suite 300 Sacramento, CA 95814	Harmeet Barkschat Mandate Resource Services 8524 Heath Peak Place Antelope, CA 95843
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James Lombard Department of Finance 915 L Street, Room 8020 Sacramento, CA 95814	Wayne Martin Stockton Unified School District 701 North Madison Street Stockton, CA 95202-1687
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Joseph Mullender 89 Rivo Alto Canal Long Beach, CA 90803	Andy Nichols Vavrinek Trine Day & Co., LLP 8300 Fair Oaks Blvd., Suite 403 Carmichael, CA 95608
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Paige Vorhies State Controller's Office 3301 C Street, Suite 500 Sacramento, CA 9581T	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 29, 2000 at San Diego, California.

Alta Toler

Alta Toler

EXHIBIT G

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Respond to Walnut Creek

DAVID W. GIRARD
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CHRISTIAN M. KEINER*
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DEANNA J. MOUSER

Lois Schwartz
Michelle L. Cannon
Laura Lee Briggs
Keith J. Bray
Heather A. Hoyle
Marc P. Bouret
Sherianne Laba
David E. Scribner

OF COUNSEL
Sally Jensen Dutcher

*Professional Law Corporation

December 29, 2000

Via Facsimile & U.S. Mail
916.445.0278

Paula Higashi, Executive Director
Commission On State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

RE: Standardized Testing and Reporting
CSM 97-2T-23

Dear Paula:

The following comments are submitted on behalf of Mandated Cost Systems, Inc. in regard to the above-referenced Parameters and Guidelines.

1. Charter school as eligible claimants.

In reviewing the Parameters and Guidelines submitted to the Commission on State Mandates on September 5, 2000, we noted that the eligible claimants Section II did not include any reference to charter schools. However, under Chapter 828, Statutes of 1997, which added Education Code section 60640, a charter school is specifically required to comply with the standardized testing reporting program. (See Education Code section 60640(a)). As such, charter schools are treated as a "school district" for compliance with the standardized testing and reporting program.

In light of the foregoing, we recommend amending Section II (Eligible Claimants) to mirror that of the Michelle Montoya School Safety Act (aka Criminal background checks) as follows:

> "Any school district[1], as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible reimbursement."

[1] A school district, as defined in the parameters and guidelines, includes a charter school.

Attorneys Committed To Professional Excellence

2. Extra duty pay for teachers should be reimbursable.

The Department of Finance filed comments attempting to eliminate the language in the proposed Parameters and Guidelines which allows for reimbursement of extra compensation paid to teachers over and above their salaries in administering the test. The Commission on State Mandates has previously approved reimbursement for stipends and/or supplemental compensation paid to teachers in addition to regular duty pay to effectuate a mandate (see *American Government Course and Physical Performance Testing*). As such, in order to provide continuity with the prior Commission decisions the Department of Finance's position should be rejected.

3. Does the restriction on in-classroom teacher time apply to the other reimbursable activities?

Under Reimbursable Activities section [D] costs are limited in that "time spent by the classroom teacher during his/her normal classroom hours" is not reimbursable for this component (unless the teachers paid an additional sum for such time). This limitation on in-classroom teacher time appears only under subdivision [D] activity. In order to avoid confusion, it is respectfully requested that the staff clarify whether this limitation applies to the subdivision [D] activity only. For example, under reimbursable activity [A] one could interpret the Parameters and Guidelines as allowing for reimbursement for teacher time because the exclusion of subdivision [D] does not appear under subdivision [A].

Should you have questions, comments concerns please do not hesitate to call.

Very truly yours,

GIRARD & VINSON

Paul C. Minney
Attorney at Law

PCM/jla

cc: Proof of Service on Mailing List

C:\gandv8\mcs\pcm\charter schools\Standardized Testing and Reporting 12.29.wpd

PROOF OF SERVICE

I am employed in the County of Contra Costa, State of California. I am over the age of 18 and not a party to the within action; my business address is 1676 N. California Blvd., Suite 450, Walnut Creek, California 94596.

On the date indicated below I served the following documents:

Standardized Testing and Reporting
CSM 97-2T-23

on all parties in said action as addressed below by causing a true and correct copy thereof to be:

[XX] **BY MAIL** - I placed in a sealed envelope with postage thereon fully prepaid, to be placed in the United States mail at Walnut Creek, California. [*California Code of Civil Procedure,* §§1013 and 1013(a) et. seq.]

Mr Wayne Martin,
Director of Budget and Accounting
Stockton USD
701 North Madison Street
Stockton, CA 95202-1687

Ms. Laurie McVay
DMG-MAXIMUS
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Mr. Jim Cunningham, Leg. Mandate Spclst.
San Diego City Schools
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Mr. William A. Doyle, Mand. Cost Admin.
San Jose Unified School District
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Mr. Keith B. Peterson, President,
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Sand Diego, CA 92117

Harmeet Barschat, (Interested Party)
Mandated Resource Service
8254 Health Peak Place
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Steve Smith, CEO (Interested Party)
Mandated Cost Systems
2275 Watt Avenue, Suite C
Sacramento, CA 95825

Mr. Paige Vorhies (B-8) Interested Party
State Controller's Office
Division of Accounting & Reporting
3301 "C" Street, Suite 500
Sacramento, CA 95816

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 22, 2000, at Walnut Creek, California.

Jayme Ambroselli

EXHIBIT H

LAW OFFICES OF
SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP
7 PARK CENTER DRIVE
SACRAMENTO, CALIFORNIA 95825
♦♦♦
TELEPHONE: (916) 646-1400 • FACSIMILE: (916) 646-1300

PAUL C. MINNEY
JAMES E. YOUNG
MICHAEL S. MIDDLETON
DANIEL I. SPECTOR

LISA A CORR
AMANDA J. MCKECHNIE
DAVID E. SCRIBNER

AUTHOR'S DIRECT E-MAIL:
pminney@smymlaw.com

March 15, 2001

RECEIVED
MAR 22 2001
COMMISSION ON STATE MANDATES

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

Re: Proposed Amendments to Claimant's Proposed Parameters and Guidelines
***Standardized Testing and Reporting*, 97-TC-23**
Education Code Sections 60607, et al
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Ms. Higashi:

On September 5, 2000, San Diego Unified School District submitted proposed Parameters and Guidelines for the above-referenced program. I have reviewed this submittal with my client Mandated Cost Systems, Inc. and we have determined there are a number of clarifications that should be made to accurately reflect the reimbursable activities required by the test claim legislation and the Statement of Decision. Our suggested changes are outlined below (text that is ~~stricken~~ is proposed to be deleted, and text that is *underlined and italicized* is proposed to be added).

Section IV. Reimbursable Activities

"The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, ~~and~~ travel, *and any other reasonable costs incurred to effectuate* the following mandated components are reimbursable:"

Reimbursable Activity [B] Acquiring Testing Materials, Supplies, and Equipment

"Activities associated with the acquisition of materials, supplies and/or equipment required by the STAR program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursement component includes, but is not limited to, *costs for collecting, collating and providing the publisher demographic information on all pupils tested,* contacting the test provider and negotiating the purchase of materials, preparing contracts or purchase orders for purchase of materials, and administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component *including the sales tax paid to the publisher and the replacement cost for lost or destroyed testing materials*."

Authority for Amendments (in order of changes): (1) 5 CCR Section 861(a); (2) SOD reimbursable activities; (3) 5 CCR Section 864.5(c).

Reimbursable Activity [C] Pretest and Posttest Coordination

"Pretest and posttest activities related to the STAR program are reimbursable. This reimbursable component includes, *but is not limited to,* labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator; *to notify the publisher of the identity and contact information of the district STAR coordinator and the district superintendent and his/her designee; to require the district STAR program coordinator to be available through August 15;* designate a site STAR coordinator at each testing site; determine school district and test site test and testing materials needs; conduct inventories of test materials received from the test publisher; *to notify the publisher and CDE regarding test materials that are not received at least ten days before the first date of testing*; resolve any discrepancies in the quantity of test materials received from the test publisher; *providing a signed receipt to the test publisher upon receipt of the testing materials*; *responding to inquires from the publisher and CDE;* distribute test materials to the appropriate test sites; conduct and inventory at each test site of the

quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of the test materials received from the district; coordinate testing dates and make-up testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials at the test sites to appropriate teachers or other school district personnel who administer the tests; prepare, execute, collect STAR test security agreements *and affidavits* from every person who has access to the tests and other test materials; maintain security over test material and test data; collect, collate, and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils *as determined at an IEP meeting, such as large print, Braille, extended time, or the use of a reader, scribe, or a calculator*; *nonstandard accommodations for English language learners shall be utilized only if the school district has adopted a policy to be applied at each school to identify those English learners enrolled in the school district for less than one year for whom nonstandard accommodations may be appropriate due to the pupil's limited English proficiency; costs associated with providing nonstandard accommodations may include, but are not limited to, reading and translating the test instructions into the pupil's primary language and use of a bilingual dictionary*; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; ~~and~~ return test materials, test data, and enrollment data to the test publisher*; STAR program district coordinator shall assist in the resolution of any discrepancies in the test information and materials; STAR district coordinator must certify that the school district has maintained the security and integrity of the designated tests, collected all data and information as required, returned to the test publisher all test materials, answer documents, and other material included as part of the tests; within 5 working days the school district will review the files and reports from the publisher for completeness and accuracy and notify the publisher and the Department of its findings; and the STAR program district*

coordinator shall report any errors, discrepancies, or incomplete information to the Department.

Authority for Amendments: (1) 5 CCR Section 857(a); (2) 5 CCR Section 866(a); (3) 5 CCR Section 865(a); (4) 5 CCR Section 857(b)(1); (5) 5 CCR Section 859; (6) 5 CCR Section 853(c); (7) 5 CCR Section 853(d); (8) 5 CCR Section 857(b)(8); (9) 5 CCR Section 857(c); (10) 5 CCR Section 857(d); and (11) 5 CCR Section 857(d).

Reimbursable Activity [D] Test Administration

"Activities associated with the administration of the STAR program tests are reimbursable. This reimbursable component includes, *but is not limited to,* labor time of administrators and other school district personnel, *for example classroom aides,* to conduct and monitor the STAR program tests given to all pupils in grades 2 through 11, inclusive, and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English Language STAR program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for that time. *Each school district shall provide for at least two makeup days of testing for any pupil absent during normal testing dates. Only a certificated employee of the school district or an employee of an nonprofit school can administer a test in a private home or location.*

Authority for Amendments: (1) 5 CCR Section 855(b); and (2) 5 CCR Section 851(d).

Reimbursable Activity [E] Reporting and Record Keeping

Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes, *but is not limited to,* labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program test to the pupils' parents or guardians, to the

pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating, and submitting to the State Department of Education the information on the STAR Program apportionment information report; *time spent to prepare an individual record of accomplishment for each pupil that includes STAR Program results, end-of-course exams, and vocational education certification exams if applicable; and submission to the State Department of Education whatever information the Department deems necessary to permit the Department to prepare reports analyzing, on a school-by-school basis, the results and test scores of the STAR Program.* The cost of materials and supplies used for reports (including, without limitation, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.

Authority for Amendments: (1) Education Code Section 60607(a); and (2) Education Code Section 60630(b).

If you have any questions or comments regarding these proposed amendments, please give me a call at (916) 646-1400.

Sincerely,

LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

Paul C Minney (SHG)

PAUL C. MINNEY

cc: Steve Smith, President, Mandated Cost Systems, Inc.
Interested party mailing list

PROOF OF SERVICE

Test Claim Name: "Standardized Testing and Reporting"
Test Claim Number: CSM-97-TC-23

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California. I am 18 years of age or older and not a party to the within entitled cause; my business address is: 7 Park Center Drive, Sacramento, California 95825.

On **March 15, 2001**, I served the foregoing document(s) described as:

Proposed Amendments to Claimant's Proposed Parameters and Guidelines

on the following persons/parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope(s) with postage thereon fully prepaid in the United States Mail as Sacramento, California:

SEE ATTACHED SERVICE 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 March 15, 2001 at Sacramento, California.

Lisa L. Yount

LISA L. YOUNT

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AUTHOR'S DIRECT E-MAIL:
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April 26, 2001

RECEIVED
APR 27 2001
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Ste 300
Sacramento, Ca. 95814

Re: **Proposed Parameters and Guidelines**
Standardized Testing and Reporting
97-TC-23

Dear Ms. Higashi:

On September 5, 2000, San Diego Unified School District submitted proposed parameters and guidelines for the above-referenced program. On behalf of Mandated Cost Systems, Inc. our office has previously filed extensive comments. On March 30, 2001, the COSM held an informal conference regarding revisions to the standard parameters and guidelines language proposed by Keith Peterson. During that meeting there appeared to be a consensus regarding certain proposed changes. We are proposing herein that those areas in which the parties were in agreement be incorporated into the parameters and guidelines for the above-referenced program.

For example, it is my understanding that the parties all agreed to make amendments to the proposed parameters and guidelines in the area of "Supporting Data" as follows:

VI. SUPPORTING DATA

"*For auditing purposes, all costs claimed must be traceable to source documents (e.g., employee time records, cost allocation reports, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, time studies) that show evidence of the validity and relationship to the mandated activities. Data relevant to the mandated activities otherwise reported in compliance with local, state, and federal government requirements, whether or not reported as a result of the mandate, that is of the type relied upon by these agencies as an accurate report of the data which is the subject of the report, are presumed to be sufficient data for cost accounting purposes or documentation in support of costs claimed for the mandated activities.*"

Moreover, the parties were in agreement that the following would be added under the "Claims Preparation and Submission" area of the parameters and guidelines:

"1. Employee Labor Costs

..... *No employee job classification is excluded from reimbursement unless specifically excluded in Part IV of this document.*

2. Materials and Supplies Costs

.....*No specific materials or supplies are excluded from reimbursement unless specifically excluded in Part IV of this document.*

3. Consultant and Purchased Services Costs

.....*There is no hourly cost limitation for consulting services unless specifically stated in Part IV of this document."*

These clarifications will substantially reduce the number of disputes school districts are having with the State Controller's office and reduce the number of Incorrect Reduction Claims filed with the COSM. Accordingly, we respectfully request the COSM adopt these changes in the above-referenced parameters and guidelines.

If you have any questions or comments regarding this correspondence please contact me at 916-646-1400. Thank you for your time and consideration.

Very truly yours,
Law Offices of Spector,
Middleton, Young & Minney, LLP

Paul C. Minney (LMW)

Paul C. Minney, Esq.

cc: Steve Smith, President Mandated Cost Systems, Inc.
Mailing List

STATE OF CALIFORNIA

COMMISSION ON STATE MANDATES
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EXHIBIT J

November 28, 2001

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And Affected State Agencies and Interested Parties

Re: 97-TC-23; *Standardized Testing and Reporting*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

Staff's analysis and Claimants' Proposed Parameters and Guidelines, as Modified by Staff, are complete and enclosed for your review and comment.

Commission Hearing

The Proposed Parameters and Guidelines are set for hearing on Wednesday, December 12, 2001 at 9:30 a.m. in Room 126 of the State Capitol, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will also appear. If you would like to request postponement of the hearing, please refer to section 1183.01 (c) of the Commission's regulations.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

PAULA HIGASHI
Executive Director

C: Mailing list
Enclosure: Claimants' Proposed Parameters and Guidelines, as Modified by Staff
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Hearing Date: December 12, 2001
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ITEM 6

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-874

Standardized Testing and Reporting

Executive Summary

Summary of the Mandate

The test claim legislation established the Standardized Testing and Reporting (STAR) Program related to achievement testing that school districts must administer to pupils in the state. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who is enrolled in grades 2 through 11 if the pupil was initially enrolled in any public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates (Commission), in the Statement of Decision adopted at the August 24, 2000 hearing, found that the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

The claimant submitted its proposed parameters and guidelines on September 5, 2000. Staff received comments from the Department of Finance (DOF), the State Controller's Office (SCO), and Mandated Cost Systems (MCS), and rebuttal to the DOF and SCO comments from the claimant. A summary of the most pertinent issues raised by the parties and staff's changes to the proposed parameters and guidelines are discussed below.

Staff Analysis

Eligible Claimants

MCS requested that charter schools be added as eligible claimants. When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519, which defines school districts eligible for reimbursement,

does not include charter schools as a separate potential claimant. Therefore, staff did not include charter schools as eligible claimants.

Period of Reimbursement

Staff revised the period of reimbursement proposed by the claimant to reflect that the enacting legislation contained an urgency clause. Therefore, the period of reimbursement begins on October 1, 1997.

Reimbursable Activities

At the request of the SCO and DOF, staff narrowed the claimant's proposed language for acquiring test materials, supplies, and equipment to clarify that purchases beyond the amount required by the mandate are not reimbursable, and that requesting additional materials from the contract test provider are optional and are not reimbursable.

At the request of claimant and MCS, staff clarified language that reimburses school districts for collating and submitting pupil demographic information. Staff deleted language allowing reimbursement for additional sums paid to teachers for time spent administering the tests, since these activities were not included as reimbursable activities in the Commission's Statement of Decision.

At the request of MCS, staff clarified that payment of sales tax to the publisher is reimbursable.

Offsetting Savings and Other Reimbursements

Staff revised this section to provide that reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding provided each year in the state budget for the STAR Program.

Staff made other nonsubstantive technical revisions to the claimant's proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Claimant

San Diego Unified School District

Chronology

08-24-00	Commission on State Mandates (Commission) adopted Statement of Decision[1]
08-31-00	Claimant submitted proposed Parameters and Guidelines[2]
10-18-00	State Controller's Office (SCO) submitted comments on the claimant's proposal[3]
11-15-00	Claimant filed a rebuttal to the SCO's comments[4]
11-20-00	Department of Finance (DOF) submitted comments on the claimant's proposal[5]
11-29-00	Claimant filed a rebuttal to the DOF's comments[6]
12-29-00	Spector, Middleton, Young & Minney (SMYM), on behalf of Mandated Costs Systems (MCS), interested party, filed comments on the claimant's proposal[7]
03-15-01	MCS filed additional comments on the claimant's proposal[8]
04-26-01	MCS filed comments on boilerplate language[9]
10-15-01	Commission issued staff analysis
11-28-01	Commission issued revised staff analysis

Staff Analysis

No comments were received on, nor did staff make any substantive changes to, sections: I. Summary of the Mandate; VI. Supporting Data; or VIII. State Controller's Office Required Certification. Non-substantive changes were made for the purposes of clarification, conformity to the Statement of Decision; and consistency with language in recently adopted parameters and guidelines.

Staff modified the claimant's proposed parameters and guidelines, as discussed below:

II. Eligible Claimants

MCS commented that the test claim legislation specifically requires charter schools to comply with the Standardized Testing and Reporting (STAR) program, and therefore concluded that charter schools are treated as a "school district" for compliance with the STAR program.

When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519 defines "school districts" as follows: "School districts means any school district, community college district, or county

[1] Exhibit A
[2] Exhibit B
[3] Exhibit C
[4] Exhibit D
[5] Exhibit E
[6] Exhibit F
[7] Exhibit G
[8] Exhibit H
[9] Exhibit I

superintendent of schools." This definition does not include charter schools as a separate potential claimant. Therefore, staff did not include charter schools as eligible claimants.[10]

II. Period of Reimbursement

The claimant's proposal indicated that the period of reimbursement began July 1, 1997. However, Statutes of 1997, chapter 828 was an urgency statute effective October 1, 1997. Therefore, staff clarified that costs incurred for this mandate after October 1, 1997, are eligible for reimbursement.

IV. Reimbursable Activities

MCS proposed adding the phrase "and any other reasonable costs incurred to effectuate" in the preamble for this section.[11] This preamble is the subject of ongoing workshops to revise boilerplate language, and has not yet been resolved. The claimant has moved forward with these parameters and guidelines. Accordingly, staff did not make the suggested change in this document. Staff notes that the proposed phrase is overbroad because this section of the parameters and guidelines must specifically define the reimbursable activities.

A. Training, Policies, and Procedures

The DOF argued that the training required for this mandate is minimal and that review of the STAR Program requirements does not appear to create a state-mandated cost. The DOF submitted that all coordinators will be fully trained on the legal requirements and, since a school must comply with all applicable laws, reviewing laws and regulations to ensure compliance would be within the existing responsibilities of a school.

The Commission found in its Statement of Decision that the activity of "Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff" is reasonably necessary to carry out the mandate, and therefore constitutes a reimbursable activity. Staff therefore retained the claimant's language regarding reimbursement for reviewing the requirements and conducting or attending training, but deleted the language in parenthesis, which allowed for training on successor testing programs selected by the State Board of Education. A new test claim may be filed if the State Board of Education selects a new testing *program* to succeed the STAR program.

In addition, staff added that training is a one-time activity per employee and that, "Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the labor time of the teacher spent in attending training sessions during that teacher's normal classroom hours is not reimbursable." This language is consistent with past Commission decisions regarding teacher training.

Consistent with recently adopted parameters and guidelines, staff modified the claimant's proposed activity of preparing policies, procedures, and forms to provide one-time reimbursement for "*developing* policies, procedures, and forms to implement the STAR program," and on-going reimbursement for "*updating* policies, procedures, and forms

[10] Staff notes that a test claim entitled *Charter Schools III* (99-TC-14) has been filed and directly raises the issue whether charter schools are proper claimants under article XIII B, section 6 of the California Constitution.
[11] Exhibit H, comments dated March 15, 2001.

pertaining to the STAR program to reflect changes in law due to a court's interpretation of the test claim legislation."

B. Test Materials, Supplies and Equipment

The claimant's proposal included reimbursement for contacting the test provider and preparing the contract. The proposal further included the Commission's finding in the Statement of Decision that preparation of the contract with the test publisher is limited to completion of the contract.

The SCO requested deletion of the phrase "without limitation" to prevent unnecessary reimbursement of excessive purchases beyond the amount that is required by the mandate. Staff agrees with the SCO that this language is too broad and therefore made the modification.

The DOF argued that the contractor is responsible for producing all testing materials required for the STAR Program in sufficient quantities to test all required students (including a 15 percent overage), which is provided for in the state budget. Further, to the extent that districts request additional material and/or services, such requests are voluntary on the part of the district and would not be reimbursable.

Consistent with DOF's argument, staff added the Commission's finding that; "Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable."

MCS proposed that the costs for collecting, collating, and providing the publisher demographic information on all pupils tested be added in this section pursuant to California Code of Regulations, title 5, section 861, subdivision (a). Staff added this activity in E. Reporting and Record Keeping.

MCS also proposed adding sales tax paid to the publisher. The Commission's Statement of Decision allows for reimbursement of the payment of sales tax to the publisher pursuant to California Code of Regulations, title 5, section 856. Accordingly, staff added the language.

Finally, MCS proposed adding replacement costs for lost or destroyed testing materials. California Code of Regulations, title 5, section 870, subdivision (a)(3)(A), specifically states that "replacement costs for test materials lost or destroyed while in possession of the school district" are not reimbursable. These costs are outside the scope of the mandate and thus, staff did not make the addition.

C. Pretest and Posttest Coordination

The claimant included "collect, collate, and submit pupil demographic information" as a reimbursable activity. Staff added this activity in E. Reporting and Record Keeping.

The DOF submitted that reimbursement for the activities of designating site and district coordinators, exempting pupils from STAR Program tests upon request of the parents or guardians, and coordination of testing at the test site should be offset by the amount provided in the annual state budget. Staff notes that the budget acts for each fiscal year eligible for reimbursement for this mandate include an appropriation to the California Department of

Education for local assistance for administration of the STAR Program.[12] Staff identified the line-item appropriations in Section VII. Offsetting Savings and Other Reimbursements.

The DOF further submitted that districts that choose to pre-identify test forms receive funding to provide the information to the test publisher as an incentive, and therefore, the costs incurred should not be claimed through the mandate claiming process. Staff notes that the activity of pre-identifying test forms is optional and was not found to be reimbursable in the Statement of Decision. In addition, Section VII. Offsetting Savings and Other Reimbursements clearly states that "reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, shall be identified and deducted from this claim." While staff agrees with the DOF on this issue, staff made no changes to the parameters and guidelines because existing language addresses DOF's concern.

MCS suggested that the duties of the STAR program district coordinator and the STAR program test site coordinator be specified in the parameters and guidelines. Staff agreed and listed their respective duties pursuant to California Code of Regulations, title 5, sections 857-859, 865, 867, and 868, with the following exceptions:

- MCS recommended that the parameters and guidelines include the requirement that the STAR program district coordinator must be available for this program until August 15. California Code of Regulations, title 5, section 857, subdivision (a), specifically states that the STAR program district coordinator must be available through June 30th to complete school district testing. Staff added the June 30 date to the proposed parameters and guidelines.
- Under the claimant's proposed activity of determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils, MCS proposed the following addition:

  > ...as determined at an [Individualized Education Program] meeting, such as large print, Braille, extended time, or the use of a reader, scribe, or a calculator; nonstandard accommodations for English language learners shall be utilized only if the school district has adopted a policy to be applied at each school to identify those English learners enrolled in the school district for less than one year for whom nonstandard accommodations may be appropriate due to the pupil's limited English proficiency; costs associated with providing nonstandard accommodations may include, but are not limited to, reading and translating the test instructions into the pupil's primary language and use of a bilingual dictionary[.]

This activity is already included under Component C. Pretest and Posttest Coordination, and is authorized by California Code of Regulations, title 5, section 852, subdivision (b), which provides the authority for appropriate testing adaptations or accommodations for special education pupils.

[12] Exhibit E, State Budget Act line item funding for the Star Program for fiscal years: 1998-99, 1999-00, 2000-01, and 2001-02.

D. Test Administration

The claimant proposed that "time spent by the classroom teacher during his or her normal classroom hours for this activity is not reimbursable, unless the teacher is paid an additional sum for such time."

The SCO requested deletion of the phrase, "unless the teacher is paid an additional sum for such time" because the mandate does not require the STAR test to be given at any time other than normal school hours. In addition, the SCO submitted that the mandate does not require a district to pay teachers more during normal classroom hours when pupils are taking the STAR test.

The DOF noted that, in its Statement of Decision, the Commission found costs associated with teacher time are not reimbursable. The DOF submitted that teacher time would not be reimbursable since districts already receive a per pupil funding rate for up to 180 days (or its equivalent minutes) of instruction and that administration of the STAR Program tests falls within the time allotted for regular instruction.

Staff agrees with DOF and the SCO. In its Statement of Decision, the Commission found that administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive, and administration of the additional test to pupils of limited English proficiency are reimbursable. However, the Commission further found for both tests that "Costs associated with teacher time to administer the test are not reimbursable." This language is consistent with past decisions regarding teacher time. The Commission did not find, nor do the test claim statutes or regulations require, reimbursement for additional sums paid to teachers for time spent administering the tests. Staff therefore deleted that language.

MCS proposed that the following activity be added to this section: "Each school district shall provide for at least two makeup days of testing for any pupil absent during normal testing dates. Only a certificated employee of the school district or an employee of a nonprofit school can administer a test in a private home or location." In addition, MCS suggested making a reference to classroom aides being able to conduct and monitor the STAR program tests.

The claimant's proposal includes the activity of "conduct[ing] and monitor[ing] the STAR Program tests given to all pupils in grades 2 through 11, inclusive." Staff added a citation to Education Code sections 60640, subdivisions (b) and (c), and 60641, subdivision (a); and California Code of Regulations, title 5, sections 851, 852, subdivision (b), 853, and 855. Since this citation already includes the authority for the amendments proposed by MCS, staff did not make the changes MCS proposed.

E. Reporting and Record Keeping

The claimant's proposal included reimbursement for the cost of materials and supplies used for reports "including, without limitation, paper and envelopes." The SCO requested deletion of the phrase "without limitation" to prevent a district from claiming excessive purchases. The SCO submitted that reimbursement is provided only for the cost of materials and supplies that are consumed or expended for the mandate. Staff agrees with SCO that this language is too broad, and therefore, made the modification.

MCS proposed adding to this section: 1) time spent to prepare an individual record of accomplishment for each pupil that includes STAR Program results, end-of-course exams, and vocational education certification exams, if applicable; and 2) submission to the State Department of Education whatever information the Department deems necessary to permit the Department to prepare reports analyzing, on a school-by-school basis, the results and test scores of the STAR Program.

First, the claimant's proposal includes the activity of "recording and maintaining individual records of the tests in pupil records." Staff added a citation to Education Code sections 60607, subdivision (a), and 60641, subdivision (a), which includes the authority for the amendment proposed by MCS. Therefore, staff did not add "time spent to prepare an individual record of accomplishment for each pupil that includes STAR Program results, end-of-course exams, and vocational education certification exams, if applicable."

Second, consistent with the Commission's finding in the Statement of Decision, staff added reimbursement for, "Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program."[13]

Moreover, the DOF argued that the recording and maintaining individual records of the tests in pupil records does not create a higher level of service and that, to the extent the district chooses to provide more information than provided by law, the costs would not be reimbursable. Staff finds that the activity of recording and maintaining individual records of the tests in pupil records is required by statute and was found to be reimbursable in the Commission's Statement of Decision. Staff agrees that the provision of additional information would not be reimbursable.

The DOF submitted that reporting data to the school district governing board or county office of education, and the submission of the report to the Superintendent of Public Instruction should be offset by the amount provided in the annual state budget. Staff notes that the budget acts for each fiscal year eligible for reimbursement for this mandate already include an appropriation to the California Department of Education for local assistance for administration of the STAR Program. Staff identified the line-item appropriations in Section VII. Offsetting Savings and Other Reimbursements.

V. Claim Preparation

The claimant's proposal included reimbursement for travel expenses, "including, without limitation, mileage, transportation, meals..." The SCO requested deletion of the phrase "without limitation" to prevent reimbursement of unnecessary travel costs beyond the requirement of the mandate. Staff agrees with SCO that this language is too broad and therefore made the modification suggested by the SCO.

[13] This activity encompasses the activity to collect, collate, and submit pupil data as provided under California Code of Regulations, title 5, section 861, (demographic information) as the claimant proposed in C. Pretest and Posttest Coordination, and as MCS proposed in B. Test Materials, Supplies and Equipment.

VII. Offsetting Savings and Other Reimbursements

As noted above in Sections C and E, staff revised this section to provide that reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, must be offset by funding already provided each year in the State Budget for the STAR Program.

IX. Parameters and Guidelines Amendments

Staff added this section to cite the Commission's regulations regarding amendments to parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 11.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

ITEM 6

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

~~Title 5,~~ California Code of Regulations, Title 5, Sections 850-874

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, ~~C~~chapter 828, ~~Statutes of 1997,~~ among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, c~~C~~hapter 828, ~~Statutes of 1997~~ and the implementing regulations at title 5, California Code of Regulations, ~~S~~sections 850-874, established the Standardized Testing and Reporting (STAR) Program ~~a program~~ related to achievement testing that school districts must administer to pupils in the state ~~the Standardized Testing and Reporting (STAR) Program~~. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who ~~are~~ is enrolled in grades 2 through 11 if the pupil was initially enrolled in any ~~school district~~public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that ~~Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874~~ the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997. Therefore, costs incurred on or after ~~July~~ October 10, 1997 for compliance with the mandate are reimbursable.

Actual costs for one fiscal year ~~should~~ shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code s~~S~~ection 17561, subdivision (d)(~~3~~1), ~~of the Government Code,~~ all claims for reimbursement of initial year's~~'~~ costs shall be submitted within 120 days from the date on which ~~of issuance of the claiming instructions by~~ the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed $200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of labor, materials and supplies, contracted services, fixed assets, and travel incurred for the following ~~mandate components~~ activities are reimbursable:

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee)
- Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)
- Updating internal policies, procedures, and forms pertaining to *Standardized Testing and Reporting* to reflect changes in law due to a court's interpretation of the test claim legislation. (On-going activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

~~Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and Travel expenses for the school district personnel who conduct or~~

~~attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.~~

B. ~~Acquiring~~ Test Materials, Supplies, and Equipment

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.)

~~Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and Administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.~~

C. Pretest and Posttest Coordination

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Designating a school district employee as a STAR program district coordinator, who shall be available through June 30 to complete school district testing. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, and 868.)

- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, and 868.)

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 866, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, § 865, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, § 857, subd. (b).)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 868.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, § 857, subd. (c).)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 874.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, § 858, subd. (b).)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, § 859.)

~~Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make up dates testing dates; collate and distribute tests, pre identified answer sheets, and other test materials is at test sites to appropriate teachers or other school districts personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains~~

~~an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.~~

D. Test Administration

- Conducting and monitoring the STAR Program tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

~~Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive. , and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.~~

E. Reporting and Record Keeping

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)
- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)

- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

~~Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.~~

V. CLAIM PREPARATION

Each claim for reimbursement ~~pursuant to this mandate~~ must be timely filed and ~~set~~ identify each cost ~~forth a listing of each item~~ for which reimbursement is claimed under this mandate. Claimed costs must be identified ~~allocated according~~ to ~~the~~ each ~~components~~ ~~of~~ reimbursable activity described in Section IV of these parameters and guidelines.

A. Direct Costs

Direct costs are those costs that can be traced to specific goods, services, programs, activities, or functions and shall be supported by the following cost element information:

1. ~~Employee~~ Salaries and Benefits

Identify the employee(s) and/or show the classification of the employee(s) involved. Describe the reimbursable activities ~~mandated functions~~ performed and specify the actual time devoted to each reimbursable activity ~~function~~ by each employee, productive hourly rate, and related fringe benefits. ~~The average number of hours devoted to each function may be claimed if supported by a documented time study.~~

Reimbursement for personnel services includes compensation for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g. annual leave, sick leave) and the employer's contributions to social security,

pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

2. Materials and Supplies

Only the expenditures that ~~which~~ can be identified as ~~a~~ direct costs of ~~the~~ this mandate can be claimed. List the cost of materials and supplies ~~which have been~~ consumed ~~or expended~~ specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based upon a recognized method of costing, consistently applied.

3. Contracted Services

Provide the name(s) of the contractor(s) who performed the service(s), including any fixed contracts for services. Describe the reimbursable activities performed by each named contractor and give the number of actual hours spent on the activities, if applicable.~~,~~ ~~s~~Show the inclusive dates when services were performed and itemize all costs for those services. ~~For fixed price contracts, list only the activities performed, the dates services were performed and the contract price.~~ Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs, and installation costs. If the equipment or other ~~fixed~~ capital asset is used for purposes other than for this mandate, only the pro rata ~~portion of the~~ purchase price can be claimed. ~~is reimbursable.~~

5. Travel

Travel expenses for ~~, including, without limitation,~~ mileage, ~~transportation, meals,~~ per diem, lodging, ~~parking,~~ and ~~telephone,~~ other employee entitlements are eligible for reimbursement ~~able~~ in accordance with the rules of the local jurisdiction. ~~school district procedures.~~ Provide the name(s) of the traveler(s), ~~person(s) traveling,~~ purpose of the travel, inclusive dates and times of travel, destination point(s), and travel costs~~expenses~~.

6. Training

The cost of training an employee to perform ~~for~~ the mandated activities, as specified in Section IV of these parameters and guidelines, is eligible for reimbursement ~~reimbursable~~. Identify the employee(s) by name and job classification. Provide the title and subject ~~name~~ of the training session, the dates ~~of attendance~~ attended, and the location. Reimbursable costs may include ~~, but are not limited to,~~ salaries and benefits, ~~of personnel conducting or~~

~~attending the training,~~ registration fees, transportation, lodging, and per diem. ~~and travel expenses.~~

B. Indirect Costs

Indirect costs are those costs that are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. 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.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents (e.g., employee time records, cost allocation reports, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, time studies, etc.) ~~and/or worksheets~~ that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. ~~These documents must be made available to the State Controller on the request.~~

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings ~~provided in the test claim statute that~~ the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, ~~additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate~~ shall be identified and deducted from this claim. ~~to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "under reimbursements."~~

Specifically, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing

board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall ~~will~~ be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.

List Date: 04/10/1998 Mailing Information

Mailing List

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997

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Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

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Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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State Agency

EXHIBIT K

STATE OF CALIFORNIA
GRAY DAVIS, Governor

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

VIA FASCIMILE ONLY

December 10, 2001

Mr. Art Palkowitz
Legislative Mandate Specialist
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103

And Affected State Agencies and Interested Parties

Re: Supplemental Staff Analysis and Revised
Proposed Parameters and Guidelines
97-TC-23; *Standardized Testing and Reporting*
San Diego Unified School District
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Mr. Palkowitz:

Following release of the staff analysis and Claimant's Proposed Parameters and Guidelines, as Modified by Staff, staff determined that technical clarifying amendments are needed to conform the Proposed Parameters and Guidelines to the test claim regulations. Staff's *supplemental* analysis and *revised* Claimants' Proposed Parameters and Guidelines, as Modified by Staff, are complete and enclosed for your review and comment.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

PAULA HIGASHI
Executive Director

C: Mailing list
Enclosure: Claimants' Proposed Parameters and Guidelines, as Modified by Staff
f:/mandates/97tc23/ps&gs/pgtranssupp

ITEM 6

PROPOSED PARAMETERS AND GUIDELINES SUPPLEMENTAL STAFF ANALYSIS

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

California Code of Regulations, Title 5, Sections 850-904

Standardized Testing and Reporting

Following release of the staff analysis and proposed parameters and guidelines, staff determined that technical clarifying amendments are needed to conform the period of reimbursement to the operative and effective dates of the test claim regulations. Staff views these changes as technical and revises its recommendation, as follows:

Heading

- Revised "California Code of Regulations, Title 5, Sections 850-874" to reflect the regulation changes.
- Added a footnote to explain that the regulations were subsequently amended on January 4, 1999, in which all references to the designated primary language test were stricken from sections 850-874 and moved to a new Article 3, which created new sections 880-904.[1]

Period of Reimbursement

- Clarified that costs incurred on or after October 10, 1997 for compliance with the mandate are reimbursable, *unless otherwise specified.*
- Inserted a footnote to explain that the implementing regulations became effective January 2, 1998.

Reimbursable Activities

- Clarified in the preamble that costs incurred *to administer the designated achievement and primary language tests* for the specified activities were reimbursable.
- Clarified that the reimbursement period for the activities under "B. Test Materials, Supplies, and Equipment" is January 2, 1998 through December 15, 1999.
- Clarified that the reimbursement periods for activities under "C. Pretest and Posttest Coordination," "D. Test Administration," and "E. Reporting and Record Keeping," begin January 2, 1998.

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[1] See Exhibit A, amended regulations.

MAILED:
DATE: 12/10/01
CHRON:
INITIAL: JS
FAXED:
FILE:
WORKING BINDER:

- Clarified under "C. Pretest and Posttest Coordination," that beginning January 1, 2001, the STAR program district coordinator shall be available through August 15, instead of June 30, to complete school district testing.
- Clarified under "C. Pretest and Posttest Coordination," that beginning January 1, 2001, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
- Revised all citations following each activity to reflect the regulation changes.

ITEM 6

CLAIMANT'S PROPOSED PARAMETERS AND GUIDELINES, AS MODIFIED BY STAFF

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828

~~Title 5,~~ California Code of Regulations, Title 5, Sections 850-~~874~~904[1]

Standardized Testing and Reporting

I. SUMMARY OF THE MANDATE

Statutes of 1997, ~~C~~chapter 828, ~~Statutes of 1997,~~ among other things, amended Education Code sections 60607, 60609, 60615, and 60630 and added Education Code sections 60640, 60641 and 60643. Statutes of 1997, c~~C~~hapter 828, ~~Statutes of 1997~~ and the implementing regulations at ~~title 5,~~ California Code of Regulations, title 5, ~~S~~sections 850-874, established the Standardized Testing and Reporting (STAR) Program ~~a program~~ related to achievement testing that school districts must administer to pupils in the state ~~the Standardized Testing and Reporting (STAR) Program~~. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts administer the test in English (commonly called the "SAT-9" test) to all pupils enrolled in grades 2 through 11 and administer an additional test (commonly called the "Sabe/2" test) to every pupil of limited English proficiency who ~~are~~ is enrolled in grades 2 through 11 if the pupil was initially enrolled in any ~~school district~~public school in the state less than 12 months prior to the date that the English language SAT-9 test is given. School districts are also required to engage in numerous activities related to test administration and reporting.

The Commission on State Mandates, in the Statement of Decision adopted at the August 24, 2000 hearing, found that ~~Education Code sections 60607, 60609, 60615, 60630, 60640, 60641 and 60643 and title 5, California Code of Regulations sections 850-874~~ the test claim legislation and regulations impose a new program or higher level of service within the meaning of section 6, article XIII B of California Constitution, and costs mandated by the state pursuant to Government Code section 17514.

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[1] The regulations were subsequently amended to create a new Article 3 regarding the designated primary language test. On January 4, 1999, all references to the primary language test were stricken from sections 850-874 and moved to Article 3 as new sections 880-904. Therefore, the regulations for the Standardized Testing and Reporting Program now include sections 880-904.

II. ELIGIBLE CLAIMANTS

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

III. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on March 24, 1998. Statutes of 1997, chapter 828, was an urgency statute effective on October 10, 1997.[2] Therefore, costs incurred on or after ~~July 1, 1997~~ October 10, 1997 for compliance with the mandate are reimbursable, unless otherwise specified below.

Actual costs for one fiscal year ~~should~~ shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code s~~S~~ection 17561, subdivision (d)(~~3~~1), ~~of the Government Code,~~ all claims for reimbursement of initial year's~~'~~ costs shall be submitted within 120 days from the date on which ~~of issuance of the claiming instructions by~~ the State Controller's Office issues claiming instructions.

If the total costs for a given fiscal year do not exceed $200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

The direct and indirect costs of ~~labor~~ salaries and benefits, materials and supplies, contracted services, fixed assets, ~~and~~ travel, and training, incurred to administer the designated achievement and primary language tests for the following ~~mandate components~~ activities are reimbursable:[3]

A. Training, Policies, and Procedures

- Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee)
- Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)
- Updating internal policies, procedures, and forms pertaining to *Standardized Testing and Reporting* to reflect changes in law due to a court's interpretation of the test claim legislation. (On-going activity)

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[2] The implementing regulations, however, were effective January 2, 1998.
[3] The amended regulations added the "standards-based achievement test," a new test that is not a part of this claim.

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

~~Activities associated with training teachers and other school district personnel regarding the requirements placed upon school districts in connection with the STAR Program tests. This reimbursable component includes, but is not limited to, reimbursement of the labor time of administrators, teachers, and other school district personnel involved with review of the requirements of the STAR Program (or any successor testing programs selected by the State Board of Education), preparation of policies, procedures, and forms, preparation for training sessions; the labor time of administrators, teachers, and other school district personnel who conduct or attend training sessions; and Travel expenses for the school district personnel who conduct or attend training sessions. The cost of materials and supplies used or distributed in training sessions is reimbursable under this component.~~

B. ~~Acquiring~~ Test Materials, Supplies, and Equipment

(Reimbursement period: January 2, 1998 – December 15, 1999)

- Contacting the test provider selected by the State Board of Education and negotiating the purchase of the materials, preparing contracts or purchase orders approved by the State Board of Education for purchase of the materials. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.[4]) Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. Modification of the approved contract by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12), is not reimbursable.
- Purchasing materials in accordance with the standard contract pursuant to the California Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.[5])

The purchase price of the materials, supplies, and equipment is reimbursable under this activity, including the sales tax paid to the publisher. (Cal. Code Regs., tit. 5, § 856.[6])

~~Activities associated with the acquisition of any materials, supplies and/or equipment required by the STAR Program, including, without limitation, test administrative manuals, test materials, testing equipment, test reporting materials, and computer programs, are reimbursable. This reimbursable component includes, but is not limited to, contacting the test provider and negotiating the purchase of the materials, preparing contracts or purchase orders for purchase of the materials, and Administering the purchase of materials. Preparation of the contract with the test publisher is limited to review, approval, and completion of the contract approved by the State Board of Education. The purchase price of the materials, supplies, and equipment purchased is reimbursable under this component.~~

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[4] Cal. Code Regs., tit. 5, §§ 860 and 873 were repealed effective December 16, 1999.
[5] Cal. Code Regs., tit. 5, §§ 856, 869, and 871 were repealed effective December 16, 1999.
[6] Cal. Code Regs., tit. 5, § 856 was repealed effective December 16, 1999.

C. Pretest and Posttest Coordination *(Reimbursement period begins January 2, 1998)*

- Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), and 881, subd. (a).)

- Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), and 881, subd. (b).)

- Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),[7] and 882, subd. (c).)

- Designating a school district employee as a STAR program district coordinator. ~~who shall be available through June 30 to complete school district testing.~~ The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, and 899.)
  - From January 2, 1998 through December 31, 2000, the STAR program district coordinator shall be available through June 30 to complete school district testing.
  - Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.

- Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, and 899.)
  - From January 2, 1998 through December 31, 2000, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through June 30 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
  - Beginning January 1, 2001, the STAR program test site coordinator shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

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[7] Cal. Code Regs., tit. 5, § 853, subd. (c), was formerly § 852, subd. (b).

STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

- Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, and 896, subd. (a).)
- Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), and 895, subd. (a).)
- Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), and 886.)
- Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, and 899.)
- Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), and 886.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)
- Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

- Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), and 887.)
- Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 and 888.)

~~Pretest and posttest activities related to the STAR Program are reimbursable. This reimbursable component includes labor time of administrators, teachers and other school district personnel to designate a district STAR coordinator, designate a site STAR coordinator at each test site, determine school district and test site test and test materials needs; conduct inventories of test materials received from the test publisher; resolve any discrepancies in the quantity of test materials received from the test publisher; distribute test materials to the appropriate test sites; conduct an inventory at each test site of the quantity of test materials received from the district central distribution point; resolve any discrepancies in the quantity of test materials received from the district; coordinate testing dates and make-up dates testing dates; collate and distribute tests, pre-identified answer sheets, and other test materials is at test sites to appropriate teachers or other school districts personnel who administer the tests; prepare, execute, and collect STAR Test Security Agreements from every person who has access to tests and other test materials; maintain security over test material and test~~

~~data; collect, collate and submit pupil demographic information; process requests for exemption from testing filed by parents and guardians; review the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing; determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils; collect test materials after the tests are conducted; conduct an inventory of test materials collected at each test site; return test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and return test materials, test data, and enrollment data to the test publisher.~~

D. Test Administration *(Reimbursement period begins January 2, 1998)*

- Conducting and monitoring the STAR Program tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, and 884.)
- To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

~~Activities associated with the administration of the STAR Program tests are reimbursable. This reimbursable component includes labor time of administrators and other school district personnel to conduct and monitor the STAR Program tests given to all pupils in grades 2 through 11, inclusive. , and giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given; provided, however, that time spent by the classroom teacher during his or her normal classroom hours for this component is not reimbursable, unless the teacher is paid an additional sum for such time.~~

E. Reporting and Record Keeping *(Reimbursement period begins January 2, 1998)*

- Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, §§ 863 and 892.)
- Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 and 893.)

- Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 and 891.)
- Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 and 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

~~Activities associated with administration of the STAR Program reporting and record keeping requirements are reimbursable. This reimbursable component includes labor time of administrators, teachers, and other school district personnel in recording and maintaining individual records of the tests in pupil records; preparation and mailing of reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers; reporting the results of the STAR Program tests to the school district governing board on a districtwide and school-by-school basis; and collecting, collating and submitting to the State Department of Education the information on the STAR Program apportionment information report. The cost of materials and supplies used for reports (including, without limitation, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this component.~~

V. CLAIM PREPARATION

Each claim for reimbursement ~~pursuant to this mandate~~ must be timely filed and ~~set~~ identify each cost ~~forth a listing of each item~~ for which reimbursement is claimed under this mandate. Claimed costs must be identified ~~allocated according~~ to ~~the~~ each ~~components~~ ~~of~~ reimbursable activity described in Section IV of these parameters and guidelines.

A. Direct Costs

Direct costs are those costs that can be traced to specific goods, services, programs, activities, or functions and shall be supported by the following cost element information:

1. ~~Employee~~ Salaries and Benefits

Identify the employee(s) and/or show the classification of the employee(s) involved. Describe the reimbursable activities ~~mandated functions~~ performed and specify the actual time devoted to each reimbursable activity ~~function~~ by each employee, productive hourly rate, and related fringe benefits. ~~The average number of hours devoted to each function may be claimed if supported by a documented time study.~~

Reimbursement for personnel services includes compensation for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g. annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

2. Materials and Supplies

Only the expenditures that ~~which~~ can be identified as ~~a~~ direct costs of ~~the~~ this mandate can be claimed. List the cost of materials and supplies ~~which have been~~ consumed ~~or expended~~ specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based upon a recognized method of costing, consistently applied.

3. Contracted Services

Provide the name(s) of the contractor(s) who performed the service(s), including any fixed contracts for services. Describe the reimbursable activities performed by each named contractor and give the number of actual hours spent on the activities, if applicable.~~,~~ ~~s~~Show the inclusive dates when services were performed and itemize all costs for those services. ~~For fixed price contracts, list only the activities performed, the dates services were performed and the contract price.~~ Attach a copy of the contract to the claim.

4. Fixed Assets

List the purchase price paid for equipment and other fixed assets acquired for this mandate. Purchase price includes taxes, delivery costs, and installation costs. If the equipment or other ~~fixed~~ capital asset is used for purposes other than for this mandate, only the pro rata ~~portion of the~~ purchase price can be claimed. ~~is reimbursable.~~

5. Travel

Travel expenses for ~~, including, without limitation,~~ mileage, ~~transportation, meals,~~ per diem, lodging, ~~parking,~~ and ~~telephone,~~ other employee entitlements are eligible for reimbursement ~~able~~ in accordance with the rules of the local jurisdiction. ~~school district procedures.~~ Provide the name(s) of the traveler(s), ~~person(s) traveling,~~ purpose of the travel, inclusive dates and times of travel, destination point(s), and travel costs~~expenses~~.

6. Training

The cost of training an employee to perform ~~for~~ the mandated activities, as specified in Section IV of these parameters and guidelines, is eligible for reimbursement ~~reimbursable~~. Identify the employee(s) by name and job

classification. Provide the title and subject ~~name~~ of the training session, the dates ~~of attendance~~ attended, and the location. Reimbursable costs may include ~~, but are not limited to,~~ salaries and benefits, ~~of personnel conducting or attending the training,~~ registration fees, transportation, lodging, and per diem. ~~and travel expenses.~~

B. Indirect Costs

Indirect costs are those costs that are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

1. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
2. 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.

VI. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents (e.g., employee time records, cost allocation reports, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, time studies, etc.) ~~and/or worksheets~~ that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested. Pursuant to Government Code section 17558.5, these documents must be kept on file by the agency submitting the claim for a period of no less than two years after the later of (1) the end of the calendar year in which the reimbursement claim is filed or last amended, or (2) if no funds are appropriated for the fiscal year for which the claim is made, the date of initial payment of the claim. ~~These documents must be made available to the State Controller on the request.~~

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

Any offsetting savings ~~provided in the test claim statute that~~ the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to federal funds and other state funds, ~~additional revenue that was specifically intended to fund the costs of this mandate, and any service charges, fees or assessments that were authorized to pay the costs of this mandate~~ shall be identified and deducted from this claim. ~~to the extent that the claimant received such revenue, service charges, fees, or assessments. Apportionments for the STAR Program received by a school district for a particular fiscal year shall be deducted from the reimbursement claim for that fiscal year under "under reimbursements."~~

Specifically, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.

VIII. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An authorized representative of the claimant shall ~~will~~ be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

IX. PARAMETERS AND GUIDELINES AMENDMENTS

Parameters and guidelines may be amended pursuant to Title 2, California Code of Regulations, section 1183.2.

List Date: 04/10/1998 **Mailing Information**

Mailing List

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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EXHIBIT L

SMY&M

LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

DECEMBER 10, 2001

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COMMISSION ON
STATE MANDATES

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Commission on State Mandates
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Re: **Comments on Staff's Proposed Amendments to Claimant's Parameters and Guidelines**
Standardized Testing and Reporting, 97-TC-23
Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643
Statutes of 1997, Chapter 828
Title 5, California Code of Regulations, Sections 850-874

Dear Ms. Higashi:

On November 28, 2001, Commission staff re-issued its analysis of the claimant's Proposed Parameters and Guidelines for the *Standardized Testing and Reporting* (STAR) Test Claim after staff reviewed the March and April 2001 comments filed by Mandated Cost Systems, Inc (MCS). After reviewing staff's version of the Proposed Parameters and Guidelines, MCS believes three issues must still be addressed:

1. The inclusion of charter schools as entities subject to the mandated activities;
2. Inclusion of specific activities v. inclusion of statutory/regulatory authority citations; and
3. How long a STAR program district coordinator must be available.

1. The Inclusion of Charter Schools as Entities Subject to the Mandates Activities

In its response to MCS' request to include charter schools as "eligible claimants" in the STAR Proposed Parameters and Guidelines, staff cited Government Code section 17519, which does not include charter schools in the definition of "school districts," as the reason why staff did not include charter schools in this section. Staff further noted that the *Charter Schools III* Test Claim

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raises the issue of whether charter schools are proper claimants under article XIII B, section 6 of the California Constitution.

MCS requests that Commission staff include mention of charter schools in the STAR Parameters and Guidelines in the same manner staff included them in the *Criminal Background Checks* Parameters and Guidelines. Staff added a footnote at the end of the "Eligible Claimants" section providing that "the activities under this mandate also apply to charter schools." Clearly, charter schools are required to perform the activities outlined in the STAR Parameters and Guidelines. By adding the footnote from the *Criminal Background Checks* Parameters and Guidelines to the STAR Parameters and Guidelines, the Commission would not only recognize the clear mandate imposed upon charter schools, but also be consistent with past practices. In addition, the State Controller is issuing claim identification numbers to charter schools and is currently reimbursing charter schools for activities related to mandated programs. The STAR Parameters and Guidelines should accurately reflect that all parties are required to perform the mandated activities.

2. Inclusion of Specific Activities v. Inclusion of Statutory/Regulatory Authority Citations

MCS suggested several amendments to the STAR Parameters and Guidelines related to the inclusion of specific language that outlined activities that may be claimed. While staff included many of these suggested changes in its version of the Proposed Parameters and Guidelines, several others were excluded. For example, MCS suggested the following activity be included in the "Test Administration" section:

> "Each school district shall provide for at least two makeup days of testing for any pupil absent during normal testing dates. Only a certificated employee of the school district or an employee of a nonprofit school can administer a test in a private home or location."

Staff states that the citation for the activity of "conducting and monitoring the STAR Program tests given to all pupils in grades 2 though 11" covers the activity cited above and added additional references to cover the identified activity. Staff relies on similar statements regarding several other activities MCS suggested be explicitly outlined in the STAR Parameters and Guidelines. There are several problems with staff including a general citation reference rather than the specific language outlining a reimbursable activity.

First, when preparing claims for activities that simply provide for an "authority cited" statement in the Parameters and Guidelines, it makes it more difficult to ensure school districts are maintaining the proper documentation to support the claim. Furthermore, informing districts that an activity is reimbursable in instances where the Parameters and Guidelines do not specifically outline the activity makes district representatives wary. Providing exact language for claimable activities rather than "authority" cites in the STAR Parameters and Guidelines almost ensures that all parties involved in the claiming process are not confused as to the

reimbursable activities. Many school districts have experienced problems and reductions of claimed costs from the State Controller under similar circumstances. If the Commission generalizes that specific sections provide for reimbursable activities, what would happen if the particular section changed? Arguably, the broad authority reference, rather than including specific language, may mean claimants could file for activities not contemplated under the original Statement of Decision adopted by the Commission.

This leads to the second point, which is that the State Controller no longer writes the claiming instructions for each claim. Rather, the Controller attaches its filing requirements to the back of the Commission's Parameters and Guidelines. In this respect, accurate drafting and ensuring the Parameters and Guidelines properly address each aspect of a reimbursable activity is critical. In those instances where the Parameters and Guidelines have been vague or inartfully drafted, the Commission has received numerous Incorrect Reduction Claim filings. Including the specific language of those activities staff agree are reimbursable will aid in preventing any future potential Incorrect Reduction Claims.

Third, Commission staff should not be deciding if specific language versus authority cites may be included in the Parameters and Guidelines. Staff's mission in the Parameters and Guidelines phase is to ensure that the proposed language outlined by the claimant is supported by the Commission's findings, test claim legislation, and that the boilerplate is accurately cited. Beyond performing these activities, staff is not in the position to render judgments as to the sufficiency of the specific language included. Staff does not file claims with the Controller. If the activities and language proposed by the claimant or interested parties does not run counter to the language in the test claim legislation approved by the Commission and cited in its Statement of Decision, then staff should not limit its inclusion.

Based on the foregoing, MCS requests that staff include the specific language requested by MCS in its March and April 2001 filings if staff agrees the test claim legislation and the Commission's Statement of Decision support the language.

3. How Long a STAR Program District Coordinator Must be Available

MCS cited Title 5, California Code of Regulations, section 857, subdivision (a), as authority for the modification that the STAR program district coordinator be available until August 15 rather than June 30 as cited by staff. Staff rejected this change, citing the same section to require the coordinator be available only until June 30. MCS raises this point more as clarification rather than a specific request. As cited on the website for the Office of Administrative Law, the official keeper of the state's regulations, section 857, subdivision (a), requires the coordinator be available until August 15. If the regulation section cited does provide that the coordinator be available until August 15, MCS requests that staff modify the STAR Proposed Parameters and Guidelines accordingly.

* * *

If you have any questions or comments concerning this filing, please feel free to contact me at (916) 646-1400.

Sincerely yours,
LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

Paul C. Minney
ATTORNEY AT LAW

Cc: Mail List

SMY&M

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

I am employed in the county of Sacramento, State of California. I am over the age of 18 and not a party to the within action; my business address is 7 Park Center Drive, Sacramento, California 95825.

On December 10, 2001, I served the foregoing document(s) described as

Comments on Staff's Proposed Amendments to
Claimant's Parameters and Guidelines
Standardized Testing and Reporting, 97-TC-23

to the persons/parties listed on the attached Mailing List via first class mail only, and to the Commission on State Mandates via first class mail and facsimile.

I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 10, 2001, at **Sacramento, California.**

Lani Woods

LANI WOODS

Claim Number 97-TC-23 **Claimant** Claim of San Diego Unified School District

Subject Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997

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Subject Chapter 828, Statutes of 1997

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FINANCIAL ACCOUNTING DEPARTMENT
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RECEIVED

JAN 1 0 2002

COMMISSION ON STATE MANDATES

January 10, 2002

Nancy Patton
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: **Proposed Parameters and Guidelines**
Standardized Testing and Reporting ("STAR") (CSM 97-TC-23)

Dear Ms. Patton:

The following are comments to the Proposed Parameters and Guidelines as modified by staff.

Staff states in footnote number three "The amended regulation added the "standards-based achievement test", a new test that is not part of this test claim". Claimant contends the standards-based achievement test must be considered as part of this test claim as it is supported by ample authority contained in the test claim, it is administered concurrently with the other achievement tests, consists of fifty percent of the STAR program and it is anticipated to be in place until the year 2005.

Chapter 828/97 added Education Code section 60640 that, among other things, requires school districts to administer the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Education Code section 60640, subdivisions (b), (c); Education Code section 60641, subdivision (a); title 5, California Code of Regulations sections 851, 852, subdivision (b), 853 and 855.)

Education Code section 60640 (b) was subsequently amended as follows: Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the achievement test designated by the State Board of Education pursuant to Section 60642 and *the standards-based achievement test provided for in Section 60642.5.* (emphasis added)

The Statement of Decision authorizes reimbursement of the "administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive {Education Code 60640 (b)} and fails to state that the standards-based achievement test is a non-reimbursable activity. Staff has correctly incorporated the subsequent amended regulations and uniformity demands the amended Education Code as well be included into this test claim as clearly the standards-based achievement test is included in the STAR program as an achievement test and is not a new testing *program* necessitating the requirement to file a new test claim.

Claimant suggests the following changes under Summary Of The Mandate to be in agreement with Education Code Section 60640 (b). "The STAR Program requires school districts ~~between March 15 and May 15 each year,~~ to test all students in grades 2 through 11 with *an* ~~nationally normed~~ achievement test*(s)* designated by the State Board of Education".

Claimant further contends "one-time activity per employee" be deleted from Training, Policies, and Procedures. Due to staff turnover and different procedures used at each site it is foreseeable employees may require additional training. Furthermore, teachers time outside the normal classroom hours for annual review of the Site Examiner's Manual, which changes annually, should be included as part of training. The declaration of Robert Raines, previously submitted shall be considered in support of the comments stated herein.

If you have any questions or comments regarding this issue, please feel free to contact me. Thank you for your cooperation.

Sincerely,

Arthur M. Palkowitz

AMP/at

PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over 18 years of age and not a party to the within entitled action; my business address is 4100 Normal Street, Room 3159, San Diego, California 92103.

On January 10, 2002, I served the foregoing document(s) described as:

Comments on Staff's Proposed Amendments to
Claimant's Parameters and Guidelines
Standardized Testing and Reporting, 97-TC-23

On the person/parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope(s) with postage thereon fully prepaid in the United States Mail at San Diego, California:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed on January 10, 2002, in San Diego, California.

Alta Toler

Alta Toler

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(i) Oral language proficiency assessments do not qualify as achievement tests of basic academic skills.

(j) School districts may administer an achievement test of basic academic skills to pupils enrolled in grades other than two through ten, but such pupils may not be counted for the $5 per-pupil tested apportionment pursuant to Education Code section 60640(a).

(k) Pursuant to Education Code section 60641(a), the State Superintendent of Public Instruction has designated that achievement tests shall be administered during the fall, or beginning of the school year, between 5 and 25 percent of the school district's instructional days, or during the spring, or end of the school year, between 70 and 90 percent of the school district's instructional days.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Sections 60603(a) and (c), 60604(a)(1), (c), and (d), 60605(b), 60640 and 60641, Education Code.

HISTORY

1. New subchapter 3.5 (section 800) and section filed 5-22-96 as an emergency; operative 5-22-96 (Register 96, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of subsection (b) (Register 96, No. 38).
3. New subchapter 3.5 (section 800) and section refiled 9-19-96 as an emergency; operative 9-20-96 (Register 96, No. 38). A Certificate of Compliance must be transmitted to OAL by 1-21-97 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 97, No. 24).
5. New subchapter 3.5 (sections 800-802) and section filed 6-11-97; operative 6-11-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

§ 801. Reporting Test Results.

For purposes of Education Code section 60641(b), school districts shall give a written report of individual pupil results to the pupil's parent or guardian no later than 40 school days following the date on which the school district received the results of the achievement testing of basic academic skills.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Section 60641(b), Education Code.

HISTORY

1. New section filed 6-11-97; operative 6-11-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

§ 802. Waiver Criteria.

(a) To establish compliance with Education Code sections 60640 and 60641, school districts may request a waiver of the requirement under Education Code section 60640(a) that all pupils be tested from the California State Board of Education pursuant to Education Code sections 33050-33053. The California State Board of Education shall approve the waiver for one or more of the following types of pupils:

(1) Special Education pupils whose Individualized Education Programs (IEP) provide for, and the school district implements, an alternative means for determining the pupils' academic progress.

(2) Pupils who have not received at least thirty (30) months of instruction in the core curriculum, given primarily in the English language, and the school district implements an alternative means for determining the pupils' academic progress. This provision would only apply if an approved test in the pupils' primary language was not available for purchase.

(3) Pupils who entered school with no reading skills in any language and have been enrolled continuously in the school district for fewer than 180 days.

(4) Pupils who were not present during the test administration or at any required make-up sessions.

(5) Pupils in special programs other than continuation school, independent study, community day school, or those programs identified in (1), (2), or (3) of this subsection, who were not tested due to extraordinary circumstances such as home/hospital study or traveling outside the country.

(b) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the numbers of pupils exempted in each waiver category to the California Department of Education.

(c) When the California State Board of Education approves a waiver of testing all pupils, school districts shall assess the progress in basic academic skills of each pupil not tested using an alternative means appropriate to the pupil's level of language proficiency.

(d) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the results of the pupil's alternative assessment to the pupil's parent or guardian within 40 school days of the date that the results of the alternative assessment are obtained.

(e) Should the California State Board of Education approve any waiver of testing all pupils under this section, the $5.00 per pupil incentive funds shall be apportioned solely with respect to each pupil actually tested in compliance with Education Code sections 60640 and 60641.

(f) For the 1996-97 school year only, school districts may submit to the California State Board of Education requests to use tests not approved by the California State Board of Education.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Sections 33050-33053, 60640 and 60641, Education Code.

HISTORY

1. New section filed 6-11-97; operative 6-11-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

Subchapter 3.75. Standardized Testing and Reporting Program

§ 850. Definitions.

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Designated achievement test" is the achievement test required by Education Code section 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, administrative materials and practice tests. The designated achievement test is to be administered in the areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the core curriculum areas of reading, writing, mathematics, history/social science and science for pupils in grades 9 to to 11, inclusive.

(b) "Primary language test" includes any test administered pursuant to Education Code section 60640(f) or a test administered pursuant to the requirement of Education Code section 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) "School districts" includes school districts, county offices of education and any charter school that does not elect to be part of a school district or county office of education agreement pursuant to Section 860(c) of these regulations.

(d) "Testing period" is the period of all instructional days commencing on or after March 15 to the 14th day of May, inclusive, of each school year.

(e) "Eligible pupil" is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

(f) "Completed school district testing" occurs as of the date the school district has returned all test materials for the designated achievement test to the publisher with any discrepancies in the return of tests and testing materials resolved to the satisfaction of both the school district and the publisher in accordance with the procedures required in Section 868 for discrepancy resolution.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615, 60640 and 60642, Education Code.

HISTORY

1. New subchapter 3.75 (sections 850-874) and section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 851. Pupil Testing.

(a) Each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school shall be given the designated achievement test. In addition to the designated achievement test, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be given a primary language test if less than 12 months have elapsed after initial enrollment in any public school in this state and if a test is available in the pupil's primary language.

(b) School district shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools.

(c) School districts may administer the designated achievement test and, if applicable, a primary language test to pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the apportionment pursuant to Education Code section 60640(h).

(d) No test may be administered in a private home or location unless the test is administered by an employee of the school district with credential status and the employee signs a security agreement. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a credential school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security agreement.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 852. Pupil Exemptions.

(a) A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. The parent or guardian must initiate the requests and the school district and its employees shall not solicit or encourage any written request on behalf of any child.

(b) Pupils in special education programs shall be tested with the designated achievement test and, if applicable, a primary language test unless the individual educational plan for the pupil specifically exempts the pupil from testing. Eligible pupils in special education programs or pupils subject to Section 504 (U.S. Code, Title 29, Section 794) plans under federal law shall be tested but appropriate adaptations or accommodations may be made including, but not limited to, large print, Braille, extended time, or the use of a reader or scribe. The reading section of any test shall not be read, interpreted, or translated to any pupil.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 853. Administration.

(a) The designated achievement test and primary language test, which include all those materials set forth in Section 850, shall be administered and returned in accordance with the manuals or other instructions provided by the publisher for administering and returning the tests unless specifically provided otherwise in this subchapter. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the test to pupils and the security and integrity of the test content and test items.

(b) Scoring of the designated achievement test shall be in accordance with the designated publisher's standard practice.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 854. Advance Preparation for Test.

(a) Except for materials specifically included within the designated achievement test or primary language test, no program or materials shall be used by any school district or employee of a school district that are specifically formulated or intended to prepare pupils for the designated achievement test or for a primary language test chosen by a school district pursuant to Education Code section 60640(f) or (g).

(b) Practice tests provided by the publisher as part of the designated achievement test or the publisher of any primary language test for the limited purpose of familiarizing pupils with the use of scannable test booklets or answer sheets are not subject to the prohibition of Subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60611 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 855. Testing Period.

(a) The designated achievement test shall be administered to each pupil during the testing period as defined in Section 850(d).

(b) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period that any school administered the designated achievement test. All makeup testing shall occur within ten (10) instructional days of the last date that the school district administered the designated achievement test but not later than May 25th of each school year, whichever is earlier.

(c) School districts with schools operating on a multitrack year round schedule may submit a request to the California Department of Education to begin testing no earlier than the fourth Monday in February. The State Board of Education shall approve the requests if it determines that sufficient tests and test materials are available from the publisher and that the school district will not otherwise be able to complete the testing of all eligible pupils prior to May 15th of the school year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 856. Sales and Use Tax.

The test publishers shall collect from each school district the state and local sales and use taxes levied on the purchase of the designated achievement test and any primary language test. The school district shall provide the state and local sales and use tax rate to the publisher prior to completed school district testing. The test publisher shall remit the sales or use tax collected to the California State Board of Equalization.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et seq., Revenue and Tax Code..

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 857. STAR Program District Coordinator.

(a) On or before December 15, or as soon thereafter as is practical, the superintendent of each school district shall designate from among the employees of the school district a STAR program district coordinator. The STAR program district coordinator shall be available through June 30th to complete school district testing. The school district shall notify the publisher of the identity and contact information for the STAR pro-

gram district coordinator. The STAR program district coordinator shall serve as the school district representative and liaison between the school district and the test publisher and the school district and the California Department of Education for all matters related to the STAR program.

(b) The STAR program district coordinator's responsibilities shall include, but not be limited to, all of the following duties:

(1) Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions.

(2) Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data.

(3) Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites.

(4) Coordinating the testing and makeup testing days for the school district within any required time periods with the school test site coordinators.

(5) Maintaining security over the designated achievement test and primary language test, if applicable, and test data using the procedures set forth in Section 859. The STAR program district coordinator shall sign the security agreement set forth in Section 859 prior to receipt of the test materials.

(6) Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible pupils.

(7) Overseeing the collection and return of all test materials and test data to the publisher within any required time periods.

(8) Assisting the test publisher in the resolution of any discrepancies in the test information and materials. Overseeing the collection of all pupil level data required to comply with Sections 861 and 862.

(c) Within five (5) working days of completed school district testing for the designated achievement test, the school district superintendent and the STAR program district coordinator shall certify the following information with respect to the designated achievement test to the California Department of Education: that the school district has maintained the security and integrity of the designated achievement test; collected all data and information as required by Sections 861 and 862; returned to the test publisher all test materials, answer documents, and other materials included as part of the designated achievement test in the manner and as otherwise required by the test publisher; and assisted the test publisher in the resolution of any discrepancies in the test information and materials as required by Section 869.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 858. STAR Test Site Coordinator.

(a) At each test site, including but not limited to, each elementary, middle, and high school or other grade–span designated school, each charter school, each court–school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator shall be available to the STAR program district coordinator by telephone through June 30th for purposes of resolving discrepancies in returned materials and inconsistencies in scannable documents.

(b) The STAR test site coordinator's responsibilities shall include, but not be limited to, all of the following duties:

(1) Determining site test and test material needs.

(2) Overseeing the acquisition and distribution of tests and test materials at the test site.

(3) Cooperating with the STAR program district coordinator to provide the testing and makeup testing days for the site within any required time periods.

(4) Maintaining security over the designated achievement test and primary language test, if applicable, and test data. The STAR test site coordinator shall sign the security agreement set forth in Section 859 prior to the receipt of the test materials.

(5) Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible pupils at the test site.

(6) Overseeing the collection and return of all testing materials to the STAR program district coordinator.

(7) Assisting the STAR program district coordinator and the test publisher in the resolution of any discrepancies in the test information and materials.

(8) Overseeing the collection of all pupil level and other data required to comply with Sections 861 and 862.

(c) Within three (3) working days of complete site testing, the principal and the STAR test site coordinator shall certify to the STAR program district coordinator that the test site has maintained the security and integrity of the designated achievement test, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the designated achievement test in the manner and as otherwise required by the STAR program district coordinator.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 859. STAR Test Security Agreement and Test Security Affidavit.

(a) All STAR program district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in Subdivision (b).

(b) The STAR Test Security Agreement shall be as follows:

STAR TEST SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the designated achievement test or any primary language test is a secure test and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the test's security.

(2) The coordinator will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required by the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school district office.

(3) The coordinator will keep the tests and test materials in a secure, locked location limiting access to only those persons responsible for test security except on actual testing dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

By signing my name to this document, I am assuring that I and anyone having access to the test materials will abide by the above conditions.

By: _____

Title: _____

School District: _____

Date: _____

(c) In addition to those provisions in Subdivision (a), the STAR test site coordinator shall only deliver the tests and test materials to those persons actually administering the designated achievement test or any primary language test on the date of testing and only upon execution of the STAR Test Security Affidavit set forth in Subdivision (e).

(d) All persons having access to the designated achievement test or any primary language test and test materials shall acknowledge the limited purpose of their access to the tests. They shall sign the STAR Test Security Affidavit set forth in Subdivision (e).

(e) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test or any primary language test for the purpose of administering the test. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person.

(2) I will not copy any part of the test or test materials.

(3) I will keep the test secure until the test is actually distributed to pupils.

(4) I will limit access to the test and test materials by test examinees to the actual testing periods.

(5) I will not permit pupils to remove test materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the test instrument.

(7) I will return all test materials to the designated STAR test site coordinator upon completion of the test.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(f) To maintain the security of the program, all STAR program district coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 860. Standard Agreement Between School Districts and Publisher.

(a) On or before January 30, 1998, and October 1 in each subsequent school year, school districts shall enter into the standard agreement contained in Section 873 as the contract between the school district and the publisher of the designated achievement test. School districts and the publisher shall comply with all conditions and terms of the standard agreement.

(b) School districts may enter into a separate agreement with the test publisher to provide materials or services not provided for under the standard agreement. Any separate agreement shall be in addition to the standard agreement, and entirely separate in terms, obligations, and scope.

(c) Each charter school may choose to enter into a separate agreement with the publisher of the designated achievement test or any primary language test, or the charter school may choose to be included in the agreement of the school district or county office of education that granted the charter. Every charter school shall either execute the standard agreement with the publisher or be included in the standard agreement executed by the school district or county office of education that granted the charter. Charter schools electing to execute a separate standard agreement with the publisher shall designate a STAR program district coordinator with the responsibilities described in Section 857. Charter schools included in a school district or county office standard agreement with the publisher shall designate a STAR test site coordinator with the responsibilities described in Section 858.

NOTE: Authority cited: Section 60643(c), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 861. School–by–School Analysis.

(a) Each school district shall provide, and the publisher of the designated achievement test shall collect the following information for each pupil tested and the information shall be provided to the State Superintendent of Public Instruction for purposes of the report required by Education Code section 60630:

(1) Date of birth.

(2) Grade level.

(3) Gender.

(4) Language fluency and home language.

(5) Special program participation.

(6) Testing adaptations or accommodations.

(7) Parent education level.

(8) Amount of time in the school district.

(9) Ethnicity.

(10) Instructional calendar.

(11) Instructional setting.

(b) The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated achievement test.

(c) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program as is provided for all other eligible pupils in grades 2 to 11, inclusive.

NOTE: Authority cited: Section 60643(c), Education Code. Reference: Section 60630, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 862. Apportionment Information Report.

(a) Each school district shall report to the California Department of Education all of the following information relevant to the designated achievement test by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils enrolled in the school district on the first day of testing in the school district.

(2) The number of pupils exempted from testing pursuant to Education Code section 60640(e).

(3) The number of pupils exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.

(4) The number of pupils to whom the designated achievement test was administered.

(5) The sales and use tax rate for the location in which the school district does business.

(6) If the school district opted to have the designated publisher provide pre–identification of answer sheets, the number of tests administered with pre–identified answer documents.

(b)(1) The superintendent of each school district shall certify the accuracy of all information submitted. The report required by Subdivision (a) shall be filed with the State Superintendent of Public Instruction within ten (10) working days of the last day of makeup testing in the school district.

(2) School districts with an average daily attendance greater than 100,000 may certify the accuracy and submit the information required by Subdivision (a) within fifteen (15) working days of the last day of makeup testing day in the school district. The school district may submit a request to the California Department of Education to obtain approval of the State Board of Education for an extension of ten (10) additional working days if the fifteen (15) working day requirement presents an undue hardship.

(c) The superintendent of each school district shall report to the California Department of Education all of the following information relevant to the primary language test by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils who are limited English proficient.

(2) The number of limited English proficient pupils who were administered the primary language test pursuant to Education Code section 60640(f).

(3) The number of limited English proficient pupils who were administered the primary language test pursuant to Education Code section 60640(g).

(4) The total number of limited English proficient pupils exempted from the test pursuant to Education Code section 60615.

(5) The total number of limited English proficient pupils exempted pursuant to any provision in their individual learning plan which explicitly exempts them from standardized testing.

(d) The superintendent shall certify the accuracy of the primary language test information promptly upon a completed school district testing program for any primary language test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 863. Parent Reports.

(a) The school district shall report, in writing, the results of each pupil's test to the pupil's parent or guardian, within not more than twenty (20) working days from receipt of the test results from the publisher.

(b) If the school district receives these reports for the designated achievement test or the primary language test from the test publisher after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year.

NOTE: Authority cited: Section 60643(c), Education Code. Reference: Section 60641, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 864. Reporting Test Scores.

No scores that are compiled pursuant to Education Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other media, to any audience, if the aggregate or group score is composed of ten (10) or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear "The number of pupils in this category is too small for statistical accuracy or privacy protection." In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Section 60643(c), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 865. Transportation.

(a) The test publisher shall assume all responsibility for the security and integrity of all test materials at all sites where the publisher creates, produces, stores, or maintains the materials and during the time that any and all materials are in transit by any means from the publisher's storage, production, maintenance, or transfer facility until the materials arrive at a single location designated by each school district and the school district's STAR program district coordinator provides the publisher with a signed receipt.

(b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 866. School District Delivery.

(a) Tests and test materials shall be delivered to the school district no less than ten (10) calendar days before the first date of testing in the school district but not more than twenty-five (25) calendar days before the first testing date.

(b) The designated achievement test shall not be delivered before March 2, 1998.

(c) All designated achievement tests and test materials shall be returned to the publisher within five (5) working days of the last test date in the school district, including makeup testing days or June 1, whichever date is earlier.

(d) If the school district has an average daily attendance greater than 50,000 or has schools on a multitrack year round calendar, the school district and the publisher may establish a periodic delivery and retrieval schedule to accommodate staggered test administration dates within the school district.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 867. Test Site Delivery.

(a) No school or other test site shall receive any test or related test materials more than ten (10) working days nor fewer than five (5) working days prior to the first day of testing scheduled at the school or test site.

(b) Upon completion of testing at a site, including makeup testing, all tests and test materials shall be returned to the district location designated by the STAR program district coordinator.

(c) Designated achievement tests and test materials shall not be retained at the test site for more than two (2) working days after the last day of test administration including makeup testing days or May 25th, whichever is earlier.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 868. Discrepancy Resolution for Designated Achievement Test.

(a) Discrepancies determined by the designated publisher upon receipt of returned tests and test materials shall be processed pursuant to this subdivision:

(1) The publisher shall generate a discrepancy notice to the STAR program district coordinator within 24 hours of its determination of any variance between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the publisher from the school district or a condition indicating inconsistent or incomplete information on scannable documents or test support materials.

(2) The STAR program district coordinator shall respond to the notice within two (2) working days.

(3) If another notice on the same discrepancy is issued by the publisher, a written report of the notice shall be sent to the California Department of Education.

(b) Any discrepancy in the total amount of the shipment received by the STAR program district coordinator from the designated test publisher shall be reported to the publisher within two (2) working days of the receipt of the shipment. The designated test publisher shall remedy the discrepancy within two (2) working days of the school district report.

(c) Any discrepancy reported by STAR test site coordinators shall be reported to the publisher by the STAR program district coordinator within three (3) working days of receipt of materials by the test site. If the STAR program district coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the test publisher shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the STAR program district coordinator.

(d) Any discrepancy in a shipment of designated achievement tests or test materials received by a test site from the STAR program district coordinator shall be reported to the STAR program district coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The STAR program district coordinator shall remedy the discrepancy within two (2) working days.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing or by facsimile (fax) reproduction.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 869. Designated Achievement Test Publisher Performance.

(a) Prior to July 31, the State Board of Education shall consider the performance of the publisher of the designated achievement test to determine if the publisher has complied with the terms and conditions of the standard agreement as required by Education Code section 60643(d) and has met all of the applicable conditions and requirements set forth in Education Code section 60643(a) to the satisfaction of the State Board of Education.

(b) A school district shall not make any final payment to the publisher of the designated achievement test until the school district is notified by the State Superintendent of Public Instruction that test administration is completed for the academic year and that the State Board of Education has received complete statewide data to its satisfaction reported in the prescribed manner. Test administration shall be deemed completed for the academic year on the date that the State Board of Education makes a finding that it is satisfied with the performance of the designated publisher under Subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 870. Apportionment.

(a) The amount of funding to be apportioned to the school district for the designated achievement test shall be equal to the sum of the following:

(1) The amount established by the State Board of Education pursuant to Education Code section 60640(h) for payment of the designated publisher per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862.

(2) The amount established by the State Board of Education to enable school districts to meet the requirements of administering the designated achievement test per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862. For purposes of this portion of the apportionment, administration of the designated achievement test includes the following items:

(A) All staffing costs, including the STAR program district coordinator and the STAR test site coordinator, staff training and other staff expenses related to testing.

(B) All expenses incurred at the school district and test site level related to testing.

(C) All transportation costs of delivering and retrieving tests and test materials within the school district.

(D) All costs associated with mailing the parent reports of test results.

(E) Applicable sales or use tax.

(3)(A) This amount does not include any funding for the purposes of reimbursing the costs incurred by any school district placing a supplemental order that is excessive, or for replacement costs for test materials lost or destroyed while in possession of the school district as allocated in Section 865. These costs are outside the scope of the mandates of the STAR program.

(B) For purposes of this paragraph, a supplemental order of test materials that is excessive means the difference between the number of pupil tests scored and 90 percent of the sum of current enrollment plus any supplemental order.

(b) The amount of funding to be apportioned to the school district for any primary language test shall be equal to the sum of the following:

(1) The amount established by the State Board of Education pursuant to Education Code section 60640(h) for payment of the publisher per the number of primary language tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862.

(2) The amount established by the State Board of Education to enable school districts to meet the requirements of administering any primary language tests per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862. For purposes of this portion of the apportionment, administration of any primary language test includes the following items:

(A) All staffing costs, including the STAR program district coordinator and the STAR test site coordinator, staff training and other staff expenses related to testing.

(B) All expenses incurred at the school district and test site level related to testing.

(C) All transportation costs of delivering and retrieving tests and test materials within the school district.

(D) All costs associated with mailing the parent reports of test results for any tests administered pursuant to Education Code section 60640(f) or (g).

(E) Applicable sales or use tax.

(c) A school district may elect to have the designated publisher provide pre–identification of answer sheets. If the school district elects this optional service, the school district shall be apportioned an amount established by the State Board of Education per test administered with a pre–identified answer document. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 871. Payment of Publisher.

Each school district shall pay the test publisher all monies due under the standard agreement after it has received the notifications from the State Superintendent of Public Instruction pursuant to Education Code section 60643(c) and the apportionment of funds under Education Code section 60640(j).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 872. Performance Bond.

(a) Prior to entering into any standard agreement with any school district, the publisher of the designated achievement test shall provide a performance bond in an amount equal to ten percent of the estimated aggregate amount of the STAR program for the designated achievement test in the current school year. The exact amount of the bond shall be determined using the most current CBEDS enrollment data as of the date the bond is issued per the estimated per pupil cost for administration of the designated achievement test.

(b) The performance of the publisher of the designated achievement test shall be considered by the State Board of Education at a regularly scheduled meeting. The State Board of Education shall provide the publisher and any surety on the performance bond with at least ten (10) days written notice prior to the hearing of those obligations under Education Code sections 60643, 60644, or 60645 that the publisher did not satisfy.

(c) Not less than seven (7) calendar days prior to the hearing, the publisher and surety shall be provided with copies of any staff findings or recommendations asserting that the publisher failed to comply with the conditions and requirements enumerated in Education Code sections 60643, 60644, or 60645 without just cause.

(d) The publisher shall be provided with an opportunity at the hearing to provide a verbal or written response substantially equal in time to any staff presentation at the hearing.

(e) If the State Board of Education determines at the meeting that the publisher of the designated achievement test did not meet, or is unable to meet, without just cause the requirements of Education Code sections 60643, 60644, or 60645, the State Board of Education shall notify the publisher and any surety on the performance bond of its determination that the performance bond is forfeited to the State of California and shall be deposited in the Proposition 98 Reversion Account in the General Fund.

(f) The failure of the test publisher to meet the requirements of Education Code sections 60643, 60644 or 60645 in a timely manner because of the failure of school districts to substantially meet their obligations in a timely manner as required by these regulations, the Education Code or the standard agreement shall be considered just cause under Subdivision (e).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640-60643 and 60646, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

§ 873. Standard Agreement Form.

STANDARD AGREEMENT AS REQUIRED BY EDUCATION CODE SECTION 60643(c) FOR THE STANDARDIZED TESTING AND REPORTING (STAR) PROGRAM

SCHOOL DISTRICT AGREEMENT NO._____

The _____ school district, or the _____ charter school, or the _____ county office of education, hereinafter called the "school district," and _____, a company manufacturing or selling standardized achievement testing materials, hereinafter called the "publisher," having its principal place of business in the City of ___ _____, State of _____, enter into this agreement, hereinafter called "agreement," on _____ for the purpose of administering the designated achievement test under the Standardized Testing and Reporting (STAR) program (Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, Education Code.)

The parties agree as follows:

I. SCOPE OF WORK

This agreement provides for the administration of a designated achievement test for pupils in grades 2 to 11, inclusive, including testing materials, scoring, data aggregation, analysis, reporting, and the transmission of test results as required by Chapter 5 (commencing with Section 60600) of Part 33, of the Education Code, and the regulations adopted by the State Board of Education, and the terms of this agreement. The school district hereby certifies and represents that the test purchased hereunder is intended for the use of the school district for school purposes and is not purchased with the intention to resell the test.

In addition to those portions of the designated achievement test that are required under the STAR program by Education Code section 60642(c), the school district may administer all portions of the designated achievement test. If the school district selects this option, the publisher shall score and provide score information for all subtests and include that information in applicable reports to the school district. Additional subtests not required to be administered pursuant to Education Code section 60642(c) and that were not subject to review by the Statewide Pupil Assessment Review panel pursuant to Education Code section 60645 continue to be subject to local review for compliance with Education Code section 51513.

II. SCOPE OF AGREEMENT

This agreement consists of the Delivery Schedule and Order Form, Chapter 5 (commencing with Section 60600) of Part 33, of the Education Code, the regulations promulgated by the State Board of Education to implement the STAR program set forth in subchapter 3.75 (commencing with Section 850) of Title 5 of the California Code of Regulations, and the school district governing board resolution approving the contract, which are incorporated herein by this reference. Any of these documents shall be interpreted to include all provisions of the other documents as though fully set out therein.

The school district may negotiate a separate agreement with the publisher for any additional materials or services not within this agreement including, but not limited to the administration of achievement tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of this agreement.

III. TERM OF AGREEMENT

The term of this agreement is from the date set forth above to August 31, 1998, inclusive.

IV. CANCELLATION/MODIFICATION

The school district is required by Education Code section 60643(c) and the regulations adopted by the State Board of Education to enter into this agreement and the publisher of the designated achievement test has agreed pursuant to Education Code section 60643(a)(2) to enter into this

agreement. Therefore, neither party may terminate this agreement, in whole or in part, for any reason.

All terms and conditions, including prices, are firm for the entire term of the agreement and cannot be modified by either party. Any attempt to do so is void.

V. SCHOOL DISTRICT'S LIABILITY

The school district is an agent of the California Department of Education for the purpose of administering the designated achievement test pursuant to this agreement. No action may be brought or maintained against the school district or its officers or employees acting in accordance with the instructions of the State Superintendent of Public Instruction or the State Board of Education.

The school district is not liable for undelivered work in progress by the publisher as a result of any determination by the State Board of Education to cause forfeiture of the performance bond pursuant to Education Code section 60646(a). "Work in progress" consists of that work defined as work in progress in Education Code section 60646(c).

VI. ACQUISITION OF THE TEST MATERIALS

The publisher shall sell and deliver to the school district for use by the school district, as permitted by law and this agreement, the quantities of designated achievement tests and test materials that the school district deems necessary for testing in the school district based on CBEDS and current enrollment data. The second grade and the third grade tests shall each be in the form of a scannable booklet.

Purchases and deliveries shall be in accordance with the Delivery Schedule and Order Form completed by the school district and supplied to the publisher concurrently with the execution of this agreement.

The school district shall order, and the publisher shall provide sufficient quantities of testing materials in Braille and large print and any other test adaptation currently made available by the publisher to accommodate pupils with exceptional needs.

The publisher shall package the materials separately for each designated test site. The publisher shall provide each school district with a total of 15 percent more tests and testing materials than the school district required based on the enrollment data without any additional cost. These materials are for the purpose of meeting fluctuations in enrollment. If the school district's enrollment on the first date of testing exceeds the enrollment data used as the basis for the initial order of materials, and if the school district needs additional test materials, the school district and the publisher shall proceed in the same manner as otherwise provided when the school district receives insufficient quantities.

If the school district receives insufficient quantities of any testing materials, the school district shall notify the publisher by telephone within three (3) working days of receipt of shipment at the school site. The school district shall simultaneously confirm this notification in writing or by facsimile (fax) reproduction. The publisher shall accommodate the school district by providing any additional testing materials required to the school site within two (2) working days.

VII. DELIVERY OF DEFECTIVE MATERIALS

If the publisher delivers defective materials, the STAR program district coordinator shall promptly notify the publisher as required for insufficient orders. The publisher shall replace the materials and incur all costs of transportation or any other costs associated with completing the transactions of withdrawing and replacing the defective materials. The publisher shall withdraw and replace the defective materials in the same time periods required for insufficient orders.

VIII. RETRIEVAL OF MATERIALS BY PUBLISHER

The publisher shall provide packaging and shipping materials and arrange for retrieval of the testing materials from the school district at the publisher's cost. The publisher shall provide instructions to the school district for retrieval.

The school district shall package and return the test materials promptly and in accordance with all required time periods following completion of test administration in the school district using the packaging and shipping materials supplied by the publisher and according to the instructions provided by the publisher.

IX. LIABILITY FOR LOSS OR DAMAGE TO MATERIALS

Liability for loss or damage to the testing materials under this agreement shall be allocated in the same manner as the responsibility for the security of the test materials is allocated as prescribed by Section 865 of Title 5 of the California Code of Regulations.

X. SCHOOL DISTRICT COSTS

If the testing materials are lost or destroyed while in the possession of the school district, and the publisher provides the school district with replacement material, the school district is responsible for the cost for all replacement materials.

If the school district places a supplemental order for tests that is excessive, the school district is responsible for the cost of materials for the difference between the number of pupil tests scored and 90 percent of the sum of current enrollment plus the supplemental order. In no event shall the cost to the school district exceed ninety cents ($0.90) per test booklet and accompanying materials for any of grades 4 to 11, inclusive; or one dollar thirty cents ($1.30) per test booklet and accompanying materials for grades 2 or 3, for the 1997–98 school year.

If the school district requests the optional pre–identification service, the school district shall pay the publisher thirty cents ($0.30) per test administered with a pre–identified answer document for the 1997–98 school year.

XI. TRAINING AND SUPPORT

The publisher shall coordinate with county offices of education to provide regional workshops and staff development materials for the administration of the test.

The authorized representative of the publisher, or its designee or designees, shall be available through a toll–free telephone number provided by the publisher to respond to school district inquiries regarding ordering, delivery, test administration, and retrieval of materials. The number shall be available from the date of this agreement to July 31, 1998, from 7:00 a.m. to 6:00 p.m. Pacific Standard Time.

The publisher shall provide sufficient toll–free telephone lines and designated staff so that the school district encounters no busy signals. Except for discrepancy notices generated by the publisher to the school district, the publisher shall not use voice mail or any other automated answering or message recording device (not including a routing message) except during periods of maximum demand. If the publisher cannot answer the school district's inquiry in the initial telephone call, the publisher's representative or designee shall take a message and a representative or designee of the publisher shall use its best efforts to answer the school district's inquiry within one hour but in no event later than the close of business of the following day.

The publisher may use voice mail and electronic mail to facilitate the resolution of discrepancy notices generated by the publisher to the school district. All discrepancy notices generated by the publisher through voice mail or other electronic means shall be confirmed by telephone and in writing or by facsimile (fax) reproduction as otherwise required by Section 868 of Title 5 of the California Code of Regulations.

XII. PRICE

Except for any additional costs to be paid by the school district as provided in Item X., School District Costs, of this agreement, the total price to be paid the publisher under this agreement shall not exceed four dollars ten cents ($4.10), the amount determined by the State Board of Education for the designated achievement test for the 1997–98 school year.

XIII. TAXES

The publisher shall collect the appropriate state and local sales or use taxes from the school district and remit the taxes to the State Board of Equalization. The school district shall provide the publisher the rate of any applicable state and local sales or use tax prior to completed school district testing.

XIV. INVOICE AND PAYMENT

Itemized invoices on a form acceptable to the school district with an agreement and delivery and order numbers clearly listed, shall be submitted to the school district immediately following completed school district testing and scoring.

Each school district shall pay the test publisher all monies due under the standard agreement after it has received the notifications from the State Superintendent of Public Instruction pursuant to Education Code section 60643(c) and the apportionment of funds under Education Code section 60640(j).

XV. NOTICES, DEMANDS, AND COMMUNICATIONS

Formal notices, demands, and communications to be given hereunder by either party shall be made by telephone and confirmed in writing effected by personal delivery, US mail, registered/certified mail or return receipt requested, or by facsimile (fax) reproduction if a fax number is provided by the party, and shall be deemed effective as of the date of receipt. All notices, demands, or other communications shall be addressed as set forth below:

Name of School District: _____
Name of School District Office: _____
Street Address and room number: _____
City, State and ZIP code: _____
Name of School District Officer: Attention: _____
Telephone number: _____
Fax number (if any): _____
Name of Publisher: _____
Street Address: _____
City, State and ZIP code: _____
Name of Officer: Attention: _____
Telephone number: _____
Fax number: _____

XVI. AUTHORIZED SCHOOL DISTRICT REPRESENTATIVE

The authorized school district representative for this agreement shall be:

Name of School District Officer: _____
Name of Office: _____
Street address, room number: _____
City, State and ZIP code: _____
Telephone number: _____
Fax number (if any): _____

XVII. AUTHORIZED PUBLISHER REPRESENTATIVE

The authorized representative of the publisher for this agreement shall be:

Name of Officer: _____
Name of Publisher: _____
Street address, room number: _____
City, State and ZIP code: _____
Telephone number: _____
Fax number: _____

XVIII. PUBLISHER NOT AN OFFICER, EMPLOYEE, OR AGENT OF THE SCHOOL DISTRICT

While engaged in performance of this agreement, the publisher is an independent contractor and is not an officer, agent, or employee of the school district.

XIX. RIGHTS TO REPORTS, PROGRAMS, AND DOCUMENTATION

The school district and the publisher acknowledge that the rights to any report, computer program, documentation for programs, or other materials developed by the publisher or its subcontractors in connection with this agreement shall belong to the California Department of Education. The designated achievement test and any materials and proprietary computer programs previously developed by the publisher or its subcontractors shall belong to the publisher or its subcontractors.

In addition, the publisher shall provide the school district the following services: a tape, magnetic tape, CD or diskette showing all pupil level information collected for each pupil including, but not limited to, pupil identifiers, demographic characteristics, and test results; wrong/right erasure analysis; four (4) months storage of answer sheets and consumable booklets; a second set of individual pupil reports for inclusion as part of the pupil's records; and shall provide for notation of non–standard administration on the answer sheet or consumable booklet.

At the request of the school district, the publisher shall provide pre–identification of answer documents.

XX. ASSIGNMENT

Neither the rights nor the duties of the publisher under this agreement shall be assigned or delegated. Any attempt to do so is void. The school district acknowledges that certain functions described in this agreement shall be performed by the publisher's subcontractors.

The agreement as described above shall be the complete and exclusive agreement between the school district and the publisher. If any provision of this agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

XXI. GENERAL PROVISIONS

1. Nondiscrimination Clause. The school district and the publisher shall comply with Government Code section 11135.

2. Contingencies Beyond Control of the Publisher. Performance by the publisher is subject to the contingencies of war, fire, flood, or any act of God or of the government, excluding bankruptcy, and of accidents that are beyond the reasonable control and without fault or negligence of the publisher. If those contingencies occur, the publisher shall submit to the school district and to the State Board of Education, in writing, the reasons why the provision cannot be fulfilled.

3. Place of Execution. This agreement is deemed to have been executed by both parties at _____, in the State of California. The validity, enforceability, and interpretation of this agreement and all of the clauses thereof shall be determined and governed by the laws of the State of California.

4. Time as Essence. Time is of the essence in this agreement.

The school district and the publisher have each caused this agreement to be executed by their respective duly authorized representatives.

PUBLISHER	SCHOOL DISTRICT
Name of Publisher	Name of District/Charter/COE
by	by
_____	_____
Type Name of officer and title	Type name of officer and title
_____	_____
Signature of officer	Signature of officer
Date	Date

NOTE: Authority cited: Section 60643(c), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

§ 874. Delivery Schedule and Order Form.

DELIVERY SCHEDULE AND ORDER FORM
STANDARDIZED TESTING AND REPORTING
(STAR) PROGRAM

Attachment to Standard Agreement Required By Education Code Section 60643(c)
DISTRICT CODE: _____

SCHOOL DISTRICT NAME:

_____
Delivery Address

_____
City, State, Zip

_____
STAR Program District Coordinator _____
Telephone (___) _____

DELIVERY SCHEDULE:

As part of the agreement, the school district, in negotiation with the publisher, shall select and calculate the dates for the following events and shall place its order for the designated achievement test.

1. Last Test Makeup Day:
Last test makeup day on which school district will administer the test:

_____

NOTE: This date can be no later than May 25, 1998 (Education Code section 60640). The school district should set this date no more than 10 instructional days following its last test date.

2. First Test Date:
First date on which school district will administer the test:

_____

The school district is encouraged to set this date as early as practicable for the school district but no sooner than March 15 for the designated achievement test.

3. Distribution within school district:
School district shall distribute appropriate quantities of tests to individual test sites. School district shall distribute the materials to the school sites no earlier than five (5) working days and no more than ten (10) working day prior to the first site test date at each test site.

4. Delivery Date to Single District Delivery Address:
The publisher shall deliver test materials to the school district not less than ten (10) and no more than twenty–five (25) calendar days prior to the first test date in the school district. The publisher shall coordinate with the school district regarding delivery dates.
No delivery of the designated achievement test can be made before March 2, 1998.

RETRIEVAL OF MATERIALS BY PUBLISHER:
The school district shall ensure that materials are inventoried, packaged, labeled, and returned to a single school district location for pickup by the publisher within five (5) working days following completion of testing in the school district and in no event later than:

_____

All school districts must have their materials returned to the publisher no later than June 1.
The publisher will provide for pick up of the packaged materials by:

_____

ORDER INFORMATION:

1. Pre–identification Option. Please check here ____ if the school district is electing the pre–identification option for answer documents. The publisher will contact the school district regarding deadlines for the provision of pupil demographic data by the school district to the publisher.
2. For each test site of the school district, the school district shall provide the following data by grade level:
CBEDS enrollment
Current enrollment
Number of tests without adaptation
Numbers of tests with adaptations by type of adaptation but not limited to Braille and large print.
The publisher shall specify any other adaptations currently available from the publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.

Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures*

*For "vision screening" testing for pupils, see Sections 590–596.

Article 1. Achievement Testing Programs

§ 1020. Definitions.

HISTORY

1. Repealer filed 7–20–73; effective thirtieth day thereafter (Register 73, No. 29). For prior history, see Register 71, No. 30.
2. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1021. Tests and Procedures.

(a) Each pupil in grade 1 shall be given the entry level test adopted or developed by the State Board of Education at a time specified by the State Department of Education, but not later than the third month of attendance in the first grade.

(b) Each pupil in grades 3, 6, and 12 shall be given the achievement test adopted or developed for the respective grade by the State Board of Education at the times designated for each grade by the State Department of Education.

(c) The adopted tests shall be administered to pupils by school districts in accordance with procedures established by the State Department of Education for the tests. Test answer sheets shall be submitted to the State Department of Education for scoring on dates specified and according to procedures established by the Department for each grade.

(d) After the tests have been given, the school principal shall certify that the tests were given in accordance with the procedures established for the test, and that all answer sheets have been returned to the State Department of Education for scoring.

(e) In nongraded primary sections, pupils shall be certified as first or third grade pupils for purposes of official enrollment, and are deemed, for purposes of this article, to be enrolled in the respective grade for which they are so certified.

(f) Pupils enrolled in grades 1, 3 and 6 in a school maintaining a year–round program shall be tested when they have completed approximately the same number of weeks of school as pupils who are in regular programs.

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607 and 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

[The next page is 17.]

(1) Special Education pupils whose Individualized Education Programs (IEP) provide for, and the school district implements, an alternative means for determining the pupils' academic progress.

(2) Pupils who have not received at least thirty (30) months of instruction in the core curriculum, given primarily in the English language, and the school district implements an alternative means for determining the pupils' academic progress. This provision would only apply if an approved test in the pupils' primary language was not available for purchase.

(3) Pupils who entered school with no reading skills in any language and have been enrolled continuously in the school district for fewer than 180 days.

(4) Pupils who were not present during the test administration or at any required make–up sessions.

(5) Pupils in special programs other than continuation school, independent study, community day school, or those programs identified in (1), (2), or (3) of this subsection, who were not tested due to extraordinary circumstances such as home/hospital study or traveling outside the country.

(b) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the numbers of pupils exempted in each waiver category to the California Department of Education.

(c) When the California State Board of Education approves a waiver of testing all pupils, school districts shall assess the progress in basic academic skills of each pupil not tested using an alternative means appropriate to the pupil's level of language proficiency.

(d) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the results of the pupil's alternative assessment to the pupil's parent or guardian within 40 school days of the date that the results of the alternative assessment are obtained.

(e) Should the California State Board of Education approve any waiver of testing all pupils under this section, the $5.00 per pupil incentive funds shall be apportioned solely with respect to each pupil actually tested in compliance with Education Code sections 60640 and 60641.

(f) For the 1996–97 school year only, school districts may submit to the California State Board of Education requests to use tests not approved by the California State Board of Education.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Sections 33050–33053, 60640 and 60641, Education Code.

HISTORY

1. New section filed 6–11–97; operative 6–11–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

Subchapter 3.75. Standardized Testing and Reporting Program

Article 1. General

§ 850. Definitions.

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Designated achievement test" is the achievement test required by Education Code section 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials. The designated achievement test is to be administered in the areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the core curriculum areas of reading, writing, mathematics, history/social science and science for pupils in grades 9 to 11, inclusive.

(b) "Primary language test" includes any test administered pursuant to Education Code section 60640(f) or a test administered pursuant to the requirement of Education Code section 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) "School districts" includes school districts, county offices of education, and any charter school that does not elect to be part of the school district or county office of education that granted the charter.

(d) "Eligible pupil" is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

(e) "Department" means the California Department of Education.

(f)(1) "Standards–based achievement tests" are those tests that measure the degree to which pupils are achieving the content standards and performance standards adopted by the State Board of Education as provided in Education Code section 60642.5. The standards–based achievement tests include test booklets, test answer documents, administration manuals, administrative materials, practice tests and other materials developed and provided by the publisher of the tests.

(2) The term "standards–based achievement test" may refer to one or more of the individual achievement tests in the subject or core curriculum areas required by Education Code section 60642.5, or all of the standards–based achievement tests collectively.

(g) "Administration Period" means one of multiple test administration periods by school districts with schools or programs on non–traditional calendars that begin and complete the school year at various times and have staggered vacation periods, in order to ensure that all pupils are tested at approximately the same point in the instructional year.

(h) "The California Alternate Performance Assessment" (CAPA) is an individually administered performance assessment developed to assess students' achievement on a subset of California's Academic Content Standards. It is administered to students receiving special education services who are significantly cognitively disabled. The CAPA includes administration manuals, administrative materials, and documents on which the examiner records the students' responses.

(i) "Out–of–level testing" means administering a test that is below the grade level of the pupil being tested.

(j) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP and is required to transcribe a pupil's or adult student's responses to the format required by the examination. A family member or guardian is not eligible to be a scribe.

(k) "Accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. Accommodations may include variations in scheduling, setting, aids, equipment, and presentation format.

(*l*) "Modification" means any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores.

(m) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to, accommodations and modifications as defined in Education Code section 60850.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615, 60640, 60642 and 60642.5, Education Code.

HISTORY

1. New subchapter 3.75 (sections 850–874) and section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 3.75 (sections 850–874) and section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. New article 1 heading, amendment of subsection (c), new subsections (g)–(h) and amendment of NOTE filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order, including amendment of NOTE, transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).

6. Amendment of subsections (a), (c) and (f), repealer of subsections (g)–(h) and amendment of NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. Repealer of subsection (d), subsection relettering, new subsections (f)(1)–(g) and amendment of NOTE filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
10. Amendment of subsections (a), (f)(1) and (g), new subsections (h)–(m) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).

§ 850.5. School District Liability.

School districts are agents of the Department for the purpose of implementing the statewide pupil assessment program. No action may be brought or maintained against any school district or its officers or employees acting in accordance with the instructions of the Superintendent of Public Instruction or the State Board of Education.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60603(j), 60604(a) and 60613, Education Code.

HISTORY

1. New section filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

Article 2. Designated Achievement Test and Standards–Based Achievement Tests

§ 851. Pupil Testing.

(a) School districts shall administer the designated achievement test to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school.

(b) School districts shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools.

(c) School districts may administer the designated achievement test to pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the apportionment pursuant to Education Code section 60640(h).

(d) No test may be administered in a private home or location unless the test is administered by either a certificated employee of the school district or an employee of a nonpublic school pursuant to Education Code section 56365 who holds a credential and the employee signs a security affidavit. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a credentialed school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsections (a) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Editorial correction of subsection (b) (Register 98, No. 44).
5. New article 2 heading and amendment of subsections (a) and (c) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–26–98 order, including amendment of subsection (d), transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
7. Amendment of article heading filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 852. Pupil Exemptions.

(a) A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. A school district and its employees may discuss the Standardized Testing and Reporting program with parents and may inform parents of the availability of exemptions under Education Code section 60615. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children.

(b) Pupils in special education programs shall be tested with the designated achievement test and the standards–based achievement tests unless the individualized educational program for the pupil specifically states that the pupil will be assessed with the California Alternate Performance Assessment or (CAPA).

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of section, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (b) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsection (b) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–27–2000 order, including further amendment of subsection (a), transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
8. Amendment of subsection (b) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).

§ 853. Administration.

(a) The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items,

and the timely provision of all required student and school level information.

(b) The standards–based achievement tests and the California Alternate Performance Assessment (CAPA) shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA.

(c) For the 2003–04 school year only, pupils with IEPs in grades 5 through 11 may be tested one or two grades below their enrollment grade. The test level must be specified in the student's IEP. Out–of–level testing shall be used only if the student is not receiving grade–level instruction. Students tested out–of–level must complete all tests required for the grade at which they are tested and shall be administered only one level of the tests. Out–of–level testing is not allowed for pupils in grades 2, 3, and 4. No out–of–level testing shall be allowed at any grade beginning with the 2004–05 school year.

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including new subsections (c) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsections (a) and (c) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. New subsection (d), subsection relettering and amendment of newly designated subsection (e) filed 11–8–2000; operative 12–8–2000 (Register 2000, No. 45).
9. Amendment of subsections (a) and (b) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
11. Amendment of subsection (a), repealer of former subsections (b)–(e), new subsections (b) and (c) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).

§ 853.5. Use of Variations, Accommodations, and Modifications for the Standards–Based Achievement Test and the California Alternate Performance Assessment.

(a) School districts may provide all pupils the following testing variations if regularly used in the classroom:

(1) test directions that are simplified or clarified.

(2) special or adaptive furniture.

(3) special lighting or acoustics.

(4) an individual carrel or study enclosure.

(5) test individually in a separate room provided that an employee of the school, district, or non–public school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.

(6) markers, masks, or other means to maintain visual attention to the examination or test items.

(b) Eligible pupils with disabilities who have IEPs and students with Section 504 plans shall be permitted to take the standards–based achievement tests with the following presentation, response or setting accommodations if specified in the IEP or Section 504 plan:

(1) large print versions.

(2) test items enlarged through electronic means (e.g., photocopier).

(3) Braille transcriptions provided by the test contractor.

(4) use of manually coded or American sign language to present directions for administration.

(5) audio or oral presentation of the mathematics tests.

(6) use of manually coded or American sign language to present test questions on the mathematics tests.

(7) responses marked in test booklet and transferred to the answer document by a school or district employee who has signed the Test Security Affidavit.

(8) responses dictated to a scribe for selected–response items (e.g., multiple–choice test questions).

(9) responses dictated to a scribe, audio recorder or speech to text converter on the grade 4 or grade 7 writing application standards section of the California English–Language Arts Standards Test, and the pupil indicates all spelling and language conventions.

(10) use of word processing software with spell and grammar check tools turned off on the writing portion of the grade 4 or 7 test.

(11) use of an assistive device that does not interfere with the independent work of the student on the writing portion of the test.

(12) supervised breaks within a section of the test.

(13) administration of the test at the most beneficial time of day to the pupil.

(14) test administered by certificated teacher to a pupil or adult student at home or in the hospital.

(c) Eligible pupils with disabilities shall be permitted to take the standards–based tests with the following modifications if specified in the eligible pupil's IEP:

(1) calculators on the mathematics or science tests.

(2) audio or oral presentation of the English–language arts tests.

(3) use of manually coded or American sign language to present test questions on the English–language arts tests.

(4) spellcheckers, grammar checkers, or word processing software programs that check or correct spelling and/or grammar on the writing portion of the grade 4 and 7 English–language arts tests.

(5) mechanical or electronic devices or other assistive devices that are not used solely to record the pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text software, and that identify a potential error in the pupil's response or that correct spelling, grammar or conventions on the writing portion of the grade 4 and 7 English–language arts tests.

(6) use of American sign language to provide a response to the written portion of the grade 4 and 7 English–language arts tests.

(7) English dictionary on the English–language arts test.

(8) mathematics dictionary on the mathematics section of the examination.

(d) School districts shall provide English learner pupils the following additional testing variations if regularly used in the classroom or for assessment:

(1) Flexible setting. Tested in a separate room with other English learners provided that an employee of the school, district, or non–public school, who has signed the Test Security Affidavit, directly supervises the pupil and the pupil has been provided such a flexible setting.

(2) Flexible schedule. Additional supervised breaks following each section within a test part provided that the test section is completed within a testing day. A test section is identified by a "STOP" at the end of it.

(3) Translated directions. Hear any test directions the test examiner is to read aloud translated into their primary language. English learners shall have the opportunity to ask clarifying questions about any test directions presented orally in their primary language.

(4) Glossaries. Access to glossaries/word lists for the standards–based achievement tests in mathematics, science, and history–social science if used regularly in the classroom (English to primary language). The glossaries/word lists are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries/word lists shall include no definitions or formulas.

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).

§ 854. Advance Preparation for Test.

(a) Except for materials specifically included within the designated achievement test, no program or materials shall be used by any school district or employee of a school district that are specifically formulated or intended to prepare pupils for the designated achievement test. No administration or use of an alternate or parallel form of the designated test for any stated purpose shall be permitted for any pupils in grades 2 through 11, inclusive.

(b) Practice tests provided by the publisher as part of the designated achievement test for the limited purpose of familiarizing pupils with the use of scannable test booklets or answer sheets and the format of test items are not subject to the prohibition of Subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60611 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsection (b), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsection (a) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 855. Testing Period.

(a) The designated achievement test and the standards–based achievement tests, except for the STAR writing assessment as specified in subdivision (c), shall be administered to each pupil during a testing window of twenty–one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty–one instructional day window unless all or part of the twenty–one instructional day period falls after any statutorily specified deadline.

(b) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards–based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty–one instructional day period established in subdivision (a).

(c) The STAR writing assessment shall be administered to each eligible pupil only on the day(s) specified annually by the Superintendent of Public Instruction. An eligible pupil for purposes of the writing assessment is a pupil enrolled in a grade at which the test will be administered.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60642.5, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsection (c), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (c) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
6. Amendment filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–27–2000 order, including further amendment of subsection (a) and NOTE, transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 856. Sales and Use Tax.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et seq., Revenue and Tax Code..

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 857. STAR Program District Coordinator.

(a) On or before November 15, 1999 and October 15 of each subsequent school year, the superintendent of each school district shall designate from among the employees of the school district a STAR program district coordinator. The STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing. The school district shall notify the publisher of the identity and contact information, including electronic mail address, if available in the school district, for the STAR program district coordinator and for the superintendent and his or her designee, if any. The STAR program district coordinator shall serve as the school district representative and liaison between the school district and the test publisher and the school district and the Department for all matters related to the STAR program.

(b) The STAR program district coordinator's responsibilities shall include, but not be limited to, all of the following duties:

(1) Responding to correspondence and inquiries from the publisher and from the Department in a timely manner and as provided in the publisher's instructions and these regulations.

(2) Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data and communicating school district test and test material needs to the publisher on or before December 1.

(3) Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites.

(4) Coordinating the testing and makeup testing days for the school district within any required time periods with the school test site coordinators.

(5) Maintaining security over the designated achievement test and the standards–based achievement tests and test data using the procedure set forth in Section 859. The STAR program district coordinator shall sign the security agreement set forth in Section 859 prior to receipt of the test materials.

(6) Overseeing the administration of the designated achievement test and the standards–based achievement tests to eligible pupils.

(7) Overseeing the collection and return of all test materials and test data to the publisher within any required time periods.

(8) Assisting the test publisher and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre–identification files and all pupil level data required to comply with Sections 861 and 862.

(c) Within five (5) working days of completed school district testing, the school district superintendent and the STAR program district coordinator shall certify the following information with respect to the designated achievement test and the standards–based achievement tests to the Department: that the school district has maintained the security and integrity of the designated achievement test and the standards–based achievement tests; collected all data and information as required by Sections 861 and 862; returned to the test publisher all test materials, answer documents, and other materials included as part of the designated achievement test and the standards–based achievement tests in the manner and as otherwise required by the test publisher; and assisted the test publisher in the resolution of any discrepancies in the test or test materials as required by Section 868.

(d) Within five (5) working days of receiving reports and files from the publisher, the school district shall review the files and reports for completeness and accuracy, and shall notify the publisher and the Department of its findings. The school district shall notify the Department in writing whether any errors, discrepancies, or incomplete information have been resolved.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of subsection (b)(5) (Register 98, No. 42).
4. Certificate of Compliance as to 5–5–98 order, including amendment of subsections (a) and (c), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
5. Amendment filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–26–98 order, including amendment of subsection (d), transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
7. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12–16–99 order, including amendment of subsection (a), transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
9. Amendment of subsections (a), (b)(2), (b)(5)–(6) and (c) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 858. STAR Test Site Coordinator.

(a) At each test site, including but not limited to, each elementary, middle, and high school or other grade–span designated school, each charter school, each court–school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the STAR program district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

(b) The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:

(1) Determining site test and test material needs and communicating the site needs to the STAR program district coordinator.

(2) Overseeing the acquisition and distribution of tests and test materials at the test site.

(3) Cooperating with the STAR program district coordinator to provide the testing and makeup testing days for the site within any required time periods.

(4) Maintaining security over the designated achievement test and the standards–based achievement tests and test data. The STAR test site coordinator shall sign the security agreement set forth in Section 859 prior to the receipt of the test materials.

(5) Overseeing the administration of the designated achievement test and the standards–based achievement tests to eligible pupils at the test site.

(6) Overseeing the collection and return of all testing materials to the STAR program district coordinator.

(7) Assisting the STAR program district coordinator, the test publisher, and the Department in the resolution of any discrepancies in the test information and materials.

(8) Overseeing the collection of all pupil level and other data required to comply with Sections 861 and 862.

(9) Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil at grade 4 or grade 7, an answer document for the STAR writing assessment administered pursuant to Section 855(c) shall be submitted in addition to the answer document for multiple choice items.

(c) Within three (3) working days of complete site testing, the principal and the STAR test site coordinator shall certify to the STAR program district coordinator that the test site has maintained the security and integrity of the designated achievement test and the standards–based achievement tests, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the designated achievement test in the manner and as otherwise required by the STAR program district coordinator.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).

4. Amendment of subsections (b)(4)–(5) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsections (a), (b)(1) and (b)(7) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order, including amendment of subsection (a), transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. Amendment of subsections (a), (b) and (b)(4)–(5), new subsection (b)(9) and amendment of subsection (c) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 859. STAR Test Security Agreement and Test Security Affidavit.

(a) All STAR program district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in Subdivision (b).

(b) The STAR Test Security Agreement shall be as follows:

STAR TEST SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the designated achievement test and the standards–based achievement tests are secure tests and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the test's security.

(2) The coordinator will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required by the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school district office.

(3) The coordinator will keep the tests and test materials in a secure, locked location limiting access to only those persons responsible for test security except on actual testing dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

(4) The coordinator will not copy any part of the test or test materials without written permission from the Department to do so.

(5) The coordinator will not review test questions, develop any scoring keys or review or score any pupil responses except as required by the contractor's manuals.

By signing my name to this document, I am assuring that I and anyone having access to the test materials will abide by the above conditions.

By: _____

Title: _____

School District: _____

Date: _____

(c) Each STAR test site coordinator shall deliver the tests and test materials only to those persons actually administering the designated achievement test and the standards–based achievement tests on the date of testing to persons trained to administer the test who have executed the STAR Test Security Affidavit set forth in Subdivision (e).

(d) All persons having access to the designated achievement test and test materials and to the standards–based achievement tests and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in Subdivision (e).

(e) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test and to the standards–based achievement tests for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test(s) or test materials.

(3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

(4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test.

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument. I will not review any test questions, passages, or other test items with pupils before, during, or following testing.

(7) I will not develop scoring keys or review or score any pupil responses except as required by the publisher's administration manual(s) to prepare answer documents for machine or other scoring.

(8) I will return all test materials to the designated STAR test site coordinator daily upon completion of testing.

(9) I will administer the test in accordance with the directions for test administration set forth in the publisher's manual for test administration.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(f) To maintain the security of the program, all STAR program district coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsections (c) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsections (b) and (c)–(e) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
8. New subsections (b)(4) and (b)(5) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).

§ 860. Standard Agreement Between School Districts and Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).

4. Amendment filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 861. School–By–School Analysis.

(a) Each school district shall provide the publisher of the designated achievement test, the following information for each pupil tested for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (Chapter 6.1, commencing with Section 52050), Section 60630, and Chapter 5 (commencing with Section 60640) of the Education Code:

(1) Date of birth.

(2) Grade level.

(3) Gender.

(4) Language fluency and home language.

(5) Special program participation.

(6) Testing adaptations or accommodations.

(7) Parent education level.

(8) Amount of time in the school and school district.

(9) Ethnicity.

(10) Handicapping condition or disability.

(b) The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated achievement test.

(c) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program as is provided for all other eligible pupils in grades 2 to 11, inclusive.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60630, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsection (a), repealer of subsections (a)(10) and (a)(11), and amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsections (a) and (a)(8) and new subsection (a)(10) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 862. Apportionment Information Report.

(a) Each school district shall report to the Department all of the following information relevant to the designated achievement test and the standards–based achievement tests by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils enrolled in each school and in the school district on the first day of testing in the school district.

(2) The number of pupils in each school and in the school district exempted from testing pursuant to Education Code section 60640(e).

(3) The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.

(4) The number of pupils to whom the designated achievement test was administered.

(b)(1) The superintendent of each school district shall certify the accuracy of all information submitted. The report required by Subdivision (a) shall be filed with the State Superintendent of Public Instruction within ten (10) working days of the last day of makeup testing in the school district.

(2) School districts with an average daily attendance greater than 100,000 may certify the accuracy and submit the information required by Subdivision (a) within fifteen (15) working days of the last day of makeup testing in the school district. The school district may submit a request to the Department to obtain approval of the State Board of Education for an extension of ten (10) additional working days if the fifteen (15) working day requirement presents an undue hardship.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsection (a), repealer of subsection (a)(5), subsection renumbering, and amendment of subsections (b)(2) and (c), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Repealer of subsections (c)–(d) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsections (a) and (b)(2) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. Amendment of subsections (a)–(a)(3) and repealer of subsection (a)(5) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 863. Parent Reports.

(a) The school district shall report, in writing, the results of each pupil's test to the pupil's parent or guardian, within not more than twenty (20) working days from receipt of the test results from the publisher.

(b) If the school district receives these reports for the designated achievement test from the test publisher after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non–deliverable, the school district shall make the report available to the parent or guardian during the next school year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60641, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (b) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).

§ 864. Reporting Test Scores.

No scores that are compiled pursuant to Education Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other media, to any audience, if the aggregate or group score is composed of ten (10) or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear "The number of pupils in this category is too small for statistical accuracy or privacy protection." In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amnendment of NOTE, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).

§ 864.5. Test Order Information.

(a) The school district shall provide to the publisher, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

(1) CBEDS enrollment

(2) Current enrollment

(3) Valid county district school (CDS) codes

(4) Number of tests without adaptation

(5) Numbers of tests with adaptations by type of adaptation including but not limited to Braille and large print.

(6) Number of directions for administration needed, by grade level.

(7) First date of testing in the school district, including the dates for each testing wave, if applicable.

(8) Date or dates on which delivery of materials to the school district is requested.

(b) Each school district that elects pre-identification of answer documents shall provide to the publisher no fewer than 45 days prior to the first date of testing in the school district, an electronic file that includes all of the information required in Section 861.

(c) If the testing materials are lost or destroyed while in the possession of the school district, and the publisher provides the school district with replacement materials, the school district is responsible for the cost of all replacement materials.

(d) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests scored, the number of parent requests pursuant to Education Code section 60615, and the number of individualized education program exemptions pursuant to Education Code section 60640(e) and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the publisher by the Department as part of the contract with the publisher for the current year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
3. Amendment filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
5. Amendment of subsections (a), (a)(7) and (d) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).

§ 865. Transportation.

(a) Upon arrival of the test materials at a single location designated by each school district, the school district's STAR program district coordinator shall provide the publisher with a signed receipt.

(b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsection (a) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 866. School District Delivery.

(a) No school district shall receive its test materials more than twenty-five (25) or fewer than ten (10) calendar days prior to the first day of testing in the school district. A school district that has not received test materials from the test publisher at least ten (10) calendar days before the first date of testing in the school district shall notify the publisher and the Department on the tenth day before testing is scheduled to begin that the school district has not received its materials.

(b) School districts shall return all designated achievement tests and standards-based achievement tests and test materials to the publisher within five (5) working days of the last test date in the school district, including makeup testing days or six (6) days after any statutory deadline, whichever date is earlier.

(c) A school district and the publisher may establish a periodic delivery and retrieval schedule to accommodate wave test administration dates within the school district.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsection (a), repealer of subsection (b) and subsection relettering filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).

6. Amendment of section and NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. Amendment filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11–27–2000 order, including further amendment of subsection (b), transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 867. Test Site Delivery.

(a) No school or other test site shall receive any test or related test materials more than ten (10) working days nor fewer than five (5) working days prior to the first day of testing scheduled at the school or test site.

(b) Upon completion of a testing wave at a site, including makeup testing, all tests and test materials shall be returned to the school district location designated by the STAR program district coordinator.

(c) Designated achievement tests and standards–based achievement tests and test materials shall not be retained at the test site for more than two (2) working days after the last day of test administration including makeup testing days or after any statutory deadline, whichever is earlier.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsections (b)–(c) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–27–2000 order, including further amendment of subsection (c), transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 867.5. Retrieval of Materials by Publisher.

The school district shall ensure that materials are inventoried, packaged, and labeled in accordance with instructions from the publisher, and returned to a single school district location for pickup by the publisher within five (5) working days following completion of testing in the school district and in no event later than five (5) days after any applicable statutory deadline. All school districts must have their materials returned to the publisher no later than six (6) days after any statutory deadline.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
3. Repealer of subsection (a) designator, repealer of subsection (b) and amendment of NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order, including further amendment of section, transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 868. Discrepancy Resolution for Designated Achievement Test.

(a) School districts shall process discrepancies determined by the designated publisher upon receipt of returned tests and test materials pursuant to this subdivision:

(1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the STAR program district coordinator for one or more of the following shall require a response from the STAR program district coordinator to the publisher within 24 hours.

(A) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the publisher from the school district.

(B) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing, according to criteria established with the Department.

(2) The STAR program district coordinator shall acknowledge the discrepancy notice via electronic mail, if available in the school district, to the publisher and to the Department within twenty–four (24) hours of its receipt via electronic mail.

(b) The STAR program district coordinator shall report any discrepancy in the total amount of the shipment from the designated test publisher within two (2) working days of the receipt of the shipment. If the designated test publisher does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the Department within 24 hours.

(c) Any discrepancy in a shipment of designated achievement tests or test materials or standards–based achievement tests or test materials received by a test site from the STAR program district coordinator shall be reported to the STAR program district coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The STAR program district coordinator shall remedy the discrepancy within two (2) working days.

(d) The STAR program district coordinator shall report to the publisher any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the STAR program district coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the test publisher shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the STAR program district coordinator.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing and by electronic mail.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsections (c) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of section and NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
6. Amendment of subsection (c) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).

§ 869. Performance of Designated Achievement Test Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of section heading and section filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order, including further amendment of section, transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 870. Apportionment to School Districts.

(a) The amount of funding to be apportioned to the school district for the costs of administering the designated achievement test and the standards-based achievement tests shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering the designated achievement test and the standards-based achievement tests per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 862. For purposes of this portion of the apportionment, administration of the designated achievement test includes the following items:

(1) All staffing costs, including the STAR program district coordinator and the STAR test site coordinators, staff training and other staff expenses related to testing.

(2) All expenses incurred at the school district and test site level related to testing.

(3) All transportation costs of delivering and retrieving tests and test materials within the school district.

(4) All costs associated with mailing the parent reports of test results.

(5) All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required in Section 861 of these regulations.

(b) This amount does not include any funding for the purposes of reimbursing the costs incurred by any school district pursuant to Section 864.5(d) placing an order that is excessive, or for replacement costs for test materials lost or destroyed while in possession of the school district as allocated in Section 865. These costs are outside the scope of the mandates of the STAR program.

(c) If at the time a school district's scannable documents are processed by the publisher a student data record is missing any of the data elements required in Section 861 of these regulations, the school district shall provide the missing data elements within the time required by the publisher to process the documents and meet the publisher's schedule of deliverables under its contract with the Department. The additional costs incurred by the school district to have the publisher reprocess the student information to acquire the data required by Section 861 of these regulations shall be withheld from the school district's apportionment.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a)(2)(A), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Repealer of subsections (b)-(b)(2)(E) and subsection relettering filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of section heading and section filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment of subsection (a), redesignation and amendment of former subsection (b)(1) as subsection (b) and repealer of subsection (b)(2) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).

§ 871. Payment of Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of section, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order, including further amendment of section, transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 872. Performance Bond.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640-60643 and 60646, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (b), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 873. Standard Agreement Form for the Designated Achievement Test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsections II., III., VI., X–XII., XIV. and XIX. and amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order, including further amendment of section, transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 874. Delivery Schedule and Order Form.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of subsection 3. (Register 98, No. 42).
4. Certificate of Compliance as to 5–5–98 order, including amendment of section, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
5. Repealer filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).

§ 875. School District Liability.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60603(j), 60604(a) and 60613, Education Code.

HISTORY

1. New section filed 10–14–98; operative 10–14–98 (Register 98, No. 42).
2. Repealer filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).

Article 2.5. Golden State Seal Merit Diploma

§ 876. Golden State Seal Merit Diploma.

For the purposes of the Golden State Seal Merit Diploma:

(a) "Demonstration of mastery" or "demonstrate mastery" means earning a scaled score of 370 or above on a California Standards Test (CST), as set forth in Education Code Section 60642.5, or a performance level of recognition, honors, or high honors on a Golden State Examination (GSE).

(b) Mastery must be demonstrated on six separate GSEs or high school level CSTs, not including the Algebra I CST, General Mathematics CST, and Integrated Mathematics 1 CST.

(c) Students may not use both a CST and the GSE in the same course of study to demonstrate mastery of the curriculum under Education Code Section 51452.

NOTE: Authority cited: Sections 33031, 51450 and 51451, Education Code. Reference: Sections 51450, 51451 and 51452, Education Code.

HISTORY

1. New section filed 4–22–2004; operative 4–22–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 17).

Article 3. Designated Primary Language Test

§ 880. Pupil Testing.

(a) In addition to the designated achievement test and the standards–based achievement tests, school districts shall administer to English language learners who are enrolled in any of grades 2 to 11, inclusive, a designated primary language test if less than 12 months have elapsed after initial enrollment in any public school in this state and if a test has been designated in the pupil's primary language.

(b) School districts shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools.

(c) School districts may administer a designated primary language test to pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for an apportionment pursuant to Education Code section 60640(h).

(d) No test may be administered in a private home or location unless the test is administered by either a certificated employee of the school district or an employee of a nonpublic school pursuant to Education Code section 56365 who holds a credential and the employee signs a security affidavit. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a credentialed school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New article 3 (sections 880–904) and section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (c) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsection (a) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 881. Pupil Exemptions.

(a) A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any designated primary language test provided pursuant to Education Code section 60640. The parent or guardian must initiate the request and the school district and its employees shall not solicit or encourage any written request on behalf of any child.

(b) Pupils in special education programs may be tested with a designated primary language test, if applicable, unless the individualized education program for the pupil specifically exempts the pupil from testing.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 882. Administration.

(a) Any designated primary language test or tests, which includes all those materials set forth in Section 850(b), shall be administered and returned in accordance with the manuals or other instructions provided by the publisher(s) for administering and returning the tests unless specifically provided otherwise in this subchapter. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the test(s) to pupils and the security and integrity of the test content(s) and test items.

(b) Except as provided in Subdivision (c), the reading section of any test or tests shall not be read, interpreted, or translated to any pupil and no pupil may use a calculator while taking any designated primary language test or tests administered pursuant to Education Code section 60640(f) or (g).

(c) Pupils in special education programs with individualized education programs delineating accommodations such as, but not limited to, large print, extended time, or the use of a reader or scribe; or pupils with current plans under Section 504 of the Rehabilitation Act of 1973 specifying such accommodations shall be tested and the prescribed adaptations or accommodations shall be made.

(d) Except for pupils in special education programs with individualized education programs and pupils with section 504 plans that require specific accommodations or modifications, no pupil shall be tested with the accommodations or modifications of large print, use of a reader or scribe, extended time, use of a calculator, or out–of–level test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 883. Advance Preparation for Test.

(a) Except for materials specifically included within any designated primary language test or tests, no program or materials shall be used by any school district or employee of a school district that are specifically formulated, or intended by any school district or employee of a school district, to prepare pupils for any designated primary language test or tests. No administration or use of an alternate or parallel form of the designated test for any stated purpose shall be permitted for any pupils in grades 2 through 11, inclusive.

(b) Practice tests provided by the publisher(s) as part of any designated primary language test or tests for the limited purpose of familiarizing pupils with the use of scannable test booklets or answer sheets and the format of test items are not subject to the prohibition of Subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60611 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (a) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 884. Testing Period.

(a) Any designated primary language test or tests, as applicable, shall be administered during the testing period of all instructional days commencing on or after March 15 to the 14th day of May, inclusive, of each school year.

(b) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period that any school administered any designated primary language test or tests. All makeup testing shall occur within ten (10) instructional days of the last date that the school district administered any designated primary language test or tests, but not later than May 25th of each school year, whichever is earlier.

(c) A school district with schools operating on a multitrack year round schedule may submit a request to the Department to begin testing no earlier than the fourth Monday in February. The State Board of Education shall approve the request if it determines that sufficient tests and test materials are available from the publisher(s) and that the school district will not otherwise be able to complete the testing of all eligible pupils prior to May 15th of the school year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (c) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsection (a) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 885. Sales and Use Tax.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et seq., Revenue and Tax Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 886. STAR Program District Coordinator.

The STAR program district coordinator designated by the Superintendent of the school district pursuant to Section 857 shall have the same responsibilities with regard to the designated primary language test(s) including, but not limited to, all of the duties listed in Section 857(b) and the certifications required in Section 857(c), (d), and (e) for the designated achievement test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 887. STAR Test Site Coordinator.

The STAR test site coordinator designated by the Superintendent of the school district pursuant to Section 858 shall have the same responsibilities with regard to the designated primary language test(s) including, but not limited to, all of the duties listed in Section 858(b) and the certification required in Section 858(c) for the designated achievement test. If necessary, a school district superintendent may designate a separate STAR program district coordinator for any designated primary language test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 888. STAR Test Security Agreement and Test Security Affidavit.

(a) All STAR program district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in Subdivision (b).

(b) The STAR Test Security Agreement shall be as follows:

STAR TEST SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the designated primary language test or tests are secure tests and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the test's security.

(2) The coordinator will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required by the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school district office.

(3) The coordinator will keep the tests and test materials in a secure, locked location limiting access to only those persons responsible for test security except on actual testing dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

By signing my name to this document, I am assuring that I and anyone having access to the test materials will abide by the above conditions.

By: _____

Title: _____

School District: _____

Date: _____

(c) Each STAR test site coordinator shall deliver the tests and test materials only to those persons actually administering the designated primary language test or tests on the date of testing and only upon execution of the STAR Test Security Affidavit set forth in Subdivision (e).

(d) All persons having access to the designated primary language test or tests and test materials shall acknowledge the limited purpose of their access to the tests, by signing the STAR Test Security Affidavit set forth in Subdivision (e).

(e) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated primary language test or tests for the purpose of administering the test. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test(s) to any other person.

(2) I will not copy any part of the test(s) or test materials.

(3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

(4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods.

(5) I will not permit pupils to remove test materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the test instruments.

(7) I will return all test materials to the designated STAR test site coordinator upon completion of the test(s).

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(f) To maintain the security of the program, all STAR program district coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 889. Standard Agreements Between School Districts and Publisher(s).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 890. School–By–School Analysis.

(a) Each school district shall provide each publisher of a designated primary language test or tests the following information for each pupil tested for purposes of the reporting required by Section 60630 and Article 4 (commencing with Section 60640) of the Education Code:

(1) Date of birth.

(2) Grade level.

(3) Gender.

(4) Language fluency and home language.

(5) Special program participation.

(6) Testing adaptations or accommodations.

(7) Parent education level.

(8) Amount of time in the school, school district, and in California public schools.

(9) Ethnicity.

(10) Handicapping condition or disability.

(b) The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated primary language test or tests.

(c) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program as is provided for all other eligible pupils in grades 2 to 11, inclusive.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60630, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsections (a) and (a)(8) and new subsection (a)(10) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 891. Apportionment Information Report.

(a) Each school district shall report to the State Department of Education all of the following information relevant to a designated primary language test by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils who are English language learners.

(2) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(f).

(3) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(g).

(4) The total number of English language learners exempted from the test pursuant to Education Code section 60615.

(5) The total number of English language learners exempted pursuant to any provision in their individualized education programs (IEPs) which explicitly exempts them from standardized testing.

(6) If a school district opted to have the publisher of a designated primary language test provide pre–identification of answer sheets, the number of tests administered with pre–identified answer documents.

(b)(1) The superintendent of each school district shall certify the accuracy of all information submitted. The report required by Subdivision (a) shall be filed with the State Superintendent of Public Instruction within ten (10) working days of the last day of makeup testing in the school district.

(2) School districts with an average daily attendance greater than 100,000 may certify the accuracy and submit the information required by Subdivision (a) within fifteen (15) working days of the last day of makeup testing in the school district. The school district may submit a request to the Department to obtain approval of the State Board of Education for an extension of ten (10) additional working days if the fifteen (15) working day requirement presents an undue hardship.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsections (a)(6) and (b)(2) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsections (a)(1)–(5) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 892. Parent Reports.

A school district shall report the results of each pupil's test to the pupil's parent or guardian as provided in Section 863.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60641, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 893. Reporting Test Scores.

No scores that are compiled pursuant to Education Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other media, to any audience, if the aggregate or group score is composed of ten (10) or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear, when posted on the Internet: "The number of pupils in this category is too small for statistical accuracy or privacy protection" or, when reported in hard copy or other media, a substantially similar statement may be used. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 894. Test Order Information.

(a) Each publisher of a designated primary language test or tests shall notify all school districts of any adaptations available from each publisher to accommodate pupils with exceptional needs including, but not limited to, Braille and large print.

(b) The school district shall provide to the publisher, no later than December 15 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

(1) The number of pupils to be tested

(2) Valid county district school (CDS) codes

(3) Number of tests without adaptation

(4) Numbers of large print tests.

(5) Number of Directions for Administration needed, by grade level.

(6) First date of testing in the school district including the dates for each testing wave, if applicable.

(7) Date or dates on which delivery of materials to the school district is required.

(c) Each school district that elects pre–identification of answer documents shall provide to the publisher no fewer than 45 days prior to the first date of testing in the school district, an electronic file that includes all of the information required in Section 861.

(1) If the testing materials are lost or destroyed while in the possession of the school district, and the publisher provides the school district with replacement materials, the school district is responsible for the cost of all replacement materials,

(2) If the school district places orders for tests for any school that are excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests scored, the number of parent requests pursuant to Education Code section 60615, and the number of individualized education program exemptions pursuant to Education Code section 60640(e) and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the publisher by the Department as part of the contract with the publisher for the current year.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsections (b)(6) and (c)(2) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).

§ 895. Transportation.

(a) Each test publisher shall assume all responsibility for the security and integrity of their tests and test materials at all sites where the publisher creates, produces, stores, or maintains the materials and during the time that any and all materials are in transit by any means from the publisher's storage, production, maintenance, or transfer facility until the materials arrive at a single location designated by each school district and the school district's STAR program district coordinator provides the publisher with a signed receipt. Upon arrival of the test materials at a single location designated by each school district, the school district's STAR program district coordinator shall provide the publisher with a signed receipt.

(b) The security of the tests and test materials that have been duly delivered to the school district is the sole responsibility of the school district until all tests and test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (a) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 896. School District Delivery.

(a) No school district shall receive its test materials more than twenty–five (25) or fewer than ten (10) calendar days prior to the first day of testing in the school district. A school district that has not received test materials from the test publisher at least ten (10) calendar days before the first date of testing in the school district shall notify the publisher and the Department on the tenth day before testing is scheduled to begin that the school district has not received its materials.

(b) School districts shall return all designated primary language tests and test materials to the publisher(s) within five (5) working days of the last test date in the school district, including makeup testing days or June 1, whichever date is earlier.

(c) If the school district has an average daily attendance greater than 50,000 or has schools on a multitrack year round calendar, the school district and the publisher(s) may establish a periodic delivery and retrieval schedule to accommodate staggered test administration dates within the school district.

(d) A unified school district that will administer the test to pupils in grades 9 through 11 during a time frame that does not overlap the administration of the test to pupils in grades 2 through 8 may establish a periodic delivery and retrieval schedule with the publisher to accommodate staggered test administration dates within the school district for grades 9 through 11 and grades 2 through 8.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of section and NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 897. Test Site Delivery.

(a) No school or other test site shall receive any test or related test materials more than ten (10) working days nor fewer than five (5) working days prior to the first day of testing scheduled at the school or test site.

(b) Upon completion of testing at a site, including makeup testing, all tests and test materials shall be returned to the school district location designated by the STAR program district coordinator.

(c) Tests and test materials shall not be retained at the test site for more than two (2) working days after the last day of test administration including makeup testing days or May 25th, whichever is earlier.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 898. Retrieval of Materials by Publisher.

(a) The school district shall ensure that materials are inventoried, packaged, and labeled in accordance with instructions from each designated publisher, and returned to a single school district location for pickup by each publisher within five (5) working days following completion of testing in the school district and in no event later than May 30. All school districts must have their materials returned to the publisher(s) no later than June 1.

(b) Each publisher shall arrange with the STAR program district coordinator a range of dates on which the publisher will pick up the packaged materials.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).

§ 899. Discrepancy Resolution for Designated Primary Language Test(s).

(a) School districts shall process discrepancies determined by the designated publisher(s) upon receipt of returned tests and test materials pursuant to this subdivision:

(1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the STAR program district coordinator for one or more of the following items shall require a response from the STAR program district coordinator to the publisher within 24 hours.

(A) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the publisher from the school district.

(B) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing.

(2) The STAR program district coordinator shall acknowledge the discrepancy notice via electronic mail to the publisher and to the Department within twenty-four (24) hours of receipt.

(b) The STAR program district coordinator shall report any discrepancy in the total amount of the shipment from the publisher of any designated primary language test material to the publisher within two (2) working days of the receipt of the shipment. If the publisher does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the Department within 24 hours.

(c) Any discrepancy in a shipment of tests or test materials received at a test site from the STAR program district coordinator shall be reported to the STAR program district coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The STAR program district coordinator shall remedy the discrepancy within two (2) working days.

(d) The STAR program district coordinator shall report to the publisher any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the school district. If the STAR program district coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the test publisher shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the STAR program district coordinator.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing and by electronic mail, if available.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Amendment of section and NOTE filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 900. Performance of Designated Primary Language Test Publisher(s).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 901. Apportionment.

(a) The amount of funding to be apportioned to the school district for the costs of administering any designated primary language test shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering any designated primary language tests per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 891. For purposes of this portion of the apportionment, administration of any designated primary language test includes the following items:

(1) All staffing costs, including the STAR program district coordinator and the STAR test site coordinator, staff training and other staff expenses related to testing.

(2) All expenses incurred at the school district and test site level related to testing.

(3) All transportation costs of delivering and retrieving tests and test materials within the school district.

(4) All costs associated with mailing the parent reports of test results.

(5) All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required in Section 861 of these regulations.

(b) If at the time a school district's scannable documents are processed by the publisher a student data record is missing any of the data elements required in Section 861 of these regulations, the school district shall provide the missing data elements within the time required by the publisher to process the documents and meet the publisher's schedule of deliverables under its contract with the Department. The additional costs incurred by the school district to have the publisher reprocess the student information to acquire the data required by Section 890 of these regulations shall be withheld from the school district's apportionment.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Amendment filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 902. Payment of Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 903. Performance Bond.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640-60643 and 60646, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 904. Standard Agreement Form for Any Designated Primary Language Test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).

3. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures*

*For "vision screening" testing for pupils, see Sections 590–596.

Article 1. Achievement Testing Programs

§ 1020. Definitions.

HISTORY

1. Repealer filed 7–20–73; effective thirtieth day thereafter (Register 73, No. 29). For prior history, see Register 71, No. 30.
2. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1021. Tests and Procedures.

(a) Each pupil in grade 1 shall be given the entry level test adopted or developed by the State Board of Education at a time specified by the State Department of Education, but not later than the third month of attendance in the first grade.

(b) Each pupil in grades 3, 6, and 12 shall be given the achievement test adopted or developed for the respective grade by the State Board of Education at the times designated for each grade by the State Department of Education.

(c) The adopted tests shall be administered to pupils by school districts in accordance with procedures established by the State Department of Education for the tests. Test answer sheets shall be submitted to the State Department of Education for scoring on dates specified and according to procedures established by the Department for each grade.

(d) After the tests have been given, the school principal shall certify that the tests were given in accordance with the procedures established for the test, and that all answer sheets have been returned to the State Department of Education for scoring.

(e) In nongraded primary sections, pupils shall be certified as first or third grade pupils for purposes of official enrollment, and are deemed, for purposes of this article, to be enrolled in the respective grade for which they are so certified.

(f) Pupils enrolled in grades 1, 3 and 6 in a school maintaining a year–round program shall be tested when they have completed approximately the same number of weeks of school as pupils who are in regular programs.

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607 and 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1022. Recording Test Scores.

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023. Security of Test Material.

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023.1. Practice Exercises.

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1024. Responsibility of the County Superintendent of Schools.

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. Amendment filed 9–25–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1025. Related Information.

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1026. Reporting Test Results.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11–29–84; effective thirtieth day thereafter (Register 84, No. 48).

Article 1.5. Education Improvement Incentive Program

§ 1030. Computation of Change in a School's Performance.

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the

EXHIBIT O

BILL NUMBER: AB 2812 CHAPTERED 09/23/00

CHAPTER 576
FILED WITH SECRETARY OF STATE SEPTEMBER 23, 2000
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AMENDED IN SENATE AUGUST 8, 2000
AMENDED IN SENATE JUNE 12, 2000
AMENDED IN ASSEMBLY MAY 26, 2000

INTRODUCED BY Assembly Member Mazzoni

FEBRUARY 28, 2000

An act to amend Sections 60604, 60605, 60640, 60641, 60643, 60643.1, 60644, 60645, and 60648 of, and to add Sections 60642.5 and 60649 to, the Education Code, relating to achievement tests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2812, Mazzoni. California Assessment of Academic Achievement.

Existing law requires the Superintendent of Public Instruction to design and implement, and requires the governing board of a school district to conduct, a testing program based on a statewide pupil assessment program consisting of (1) systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the Standardized Testing and Reporting (STAR) Program and (2) an assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10. Existing law states the intent of the Legislature that the achievement test used in grades 2 to 11, inclusive, be augmented with items that assess the specific grade-level content standards and produce valid and reliable scores for pupil achievement for each of the performance standards adopted by the board.

This bill would delete the intent of the Legislature regarding the augmentation of the achievement test and instead would require the Superintendent of Public Instruction, with approval of the State Board of Education, to provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. The bill would require this standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skills if deemed valid and reliable and if resources are made available for their use. The bill would require the State Board of Education, in approving a contract for the development or administration related duties of the standards-based achievement test, to consider prescribed criteria.

The bill would delete the requirements regarding the assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10 from the statewide pupil assessment program.

Existing law requires the State Board of Education to ensure that the statewide assessment system yields valid, reliable estimates of individual pupil performance, school performance, school district performance, and statewide performance of pupils that assesses basic

academic skills and incorporates the use of direct writing assessment and other assessments of applied academic skills if deemed valid, reliable, and cost effective.

This bill would instead require the State Board of Education to ensure that the statewide assessment system yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and the extent to which pupils are meeting content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

Existing law requires the State Board of Education, following consideration of recommendations of the Superintendent of Public Instruction, to award a contract or contracts to develop performance standards according to competitive bidding procedures.

This bill would delete this requirement.

Existing law required the State Board of Education to consider certain criteria when designating the nationally normed achievement test. Among those criteria is the ability of the test publisher to report results, as specified, by July 8.

This bill would extend the reporting deadline to August 8.

The bill would require the Superintendent of Public Instruction and the State Board of Education, on or before March 1, 2001, to report on the status of implementing the statewide pupil assessment program as specified.

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

SECTION 1. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the State Board of Education, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the test was administered and no later than July 30 of the calendar year in which the test was administered.

SEC. 2. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors.

(C) The State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may

adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission or the contractor. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a).

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of

test and assessment questions and materials.

SEC. 3. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, before June 15, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than June 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of

funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

(4) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

SEC. 4. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under

the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered.

SEC. 5. Section 60642.5 is added to the Education Code, to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the standards-based achievement test, the State Board of Education shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing, and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

(6) The contractor's experience in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

SEC. 6. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall

agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999-2000 school year, or by October 15, for any school year thereafter.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a

pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 and the publisher of the standards-based achievement test provided for in Section 60642.5 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, **2000**, a publisher may not provide a test described in Section 60642 or 60642.5 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contract shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contract shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including,

but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(11) The contract shall specify the means by which the delivery date for materials to each school district shall be verified by the publisher and the school district.

(12) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contract specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

SEC. 7. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.

(3) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, reading lists that can be distributed to pupils based on a pupil's age and the ranges of scores on the English language arts portion of the achievement test designated pursuant to Section 60642.

(4) The requirements of this subdivision shall only become operative upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.

(b) The State Board of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the

next higher level for challenging practice.
(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.
(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.
(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists that are developed and published by the State Department of Education and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).
(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

SEC. 8. Section 60644 of the Education Code is amended to read:
60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:
(a) Ability of the publisher to produce valid, reliable individual pupil scores.
(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.
(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.
(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.
(e) Per-pupil cost estimates of administering the proposed assessment.
(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.
(g) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 9. Section 60645 of the Education Code is amended to read:
60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642, the standards-based achievement test provided for in Section 60642.5, and items identified in subdivision (d) for compliance with Section 60614.
(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5.
(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education

pursuant to subdivision (c).

SEC. 10. Section 60648 of the Education Code is amended to read:

60648. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, levels of pupil performance on achievement tests administered pursuant to this article in reading, English language arts, and mathematics at each grade level. The performance levels shall identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade. These levels of performance shall only be adopted after the standards-based achievement tests have been aligned, pursuant to paragraph (2) of subdivision (a) of Section 60643, to the content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

SEC. 11. Section 60649 is added to the Education Code, to read:

60649. On or before March 1, 2001, the Superintendent of Public Instruction and the State Board of Education shall report to the Legislature and the Governor on the status of implementation of this chapter. The report shall include, but not be limited to, the following:

(a) Description of the actions taken to ensure full coverage of academic content standards in assessments developed pursuant to this chapter.

(b) Identification of the types of test items designed to measure applied academic skills, as defined in subdivision (b) of Section 60603.

(c) The means by which the Superintendent of Public Instruction and the State Board of Education determine assessments are valid, reliable, and provide consistent year-to-year comparisons of student progress, consistent with nationally recognized and accepted test construction and implementation methodologies, as applicable.

(d) Recommendations to improve the state's assessment system, identifying related costs or savings, and increases or decreases in testing time.

PUBLIC HEARING

COMMISSION ON STATE MANDATES

RECEIVED
JAN 31 2002
COMMISSION ON
STATE MANDATES

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ORIGINAL

TIME: 9:30 a.m.

DATE: January 24, 2002

PLACE: State Capitol, Room 126
Sacramento, California

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Reported By: YVONNE K. FENNER, CSR License #10909, RPR

1 A P P E A R A N C E S

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COMMISSION MEMBERS

3

ANNETTE PORINI, Chairperson
4 Representative of B. Timothy Gage, Director
State Department of Finance

5

SHERRY WILLIAMS
6 Representative of Steven Nissen, Director
Office of Planning and Research

7

JOHN HARRIGAN
8 Representative of Kathleen Connell
State Controller

9

JOHN S. LAZAR
10 City Council Member
Turlock City Council

11

WILLIAM SHERWOOD
12 Representative of Philip Angelides
State Treasurer

13

JOANN E. STEINMEIER
14 School Board Member
Arcadia Unified School District

15

16

17 COMMISSION STAFF

18 PAULA HIGASHI, Executive Director

19 PAUL STARKEY, Chief Legal Counsel

20 CATHERINE M. CRUZ, Program Analyst

21 NANCY PATTON, Staff ~~Counsel~~ Services Manager

22 CAMILLE SHELTON, Staff Counsel

23 KATHERINE TOKARSKI, Staff Counsel

24

25 --o0o--

1 PUBLIC PRESENTATIONS

2 RAMON de la GUARDIA, Deputy Attorney General
Office of the Attorney General

3

SUSAN S. GEANACOU, Senior Staff Attorney
4 Department of Finance

5 RANDY KATZ, Finance Budget Analyst
Department of Finance

6

PAUL C. MINNEY, Attorney at Law
7 Spector, Middleton, Young & Minney on behalf of
Mandated Cost Systems

8

ARTHUR M. PALKOWITZ, Legislative Mandate Specialist
9 San Diego City Schools

10 KEITH PETERSEN, MPA, JD, President
SixTen and Associates

11

SHAWN SILVA
12 State Controller's Office

13 JIM L. SPANO, Chief, Compliance Audits Bureau
State Controller's Office

14

MICHAEL WILKENING
15 Department of Finance

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1 MS. HIGASHI: Ms. Williams.

2 MS. WILLIAMS: Aye.

3 MS. HIGASHI: Mr. Harrigan.

4 MR. HARRIGAN: Aye.

5 MS. HIGASHI: Ms. Porini.

6 CHAIRPERSON PORINI: Aye.

7 MS. HIGASHI: Thank you.

8 This brings us to Item 10, proposed parameters
9 and guidelines for Standardized Testing and Reporting.
10 This Item will be introduced by Nancy Patton.

11 CHAIRPERSON PORINI: Okay. We'll give folks
12 just a moment here to change seats.

13 All right.

14 MS. PATTON: Ready?

15 CHAIRPERSON PORINI: Yes.

16 MS. PATTON: Good morning. On August 24th,
17 2000, the Commission adopted the statement of decision
18 for the Standardized Testing and Reporting or STAR test
19 claim, determining that the test claim legislation
20 imposed a reimbursable new program upon school districts
21 by requiring them to between March 15 and May 15 each
22 year to test all students in grades 2 through 11 with
23 nationally normed achievment tests designated by the
24 State Board of Education.

25 School districts are required to administer the

1 designated achievement test, commonly called the SAT-9
2 test, and for students of limited English proficiency
3 who were enrolled less that 12 months prior to the test
4 date, the school districts also administer the primary
5 language test, commonly called the SABE/2 test.
6 Before you are the claimant's proposed
7 parameters and guidelines for the STAR program as
8 modified by staff. There is one outstanding issue
9 before the Commission this morning. The issue is
10 whether or not an additional test may be included as a
11 reimbursable activity under these P and Gs.
12 The statement of decision for the STAR program
13 was adopted on August 24th, 2000, and covers Statutes of
14 1997, chapter 828 only. On January 1, 2001, chapter 576
15 became effective. Chapter 576 added section 60642.5 to
16 the Education Code and requires school districts to
17 administer a standards-based achievement test.
18 The claimant contends that the new
19 standards-based achievement test should be included in
20 these P and Gs because it is administered concurrently
21 with the other two tests. Staff disagrees. Since the
22 new standards-based achievement test was established
23 after the statement of decision was adopted on the STAR
24 program and was not included in the test claim, there
25 are no Commission findings that the new test constitutes

1 a new program or higher level of service and imposes
2 costs mandated by the State within the meaning of
3 Article XIIIB, section 6, of the California Constitution
4 and Government Code section 17514. Therefore, it cannot
5 be included in the STAR Ps and Gs before you today.
6 Also, at the claimant's request, staff made a
7 technical correction to a footnote. It's actually
8 footnote No. 3 on page 16, and I passed out a green
9 sheet this morning. That's the technical change on the
10 footnote.
11 CHAIRPERSON PORINI: Okay. Proposed correction
12 to footnote.
13 MS. PATTON: Staff recommends that you approve
14 the parameters and guidelines as modified by staff.
15 Will the witnesses please state your names for
16 the record.
17 MR. PALKOWITZ: Art Palkowitz on behalf of the
18 claimant, San Diego Unified School District.
19 MR. WILKENING: Mike Wilkening, Department of
20 Finance.
21 MR. SPANO: Jim Spano with the State
22 Controller's Office.
23 MR. SILVA: Shawn Silva with the State
24 Controller's Office.
25 CHAIRPERSON PORINI: All right.

1 MR. PALKOWITZ: Good morning. Thank you for
2 your time. We've gone back and forth on this, and I
3 appreciate the staff's considering my comments. Based
4 on the change in the footnote, we're willing to consent
5 with the staff analysis on that matter.
6 CHAIRPERSON PORINI: All right. Department of
7 Finance.
8 MR. WILKENING: We concur with the staff
9 analysis. We do have one point of clarification on the
10 section 7, offsetting savings and reimbursements, there
11 are several points enumerated in here on what
12 reimbursement is for in the school apportionment, and we
13 would like to note that this is not an inclusive list,
14 that actually the apportionment does go for other
15 activities that weren't necessarily brought up as
16 mandated issues, and so we would like to note that.
17 Since this seems to be -- we're talking a lot about
18 grammar today, the "specifically" kind of makes us a
19 little nervous.
20 CHAIRPERSON PORINI: All right. Camille.
21 MS. SHELTON: I still think that's consistent
22 with the language used, because under -- if you go to
23 page 25 on section 7, the very first underlined
24 paragraph, in the second sentence it says in addition,
25 reimbursement for this mandate received from any source,

1 including but not limited to service fees collected,
2 federal funds and other state funds, shall be
3 identified.
4 CHAIRPERSON PORINI: Mr. Wilkening.
5 MR. WILKENING: Yes. We note that and just want
6 to for the record note that we're a little concerned
7 about the "specifically" and then four points here, that
8 it's not as inclusive as the apportionment is.
9 CHAIRPERSON PORINI: All right. Well, you're on
10 the record --
11 MR. WILKENING: Right.
12 CHAIRPERSON PORINI: -- as stating your concern
13 there.
14 Controller's Office, any comments?
15 MR. SILVA: We would concur with the staff
16 analysis.
17 CHAIRPERSON PORINI: All right. Questions or
18 comments from Members? Do I hear a motion?
19 MR. SHERWOOD: Move for approval, noting the
20 Controller's correction to the footnote.
21 MS. STEINMEIER: Second.
22 CHAIRPERSON PORINI: All right. We have a
23 motion by Mr. Sherwood, a second by Ms. Steinmeier to
24 adopt staff's recommendation, noting the correction to
25 the footnote.

1 MS. HIGASHI: And might I just clarify, and this
2 would also include the statements that were made
3 previous on Item 6.
4 CHAIRPERSON PORINI: Right. Okay. Roll call.
5 MS. HIGASHI: Mr. Sherwood.
6 MR. SHERWOOD: Aye.
7 MS. HIGASHI: Ms. Steinmeier.
8 MS. STEINMEIER: Aye.
9 MS. HIGASHI: Ms. Williams.
10 MS. WILLIAMS: Aye.
11 MS. HIGASHI: Mr. Harrigan.
12 MR. HARRIGAN: Aye.
13 MS. HIGASHI: Mr. Lazar.
14 MR. LAZAR: Yes.
15 MS. HIGASHI: And Ms. Porini.
16 CHAIRPERSON PORINI: Aye.
17 MS. HIGASHI: Thank you.
18 CHAIRPERSON PORINI: Item 11 was on --
19 MS. HIGASHI: We can now skip to the very last
20 tab. We're up to Item 16, which is executive director's
21 report.
22 I'd like to start first by just going over a few
23 details concerning our workload. Staff has been meeting
24 and working to finalize a work plan that carries us
25 through about August of this year. And I wanted to let