

ITEM 4
INCORRECT REDUCTION CLAIM
PROPOSED DECISION

Family Code Sections 3060 to 3064, 3130 to 3134.5, 3408, 3411, and 3421

Penal Code Sections 277, 278, and 278.5

Welfare and Institutions Code Section 11478.5

Statutes of 1976, Chapter 1399; Statutes of 1983, Chapter 990;

Statutes of 1992, Chapter 162; Statutes of 1996, Chapter 988

Custody of Minors – Child Abduction and Recovery Program

Fiscal Years 2017-2018, 2018-2019, 2019-2020, and 2020-2021

25-4237-I-05

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

Overview

This Incorrect Reduction Claim (IRC) addresses reductions made by the State Controller's Office (Controller) to costs claimed by the County of Los Angeles' (claimant's) District Attorney's Office during fiscal years 2017-2018 through 2020-2021 (audit period) for costs incurred to implement the *Custody of Minors —Child Abduction and Recovery* (CAR) program. CAR is a state mandated program originally approved by the Board of Control in 1979, which requires district attorneys' offices to "actively assist in the resolution of child custody problems including visitation disputes, the enforcement of custody decrees and of any other order of the court in a child custody proceeding. These activities include all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed child, proceeding with civil court actions, and guaranteeing the appearance of offenders and minors in court actions.¹ Reimbursement is not required for the costs associated with criminal prosecution commencing with the defendant's first appearance in a California court for the criminal offenses defined in Penal Code section 278 or 278.5, wherein the child has been returned to the person or agency with lawful custody.²

¹ Exhibit A, Incorrect Reduction Claim, page 1046 (2009 Amendment to Parameters and Guidelines, Section II.).

² Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.).

During the audit period, the claimant claimed \$10,292,232 for costs of the mandated program, consisting of \$7,436,663 in salaries and benefits direct costs and \$2,855,569 in indirect costs.³ The State Controller's Office (Controller) found all of these costs unallowable and reduced the claim to \$0, primarily because it determined that "the county did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function" and because costs related to "good cause" cases under Penal Code section 278.7 are not reimbursable.⁴

Staff recommends that the Commission on State Mandates (Commission) approve this IRC.

Commission Responsibilities

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of Parameters and Guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.⁵ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitution and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁶

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard

³ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

⁴ Exhibit A, Incorrect Reduction Claim, pages 19-20, 25-26 (Written Narrative); 1098-1099, and 1110 (Final Audit Report). The Controller did not respond to the claimant's objections to the findings regarding "good cause" cases in its comments on the Incorrect Reduction Claim.

⁵ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁶ *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁷

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁸ In addition, section 1185.1(f)(3) and 1185.2(d) and (e) of the Commission's regulations requires that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.⁹

Claims

The following chart provides a brief summary of the claims and issues raised and staff's recommendation.

Issue	Description	Staff Recommendation
Did the claimant timely file this IRC?	Government Code section 17558.7(a) states "If the Controller reduces a claim approved by the commission, the claimant may file with the commission an incorrect reduction claim pursuant to regulations adopted by the commission." Section 1185.1(c) of the Commission's regulations requires an IRC to be filed no later than three years after the date the claimant receives a final state audit report, letter, or other	<i>Yes, the IRC was timely filed.</i> The Controller issued the final audit report on May 2, 2024. ¹⁰ The audit report specifies the claim components and amounts adjusted, as well as the reasons for the adjustments, and therefore complies with the section 17558.5(c) notice requirements. ¹¹ The IRC was filed on July 25, 2025. ¹² This is within three years of issuing the final audit

⁷ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

⁸ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

¹⁰ Exhibit A, Incorrect Reduction Claim, page 1090 (Final Audit Report).

¹¹ Exhibit A, Incorrect Reduction Claim, pages 1089-1129 (Final Audit Report).

¹² Exhibit A, Incorrect Reduction Claim, page 1.

Issue	Description	Staff Recommendation
	written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c). Under Government Code section 17558.5(c), the Controller is required to notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a reimbursement claim resulting from an audit or review. The notice must specify which claim components were adjusted and in what amount, as well as interest charges, and the reason for the adjustment.	report, and is therefore timely.
Did the Controller timely initiate the audit of the 2017-2018 reimbursement claim by meeting the statutory deadlines imposed by Government Code section 17558.5(a)?	Government Code section 17558.5(a) says: “A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program	<i>No, the audit was not timely initiated with respect to the fiscal year 2017-2018 claim and is, therefore, void.</i> The claimant filed its fiscal year 2017-2018 reimbursement claim on February 1, 2019. ¹⁵ The Legislature appropriated funds to reimburse mandate claims for costs incurred by the CAR program in fiscal year 2017-2018 in the Budget Act of 2019. ¹⁶ The Controller then issued a

¹⁵ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 117 (Claimant’s Fiscal Year 2017-2018 Reimbursement Claim Form).

¹⁶ See Statutes of 2019, Chapter 23, section 2, Item 8885-295-0001, Schedule 1(e).

Issue	Description	Staff Recommendation
	for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.” The deadlines in Government Code section 17558.5(a) impose a statute of repose, which is a period during which an audit must be initiated and after which the claimant may enjoy repose, dispose of any evidence or documentation to support their claims, and assert a defense that the audit is not timely and therefore void.¹³ Because the structure and purpose of the statute suggests that it is mandatory, an audit not initiated within the correct timeframe must be held void.¹⁴	payment to reimburse the claimant for the costs claimed in the fiscal year 2017-2018 on August 15, 2019.¹⁷ Based on these facts and the plain language of Government Code section 17558.5(a), an appropriation was made, and the default deadline based on the date the claim was filed controls and triggers the three-year deadline for the Controller to initiate its audit. The Controller initiated the audit of the claimant’s reimbursement claim for fiscal years 2017-2018 on August 5, 2022.¹⁸ This date is more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim on February 1, 2019, making the audit for that reimbursement claim untimely and void.

¹³ *Giest v. Sequoia Ventures, Inc.* (2000) 83 Cal.App.4th 300, 305.

¹⁴ *People v. McGee* (1977) 19 Cal.3d 948, 962, citing *Morris v. County of Marin* (1977) 18 Cal.3d 901, 909-910 (when a deadline is for the protection of a person or class of persons, and the language of the statute as a whole indicates the Legislature’s intent to enforce the deadline, the deadline is mandatory.)

¹⁷ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 146 (Division of Accounting and Reporting, Bureau of Local Reimbursements, Payments for a Claim).

¹⁸ Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

Issue	Description	Staff Recommendation
Are the Controller's reductions of all salaries and benefits to comply with the mandate, including for work performed on good cause cases, correct?	The Parameters and Guidelines at issue here require a claimant to have source documents to support a claim for salaries and benefits that satisfy the following requirements: • The documents must be contemporaneous source documentation showing "the validity of such costs, when they were incurred, and their relationship to the reimbursable activities." "Contemporaneous" means that the documents "are created at or near the same time the actual cost was incurred for the event or activity in question." Contemporaneous source documents may include "employee time records or time logs."¹⁹ • Salaries and benefits costs must be identifiable to each reimbursable activity in Section V. of the Parameters and Guidelines.²⁰ • The claim shall identify the employee, show the classification of the employee involved, describe the mandated	<i>No, the Controller's reduction of salaries and benefits is incorrect as a matter of law and the reduction to \$0 is arbitrary, capricious, and entirely lacking in evidentiary support.</i> The claimant supported its claimed costs by providing time sheets, in which employees reported their time daily and the employee and their supervisor signed and dated the time sheets at the end of the month, certifying them to be true and accurate to the best of their knowledge. These are contemporaneous source documents, exactly the sort contemplated by the Parameters and Guidelines. The claimant's time sheets sort claimants' time into four categories of reimbursable activities: "3130-3133," "3408(c) & 3408(d)," "3411(a) & 3421(c)," and "277, 278 & 278.5;" two categories of non-reimbursable activities: "277/278/278.5 Non-Claimable" and "Other — Non-Claimable (Briefly Explain Below);" and a

¹⁹ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

²⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

Issue	Description	Staff Recommendation
	functions (i.e., the reimbursable activities) performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits.²¹ The Parameters and Guidelines then define the reimbursable activities for this program using the following four categories: (1) Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders; [...] (2) Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act, (Family Code sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty	category for reporting when the employee used vacation or sick leave.²⁶ The time sheet then describes what activities belong in each category in the instructions on the back of the time sheet, using descriptions such as “Activity...involving enforcement of custody orders;” “Activities...involving out-of-state decrees and any related court activity;” “Activities performed...securing the appearance of an offender personally before the court;” “Activities performed...in the return of an illegally concealed child or minor to its legal guardian;” and “All non-claimable custody of minor activities.”²⁷ These are the same categories used in the Parameters and Guidelines for the reimbursable activities. The Parameters and Guidelines do not require claimants to specifically itemize or identify each act performed to assist in the resolution of custody or

²¹ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

²⁶ Exhibit A, Incorrect Reduction Claim, page 48 (Custody of Minor Time Study Sheet).

²⁷ Exhibit A, Incorrect Reduction Claim, page 49 (Custody of Minor Time Study Sheet).

Issue	Description	Staff Recommendation
	Document 99-11, 99th Congress, 1st Session); [...] (3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren); [and ...] (4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.²² The Controller found all of these costs unallowable and reduced the claim to \$0, primarily because it determined that “the county did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function” and because costs related to “good cause” cases under Penal Code section 278.7 are not reimbursable.²³ In	visitation issues, nor does it require activities be identified by specific case names. The claimant's time sheets are contemporaneous source documents that describe the mandated functions performed in compliance with the Parameters and Guidelines, thus the finding that the claimant did not provide contemporaneous source documents that comply with the parameters and guidelines is incorrect as a matter of law. To the extent costs were reduced on the grounds claimant's time sheets did not conform to the Parameters and Guidelines documentation requirements, that reduction is incorrect as a matter of law. However, the Controller also identified some time sheets with errors such as missing or late signatures.

²² Exhibit A, Incorrect Reduction Claim, pages 1048-1049 (2009 Amendment to Parameters and Guidelines, Sections V.B.1., V.B.2., V.B.2.b.(3)., and V.B.2.b.(4).). Note that categories (3) and (4) are presented as subcategories to category (2). On June 12, 2026, the Commission approved a PGA that moved these two subcategories to their own categories to correct what the Controller described as a “clerical error.” See *Custody of Minors – Child Abduction and Recovery*, 25-PGA-01 (CSM-4237) <https://csm.ca.gov/matters/CSM-4237.shtml> (accessed February 27, 2026).

²³ Exhibit A, Incorrect Reduction Claim, pages 19-20, 25-26 (Written Narrative); 1098-1099, and 1110 (Final Audit Report). The Controller did not respond to the claimant's objections to the findings regarding “good cause” cases in its comments on the Incorrect Reduction Claim.

Issue	Description	Staff Recommendation
	its response to the Draft Proposed Decision, the Controller argues that it was unable to test the validity of the time recorded because the time sheets do not describe the “specific activities or case the employee worked on.”²⁴ It is an abuse of discretion when a government agency does not apply or interpret the governing laws correctly, therefore reducing the claim based on an incorrect interpretation of the Parameters and Guidelines was arbitrary and capricious.²⁵	These deficiencies were not disputed by the claimant and are not before the Commission, therefore staff make no findings on the issue of alleged deficiencies in individual time sheets. The issue should be remanded to the Controller to reinstate those amounts incorrectly reduced on the ground that all time sheets did not conform to the documentation requirements in the Parameters and Guidelines. Additionally, it is arbitrary and capricious to reduce costs to \$0 when there is reliable evidence that the claimant incurred costs to comply with the mandate. There is substantial evidence that supports the claimant performed the mandated activities.²⁸ The Controller “does not dispute that the Claimant performed mandated activities,” and acknowledges that “[t]he

²⁴ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3.

²⁵ *Mandeson-Saleh v. Regents of University of California* (2021) 60 Cal.App.5th 674, 693 (“An abuse of discretion occurs if an agency did not apply or properly interpret the governing law or consider all relevant factors, or if there was no rational connection between the relevant factors, the choice made, and the purposes of the enabling statute or regulation.”)

²⁸ Exhibit A, Incorrect Reduction Claim, pages 44 (Declaration of Rosa Alarcon, Assistant Head Deputy, Loas Angeles County District Attorney’s Office Targeted Crimes Division); 1099, 1105, 1109 (Final Audit Report).

Issue	Description	Staff Recommendation
		Claimant's case files and case counts support that the Claimant performed some level of reimbursable activities."²⁹ Accordingly, the Controller's decision to reduce the claimant's costs to \$0 was arbitrary, capricious, and entirely lacking in evidentiary support.
Is the Controller's finding that "good cause" cases are not reimbursable correct as a matter of law?	The Parameters and Guidelines authorize reimbursement for "obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of custody or visitation orders, and "utilizing <i>any appropriate</i> civil or criminal court action to secure compliance," and the only non-reimbursable costs are those "associated with criminal prosecution, <i>commencing with the defendant's first appearance in a California court,</i>" for offenses defined in Penal Code sections 278 or 278.5.³⁰	<i>No – Finding "good cause" cases are not reimbursable is incorrect as a matter of law.</i> Penal Code sections 278, 278.5 and 278.7 do not impose any mandated activities on district attorneys themselves, but help define the scope of the mandate created by Family Code sections 3130 and 3131. It is therefore incorrect to find that activities related to "good cause" cases are not reimbursable, as they fall within the scope of the mandate. Furthermore, although Penal Code section 278.7 was never formally incorporated into this program's Parameters and Guidelines, its predecessor, Penal Code section 277 was, and is

²⁹ Exhibit G, Controller's Comments on the Draft Proposed Decision, pages 2-3.

³⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.) emphasis added.

Issue	Description	Staff Recommendation
		still included in the caption today. ³¹

Staff Analysis

This IRC addresses reductions made by the Controller to costs claimed by the County of Los Angeles' (claimant's) District Attorney's Office during fiscal years 2017-2018 through 2020-2021 (audit period) for costs incurred to implement the *Custody of Minors — Child Abduction and Recovery* (CAR) program. CAR is a state mandated program originally approved by the Board of Control in 1979, which requires district attorney's offices to "actively assist in the resolution of child custody problems including visitation disputes, the enforcement of custody decrees and of any other order of the court in a child custody proceeding. These activities include all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed child, proceeding with civil court actions, and guaranteeing the appearance of offenders and minors in court actions."³² Reimbursement is not required for the costs associated with criminal prosecution commencing with the defendant's first appearance in a California court for the criminal offenses defined in Penal Code section 278 or 278.5, wherein the child has been returned to the person or agency with lawful custody.³³

During the audit period the claimant claimed \$10,292,232 for costs of the mandated program, consisting of \$7,436,663 in salaries and benefits direct costs and \$2,855,569 in indirect costs.³⁴ The Controller found all of these costs unallowable and reduced the claim to \$0, primarily because it determined that "the county did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function."³⁵

Staff finds that the claimant timely filed this IRC, and recommends that the Commission approve the IRC as follows.

³¹ See Penal Code section 277, as amended by Statutes of 1986, chapter 1210, section 1.

³² Exhibit A, Incorrect Reduction Claim, page 1046 (2009 Amendment to Parameters and Guidelines, Section II.).

³³ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.).

³⁴ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

³⁵ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

A. The Controller's Audit of the Fiscal Year 2017-2018 Reimbursement Claim Was Untimely Initiated Pursuant to Government Code Section 17558.5(a) and Is, Therefore, Void.

Staff finds that the audit of the fiscal year 2017-2018 reimbursement claim was untimely initiated by the Controller, and therefore the audit for that fiscal year claim is void and the claimed costs of \$3,136,557 (consisting of \$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.

According to Government Code section 17558.5(a), the Controller has three years after the date the reimbursement claim is filed or last amended, whichever is later, to initiate an audit (referred herein as the default deadline to initiate an audit). However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit is delayed or tolled and shall commence to run from the date of initial payment of the claim (referred as the delayed or tolled deadline).

The deadlines in Government Code section 17558.5(a) impose a statute of repose, which is a period during which an audit must be initiated and after which the claimant may enjoy repose, dispose of any evidence or documentation to support their claims, and assert a defense that the audit is not timely and therefore void.³⁶ Because the structure and purpose of the statute suggests that it is mandatory, an audit not initiated within the correct timeframe must be held void.³⁷

The Controller contends that the deadline to initiate the audit was delayed in this case and tolled from the date of payment, alleging that no funds were appropriated and no payment was made *when* the fiscal year 2017-2018 claim was filed.³⁸ The Controller's contention is not supported by the law or evidence in the record.

In this case, the claimant filed its fiscal year 2017-2018 reimbursement claim on February 1, 2019.³⁹ The Legislature appropriated \$12,730,000 towards payment of mandate claims for costs incurred in fiscal year 2017-2018 for the *Custody of Minors — Child Abduction and Recovery* program in the Budget Act of 2019, which became

³⁶ *Giest v. Sequoia Ventures, Inc.* (2000) 83 Cal.App.4th 300, 305.

³⁷ *People v. McGee* (1977) 19 Cal.3d 948, 962, citing *Morris v. County of Marin* (1977) 18 Cal.3d 901, 909-910 (when a deadline is for the protection of a person or class of persons, and the language of the statute as a whole indicates the Legislature's intent to enforce the deadline, the deadline is mandatory.)

³⁸ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 11. Alternatively, the claimant suggests the Controller has replaced "for" for "in" in its reading of Government Code section 17558.5(a), so it reads "if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed." (emphasis added by claimant). This would have the same effect of requiring the appropriation occur before the claim is filed.

³⁹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 117 (Claimant's Fiscal Year 2017-2018 Reimbursement Claim Form).

effective immediately upon its adoption on June 27, 2019.⁴⁰ The Controller then issued a payment to reimburse the claimant for the costs claimed in the fiscal year 2017-2018 reimbursement claim on August 15, 2019.⁴¹ The Controller initiated an audit of the claimant's reimbursement claims for fiscal years 2017-2018 through 2020-2021 on August 5, 2022.⁴² This date is more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim, making the audit for that reimbursement claim untimely pursuant to the plain language of Government Code section 17558(a).

The Controller, however, seems to have read into the statute a requirement that for the tolling of the time to initiate an audit to apply, the Legislature must not have appropriated funds to reimburse claimants for their costs incurred in the fiscal year being claimed *at the time the claimant files their reimbursement claim*.⁴³ This interpretation reads language into the statute that is not there, which violates the rules of statutory construction.⁴⁴ According to the plain language of the statute, the alternative language that tolls or delays the deadline to initiate an audit only applies "if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed." Nothing says that this must occur before the

⁴⁰ See Statutes of 2019, Chapter 23, section 2, Item 8885-295-0001, Schedule 1(e). Note there is a small error in this Budget Act, as it says the appropriation is for mandated program costs incurred through fiscal year 2016-2017, not fiscal year 2017-2018. This appears to be a case of the Legislature copying from the previous year's Budget Act during drafting and forgetting to update the year, as the Budget Act of 2018 also reimbursed costs for this mandated program for fiscal year 2016-2017 (See Statutes of 2018, Chapter 29, section 2, Item 8885-295-0001), and the Budget Act of 2020 moved on to reimbursement for fiscal year 2018-2019 (See Statutes of 2020, Chapter 6, section 2, Item 8885-295-0001). Regardless, this error does not mean the Budget Act of 2019 did not appropriate funds for costs incurred by this program in fiscal year 2017-2018, as the Controller acknowledged this was an appropriation for costs incurred through the 2017-2018 fiscal year in the Mandated Cost Manual for 2018-2019 (Exhibit H (5), Mandated Cost Manual for Local Agencies, September 1, 2019, page 5).

⁴¹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 146 (Division of Accounting and Reporting, Bureau of Local Reimbursements, Payments for a Claim).

⁴² Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

⁴³ Alternatively, the claimant suggests the Controller has replaced "for" for "in" in its reading of Government Code section 17558.5(a), so it reads "if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed." (emphasis added by claimant). This would have the same effect of requiring the appropriation occur before the claim is filed.

⁴⁴ *Nevarrez v. San Marino Skilled Nursing and Wellness Centre, LLC* (2013) 221 Cal.App.4th 102, 130 ("...in construing a statute, we are not permitted to 'insert qualifying provisions not included' in the statute, nor edit it 'to conform to an assumed intention which does not appear from its language.' [Citation]").

claim is filed. And, here, it is undisputed that an appropriation was made for this program for fiscal year 2017-2018 costs on June 27, 2019, and payment was made on August 15, 2019.

In addition, the plain language of section 17558.5(a) makes sense when read in light of the Legislature's constitutional obligation to reimburse mandated programs and the statutory process in place for how appropriations are made for annually reimbursed mandated programs. As explained herein, funds are appropriated under the California Constitution and the Government Code for the *preceding* fiscal year (i.e., *after* the annual claims are filed).

Article XIII B, section 6(b)(1) of the California Constitution says "Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined *in a preceding fiscal year* to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law."⁴⁵

For the purposes of determining the state's payment obligation under paragraph (1) of subdivision (b) of section 6 of article XIII B of the Constitution, a mandate that is "determined in a preceding fiscal year to be payable by the state" means "any mandate for which the commission adopted a statewide cost estimate pursuant to this part during a previous fiscal year or that were identified as mandates by a predecessor agency to the commission," which therefore includes the mandated programs approved by the Board of Control.⁴⁶ Annual reimbursement claims for a state-mandated program may be filed by February 15 *following the fiscal year in which costs are incurred*.⁴⁷ The Government Code then requires the State Controller's Office "to submit by April 30 of each year a report to the Joint Legislative Budget Committee, the applicable fiscal committees, and the Director of Finance summarizing the total amount of unpaid claims submitted *before April 1 of that year*, and summarize any mandate deficiencies or surpluses, "for the purpose of determining the state's payment obligation under paragraph (1) of subdivision (b) of Section 6 of Article XIII B of the California Constitution."⁴⁸ The Controller's report of "unpaid claims submitted before April 1 of that year" would include annual reimbursement claims filed "by February 15 *following the*

⁴⁵ Emphasis added.

⁴⁶ Government Code section 17561(e)(1).

⁴⁷ Government Code section 17560(a). Government Code section 17568 allows the Controller to penalize late filed annual reimbursement claims with a ten percent reduction, not to exceed \$10,000, and explicitly prohibits reimbursement for any claim filed more than a year after the deadline.

⁴⁸ Government Code section 17562(b)(2), emphasis added. A collection of these reports and their corresponding cover letters dating back to 2020 is located on the Controller's website at https://sco.ca.gov/ard_mancost_deficiency.html (accessed February 25, 2026).

fiscal year in which costs are incurred.”⁴⁹ The Legislative Analyst is then required to report total annual state costs for mandated programs and, as appropriate, provide an analysis of specific mandates and make recommendations on whether the mandate should be repealed, funded, suspended, or modified.⁵⁰ If the Legislature appropriates funds to reimburse a program’s costs for the preceding fiscal year, the Controller shall reimburse any eligible claimant by either October 15 or 60 days after the appropriation was made, whichever is later.⁵¹

Thus, a claimant is required to file its annual reimbursement claim for costs incurred in fiscal year 2017-2018 by February 15, 2019; these costs would then be included in the Controller’s 2019 report filed with the Legislature by April 30, 2019; the Legislature either suspends the program making the mandate inoperative for that fiscal year, or appropriates funds for costs incurred by the program in fiscal year 2017-2018 in the Budget Act of 2019, which sets the state’s budget for fiscal year 2019-2020; and then the Controller makes a payment to the claimant by October 15, 2019 or within 60 days of the Budget Act taking effect, whichever is later.

Therefore, the Controller had three years from the date the 2017-2018 reimbursement claim was filed on February 1, 2019, or until February 1, 2022, to initiate the audit. Since the Controller initiated the audit of the claimant’s reimbursement claim for fiscal year 2017-2018 on August 5, 2022,⁵² more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim, the audit for that reimbursement claim is untimely and void.

B. The Controller’s Finding That the Claimant’s Source Documentation for Salary and Benefit Costs, in its Entirety, Does Not Comply with the Parameters and Guidelines Is Incorrect as a Matter of Law and the Reduction of All Costs Claimed to \$0 Is Arbitrary and Capricious and Entirely Lacking in Evidentiary Support.

Staff finds that the Controller’s reduction of salary and benefit costs on the ground that the claimant’s source documentation, in its entirety, does not comply with the Parameters and Guidelines, is incorrect as a matter of law and its reduction to \$0 is arbitrary, capricious, and entirely lacking in evidentiary support.

Although the Controller has authority to audit the records to verify the actual amount of mandated costs, the Controller’s Office is required to comply with the regulatory requirements of the Parameters and Guidelines when auditing a claimant, and the interpretation of parameters and guidelines is a question of law.⁵³

⁴⁹ Government Code section 17560(a), emphasis added.

⁵⁰ Government Code section 17562(d).

⁵¹ Government Code section 17561(d).

⁵² Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

⁵³ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 798 (“Because the issues raised in this appeal are almost entirely legal ones subject to our

Government Code section 17564(b) provides that “[c]laims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines . . . and claiming instructions.” Government Code section 17571 requires the claiming instructions to conform to the parameters and guidelines. And section 1183.7 of the Commission’s regulations requires the parameters and guidelines to include “instruction[s] on claim preparation, including instructions for direct and indirect cost reporting for actual costs incurred.” The courts have been clear that the parameters and guidelines are regulatory in nature and are binding on the parties, and as the court in *Clovis Unified School Dist.* determined, this includes the documentation requirements for salaries and benefits stated in the parameters and guidelines.⁵⁴ The interpretation of parameters and guidelines, just like any other regulation, is a question of law.⁵⁵

The Parameters and Guidelines at issue here require a claimant to have source documents to support a claim for salaries and benefits that satisfy the following requirements:

- The documents must be contemporaneous source documentation showing “the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.” “Contemporaneous” means that the documents “are created at or near the same time the actual cost was incurred for the event or activity in question.” Contemporaneous source documents may include “employee time records or time logs.”⁵⁶

independent review.”); *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Bates v. Poway Unified School Dist.* (2022) 83 Cal.App.5th 907, 920.

⁵⁴ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 799, (“Once the Commission determines that a state mandate exists, it adopts regulatory “[P]arameters and [G]uidelines” (P & G’s) to govern the state-mandated reimbursement. (§ 17557.) The Controller, in turn, then issues nonregulatory “[C]laiming [I]nstructions” for each Commission-determined mandate; these instructions must derive from the Commission’s test claim decision and its adopted P & G’s.”). See also, *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 809, footnote 5, where the court proceeded to apply the documentation requirements stated in the parameters and guidelines to several school district program audits conducted between 1998 and 2003, rejecting the Controller’s contemporaneous source document rule, which was not required by the parameters and guidelines for the audit period.

⁵⁵ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 798 (“Because the issues raised in this appeal are almost entirely legal ones subject to our independent review.”); *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Bates v. Poway Unified School Dist.* (2022) 83 Cal.App.5th 907, 920.

⁵⁶ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

- Salaries and benefits costs must be identifiable to each reimbursable activity in Section V. of the Parameters and Guidelines.⁵⁷
- The claim shall identify the employee, show the classification of the employee involved, describe the mandated functions (i.e., the reimbursable activities) performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits.⁵⁸

The claimant supported its claimed costs by providing time sheets, in which employees reported their time daily and the employee and their supervisor signed and dated the time sheets at the end of the month, certifying them to be true and accurate to the best of their knowledge.⁵⁹ These are contemporaneous source documents, exactly the sort contemplated by the Parameters and Guidelines as reliable source documents.

The Controller has not presented any arguments or evidence disputing that these are contemporaneous source documents, but rather claims they do not provide all information required by the Parameters and Guidelines because they do not describe the “mandated functions” performed or the actual number of hours devoted to each function. This is incorrect: When read with the instructions on the back of the time sheet which identify the reimbursable activities and the activities which are not eligible for reimbursement, the time sheets do provide a description of the mandated functions.

The claimant’s time sheets sort claimants’ time into four categories of reimbursable activities: “3130-3133,” “3408(c) & 3408(d),” “3411(a) & 3421(c),” and “277, 278 & 278.5;” two categories of non-reimbursable activities: “277/278/278.5 Non-Claimable” and “Other — Non-Claimable (Briefly Explain Below);” and a category for reporting when the employee used vacation or sick leave.⁶⁰ These numbers are references to various Family and Penal Code sections that either imposed mandated activities or help define the scope of the mandate. The time sheet then describes what activities belong in each category in the instructions on the back of the time sheet, using descriptions such as “Activity...involving enforcement of custody orders;” “Activities...involving out-of-state decrees and any related court activity;” “Activities performed...securing the appearance of an offender personally before the court;” “Activities performed...in the return of an illegally concealed child or minor to its legal guardian;” and “All non-claimable custody of minor activities.”⁶¹

The statutes that imposed the state-mandated activities that created this program are located in Family Code sections 3130 and 3131. Family Code section 3130 requires

⁵⁷ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

⁵⁸ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

⁵⁹ Exhibit A, Incorrect Reduction Claim, pages 54-615 (Claimant’s Fiscal Year 2017-2018 through 2020-2021 Time Sheets).

⁶⁰ Exhibit A, Incorrect Reduction Claim, page 48 (Custody of Minor Time Study Sheet).

⁶¹ Exhibit A, Incorrect Reduction Claim, page 49 (Custody of Minor Time Study Sheet).

that when a petition to determine custody of a child has been filed or when there is a temporary order pending determination of custody, and the whereabouts of the party in possession of the child are not known or there is reason to believe the party may not appear in the proceedings despite being ordered to appear personally with the child, “the district attorney shall *take all actions necessary to locate the party and the child* and to *procure compliance with the order to appear with the child* for purposes of adjudication of custody.”⁶² Similarly, Family Code section 3131 requires that when there is a custody or visitation order in place and the child is taken or detained by another person in violation of that order, “the district attorney shall *take all actions necessary to locate and return the child* and the person who violated the order and to *assist in the enforcement of the custody or visitation order or other order of the court* by use of an appropriate civil or criminal proceeding.”⁶³ The Parameters and Guidelines therefore define the scope of the mandate as authorizing reimbursement for “all actions necessary” to locate and return a child and for complying with a court order relating to child custody or visitation, as follows:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney *actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for *complying with other court orders relating to child custody or visitation*, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.⁶⁴

The Parameters and Guidelines then define the reimbursable activities for this program using the following four categories:

- (1) Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders; [...]
- (2) Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act, (Family Code sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session); [...]

⁶² Family Code section 3130, emphasis added.

⁶³ Family Code section 3131, emphasis added.

⁶⁴ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.A.), emphasis added.

(3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren); [and ...]

(4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.⁶⁵

These are the same categories the claimant used for its description of which mandated activities should be reported under each section in the claimant's time sheets. The section titles are references to Family or Penal Code sections that are identified in the program caption and which help define the scope of the mandate. Therefore, contrary to the Controller's interpretation, the claimant's time sheets, which are contemporaneous, describe the specific mandated functions performed using the categories of reimbursable activities in the Parameters and Guidelines and claiming form provided by the Controller's Office for this mandated program, and identify the actual hours spent on the program. Time spent on mandated activities is reported under one of the four categories, and time spent on non-claimable activities is properly segregated into separate categories. Thus, the timesheets comply with the documentation requirements in the Parameters and Guidelines.

In response to the Draft Proposed Decision, the Controller's Office argues that the time sheets do not include a description of the *specific activities or cases* the employee worked on, and thus it was unable to test the validity of the time recorded.⁶⁶ This argument focuses on the word "specific" from the definition of "direct costs" (i.e., direct costs are "costs that can be traced to specific...services, units, programs, activities or functions").⁶⁷ This definition does not describe the documentation requirements when filing a reimbursement claim for salaries and benefits; it just defines direct costs. In addition, the Parameters and Guidelines do not require claimants to specifically itemize or identify each act performed to assist in the resolution of custody or visitation issues. The Parameters and Guidelines only require that the costs be identifiable "to each *reimbursable activity identified in Section V*" of the Parameters and Guidelines, which

⁶⁵ Exhibit A, Incorrect Reduction Claim, pages 1048-1049 (2009 Amendment to Parameters and Guidelines, Sections V.B.1., V.B.2., V.B.2.b.(3)., and V.B.2.b.(4).). Note that categories (3) and (4) are presented as subcategories to category (2). On June 12, 2026, the Commission approved a PGA that moved these two subcategories to their own categories to correct what the Controller described as a "clerical error." See *Custody of Minors-Child Abduction and Recovery*, 25-PGA-01 (CSM-4237) <https://csm.ca.gov/matters/CSM-4237.shtml> (accessed February 27, 2026).

⁶⁶ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 3. Alternatively, the claimant accused the Controller of requiring the claimant break its activities down by "subcategories," which the Controller denied. Regardless of whether the Controller calls the additional information it demands "subcategories," or "specific activities or cases," this requirement is not based on the Parameters and Guidelines.

⁶⁷ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

these time sheets identify.⁶⁸ In addition, there is nothing in the Parameters and Guidelines about requiring the claimant to identify the case name, unlike another program that also requires district attorneys to involve themselves in civil proceedings, which requires that time spent on reimbursable activities “must be specifically identified to a defendant.”⁶⁹

The Controller has the ability to request amendments to the Parameters and Guidelines that would require claimants to provide case names or other specific information the Controller wants for auditing purposes. However, even if an amendment were made today to add new documentation requirements to these Parameters and Guidelines, it could not be applied retroactively to the reimbursement claims made during the audit period in this case without violating the claimant’s due process rights.⁷⁰

Accordingly, staff finds that to the extent the Controller reduced costs on the ground that the claimant’s time sheets, in their entirety, did not conform to the documentation requirements of the Parameters and Guidelines, that reduction is incorrect as a matter of law. However, the Controller also found some of the claimant’s time sheets deficient due to issues with missing employee or supervisor signatures, time sheets signed before the end of the time-studied month, time sheets with the same signature for employee and supervisor, and time sheets that were signed a month or more after the time-studied month. These deficiencies were not disputed by the claimant and are not before the Commission and, therefore, the Commission makes no findings on the issues of alleged deficiencies in individual time sheets. Thus, the issue is remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.

Furthermore, the Controller’s reduction of all costs claimed for salaries and benefits is arbitrary, capricious, and without evidentiary support. An abuse of discretion occurs when the governing agency does apply or properly interpret the governing law.⁷¹ As

⁶⁸ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII).

⁶⁹ See Commission on State Mandates, Amendment to Parameters and Guidelines, *Sexually Violent Predators*, 05-PGA-43 (CSM 4509), adopted October 30, 2009, <https://csm.ca.gov/decisions/022715.pdf> (accessed July 6, 2026), page 4 (Section IV.B.).

⁷⁰ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784, 799; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

⁷¹ *Mandeson-Saleh v. Regents of University of California* (2021) 60 Cal.App.5th 674, 693 (“An abuse of discretion occurs if an agency did not apply or properly interpret the governing law or consider all relevant factors, or if there was no rational connection

explained, the Controller did not correctly interpret the Parameters and Guidelines, thus reducing all costs claimed is arbitrary and capricious. Additionally, the arbitrary and capricious standard requires a reasonable basis for the decision.⁷² The claimant has been using the same time sheets without issue since 1994, but the Controller justified the reduction here by arguing this is the first audit of the claimant's program conducted under the 2009 amendment to the Parameters and Guidelines.⁷³ There was a prior audit in 2007, but it was based on the 1999 Parameters and Guidelines.⁷⁴ The Controller's assertion would be reasonable if the 2009 amendment made changes that related to the reason for this reduction. The 2009 amendment added the *contemporaneous* requirement for source documents; however the issue here is not whether the claimant provided contemporaneous documents, but whether those contemporaneous source documents "describe the mandated functions performed and specify the actual number of hours devoted to each function."⁷⁵ The requirements to describe the mandate functions performed and to specify the actual number of hours devoted to each function date back to the 1990 Parameters and Guidelines, the earliest version of the Parameters and Guidelines the Commission has on file.⁷⁶ Surely if these time sheets do not describe the mandated functions performed, the prior audit would have found this to be an issue as well. Thus, the explanation for why documentation that was previously acceptable is now considered noncompliant, is arbitrary and capricious.

Moreover, the Commission has previously held that an audit reduction to \$0 is arbitrary and capricious and without evidentiary support when there is reliable evidence in the record that the claimant incurred costs to comply with the mandate.⁷⁷ The Controller

between the relevant factors, the choice made, and the purposes of the enabling statute or regulation.")

⁷² *American Coatings Assn. v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 461 ("The arbitrary and capricious standard of review . . . is more deferential to agency decision-making than the substantial evidence standard. [Citation omitted.] Although both standards " 'require a *reasonable basis* for the decision' .")

⁷³ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division); Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 14.

⁷⁴ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

⁷⁵ Exhibit A, Incorrect Reduction Claim, pages 1047 (2009 Amendment to Parameters and Guidelines, Section V.), 1098 (Final Audit Report).

⁷⁶ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 17-18 (Section VII.A.1.); Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 8 (Section VII.B.1).

⁷⁷ See Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016,

“does not dispute that the Claimant performed mandated activities,” and acknowledges that “[t]he Claimant’s case files and case counts support that the Claimant performed some level of reimbursable activities.”⁷⁸ Accordingly, the Controller’s the decision to reduce the claimant’s costs to \$0 was arbitrary, capricious, and entirely lacking in evidentiary support.

C. The Controller’s Finding that Good Cause Cases Are Not Reimbursable Is Incorrect as a Matter of Law.

Finally, the Controller’s assertion that costs related to “good cause” cases under Penal Code section 278.7 are not reimbursable is incorrect as a matter of law.⁷⁹ Penal Code sections 278, 278.5 and 278.7 do not impose any mandated activities on district attorneys themselves, but help define the scope of the mandate created by Family Code sections 3130 and 3131. The Parameters and Guidelines authorize reimbursement for “obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of custody or visitation orders, and “utilizing *any appropriate civil or criminal court action* to secure compliance.”⁸⁰ The only non-reimbursable costs are those “associated with criminal prosecution, *commencing with the defendant’s first appearance* in a California court, for offenses defined in Sections 278 or 278.5 of the Penal Code, wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.”⁸¹ Furthermore, although Penal Code section 278.7 was never formally incorporated into this program’s Parameters and Guidelines, its predecessor, Penal Code section 277 was, and is still included in the caption today.⁸²

Conclusion

Based on the forgoing analysis, staff finds that:

- The audit for fiscal year 2017-2018 was untimely initiated and the claimant’s costs for that year of \$3,136,557 (consisting of \$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.
- The Controller’s finding that the claimant’s source documentation for salary and benefit costs, in its entirety, does not comply with the Parameters and Guidelines

<https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 19-21.

⁷⁸ Exhibit G, Controller’s Comments on the Draft Proposed Decision, pages 2-3.

⁷⁹ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

⁸⁰ Exhibit A, Incorrect Reduction Claim, page 1048 (2009 Amendment to Parameters and Guidelines, Section V.B.1.b.) emphasis added.

⁸¹ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.) emphasis added.

⁸² See Penal Code section 277, as amended by Statutes of 1986, chapter 1210, section 1.

is incorrect as a matter of law and the reduction of all costs claimed to \$0 is arbitrary and capricious and entirely lacking in evidentiary support. The reimbursement claims are remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.⁸³

- The Controller's finding that good cause cases are not reimbursable is incorrect as a matter of law and all costs reduced on this basis should be fully reinstated.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to approve the IRC and requests, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that all costs incorrectly reduced be reinstated to the claimant. Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

⁸³ As stated herein, the deficiencies found on individual time sheets were not disputed and not before the Commission.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM

Family Code Sections 3060 to 3064,
3130 to 3134.5, 3408, 3411, and 3421

Penal Code Sections 277, 278, and 278.5

Welfare & Institutions Code Section
11478.5

Statutes of 1976, Chapter 1399; Statutes
of 1983, Chapter 990; Statutes of 1992,
Chapter 162; and Statutes of 1996,
Chapter 988

Fiscal Years 2017-2018, 2018-2019,
2019-2020, and 2020-2021

Filed on July 25, 2025

County of Los Angeles, Claimant

Case No.: 25-4237-I-05

*Custody of Minors – Child Abduction and
Recovery Program*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted August 14, 2026)

DECISION

The Commission on State Mandates (Commission) heard and decided this Incorrect Reduction Claim (IRC) during a regularly scheduled hearing on August 14, 2026.
[Witness list will be included in the adopted Decision.]

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

The Commission [adopted/modified] the Proposed Decision to approve the IRC by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller	
Karen Greene Ross, Public Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	

Summary of the Findings

This IRC addresses reductions made by the State Controller's Office (Controller) to costs claimed by the County of Los Angeles' (claimant's) district attorney's office during fiscal years 2017-2018 through 2020-2021 (audit period) for costs incurred to implement the *Custody of Minors — Child Abduction and Recovery* (CAR) program. CAR is a state mandated program originally approved by the Board of Control in 1979, which requires district attorney's offices to "actively assist in the resolution of child custody problems including visitation disputes, the enforcement of custody decrees and of any other order of the court in a child custody proceeding. These activities include all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed child, proceeding with civil court actions, and guaranteeing the appearance of offenders and minors in court actions."⁸⁴

Reimbursement is not required for the costs associated with criminal prosecution commencing with the defendant's first appearance in a California court for the criminal offenses defined in Penal Code section 278 or 278.5, wherein the child has been returned to the person or agency with lawful custody.⁸⁵

During the audit period the claimant claimed \$10,292,232 for costs of the mandated program, consisting of \$7,436,663 in salaries and benefits direct costs and \$2,855,569 in indirect costs.⁸⁶ The Controller found all of these costs unallowable and reduced the claim to \$0, primarily because it determined that "the county did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function."⁸⁷

The Commission finds that this IRC was timely filed and approves the IRC as follows.

A. The Controller's Audit of the Fiscal Year 2017-2018 Reimbursement Claim Was Untimely Initiated Pursuant to Government Code Section 17558.5(a) and Is, Therefore, Void.

The Commission finds that the audit of the fiscal year 2017-2018 reimbursement claim was untimely initiated by the Controller, and therefore the audit for that fiscal year claim is void and the claimed costs of \$3,136,557 (consisting of \$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.

According to Government Code section 17558.5(a), the Controller has three years after the date the reimbursement claim is filed or last amended, whichever is later, to initiate an audit (referred herein as the default deadline to initiate an audit). However, if no funds are appropriated or no payment is made to a claimant for the program for the

⁸⁴ Exhibit A, Incorrect Reduction Claim, page 1046 (2009 Amendment to Parameters and Guidelines, Section II.).

⁸⁵ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.).

⁸⁶ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

⁸⁷ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

fiscal year for which the claim is filed, the time for the Controller to initiate an audit is delayed or tolled and shall commence to run from the date of initial payment of the claim (referred as the delayed or tolled deadline).

The deadlines in Government Code section 17558.5(a) impose a statute of repose, which is a period during which an audit must be initiated and after which the claimant may enjoy repose, dispose of any evidence or documentation to support their claims, and assert a defense that the audit is not timely and therefore void.⁸⁸ Because the structure and purpose of the statute suggests that it is mandatory, an audit not initiated within the correct timeframe must be held void.⁸⁹

The Controller contends that the deadline to initiate the audit was delayed in this case and tolled from the date of payment, alleging that no funds were appropriated and no payment was made *when* the fiscal year 2017-2018 claim was filed.⁹⁰ The Controller's contention is not supported by the law or evidence in the record.

In this case, the claimant filed its fiscal year 2017-2018 reimbursement claim on February 1, 2019.⁹¹ The Legislature appropriated \$12,730,000 towards payment of mandate claims for costs incurred in fiscal year 2017-2018 for the *Custody of Minors — Child Abduction and Recovery* program in the Budget Act of 2019, which became effective immediately upon its adoption on June 27, 2019.⁹² The Controller then issued

⁸⁸ *Giest v. Sequoia Ventures, Inc.* (2000) 83 Cal.App.4th 300, 305.

⁸⁹ *People v. McGee* (1977) 19 Cal.3d 948, 962, citing *Morris v. County of Marin* (1977) 18 Cal.3d 901, 909-910 (when a deadline is for the protection of a person or class of persons, and the language of the statute as a whole indicates the Legislature's intent to enforce the deadline, the deadline is mandatory.)

⁹⁰ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 11. Alternatively, the claimant suggests the Controller has replaced "for" for "in" in its reading of Government Code section 17558.5(a), so it reads "if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed." (emphasis added by claimant). This would have the same effect of requiring the appropriation occur before the claim is filed.

⁹¹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 117 (Claimant's Fiscal Year 2017-2018 Reimbursement Claim Form).

⁹² See Statutes of 2019, Chapter 23, section 2, Item 8885-295-0001, Schedule 1(e). Note there is a small error in this Budget Act, as it says the appropriation is for mandated program costs incurred through fiscal year 2016-2017, not fiscal year 2017-2018. This appears to be a case of the Legislature copying from the previous year's Budget Act during drafting and forgetting to update the year, as the Budget Act of 2018 also reimbursed costs for this mandated program for fiscal year 2016-2017 (See Statutes of 2018, Chapter 29, section 2, Item 8885-295-0001), and the Budget Act of 2020 moved on to reimbursement for fiscal year 2018-2019 (See Statutes of 2020, Chapter 6, section 2, Item 8885-295-0001). Regardless, this error does not mean the Budget Act of 2019 did not appropriate funds for costs incurred by this program in fiscal year 2017-2018, as the Controller acknowledged this was an appropriation for costs

a payment to reimburse the claimant for the costs claimed in the fiscal year 2017-2018 reimbursement claim on August 15, 2019.⁹³ The Controller initiated an audit of the claimant's reimbursement claims for fiscal years 2017-2018 through 2020-2021 on August 5, 2022.⁹⁴ This date is more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim, making the audit for that reimbursement claim untimely pursuant to the plain language of Government Code section 17558(a).

The Controller, however, seems to have read into the statute a requirement that for the tolling of the time to initiate an audit to apply, the Legislature must not have appropriated funds to reimburse claimants for their costs incurred in the fiscal year being claimed *at the time the claimant files their reimbursement claim*.⁹⁵ This interpretation reads language into the statute that is not there, which violates the rules of statutory construction.⁹⁶ According to the plain language of the statute, the alternative language that tolls or delays the deadline to initiate an audit only applies "if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed." Nothing says that this must occur before the claim is filed. And, here, it is undisputed that an appropriation was made for this program for fiscal year 2017-2018 costs on June 27, 2019, and payment was made on August 15, 2019.

In addition, the plain language of section 17558.5(a) makes sense when read in light of the Legislature's constitutional obligation to reimburse mandated programs and the statutory process in place for how appropriations are made for annually reimbursed mandated programs. As explained herein, funds are appropriated under the California Constitution and the Government Code for the *preceding* fiscal year (i.e., *after* the annual claims are filed).

Article XIII B, section 6(b)(1) of the California Constitution says "Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a

incurred through the 2017-2018 fiscal year in the Mandated Cost Manual for 2018-2019 (Exhibit H (5), Mandated Cost Manual for Local Agencies, September 1, 2019, page 5).

⁹³ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 146 (Division of Accounting and Reporting, Bureau of Local Reimbursements, Payments for a Claim).

⁹⁴ Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

⁹⁵ Alternatively, the claimant suggests the Controller has replaced "for" for "in" in its reading of Government Code section 17558.5(a), so it reads "if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed." (emphasis added by claimant). This would have the same effect of requiring the appropriation occur before the claim is filed.

⁹⁶ *Nevarrez v. San Marino Skilled Nursing and Wellness Centre, LLC* (2013) 221 Cal.App.4th 102, 130 ("...in construing a statute, we are not permitted to 'insert qualifying provisions not included' in the statute, nor edit it 'to conform to an assumed intention which does not appear from its language.' [Citation]").

mandate for which the costs of a local government claimant have been determined *in a preceding fiscal year* to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.”⁹⁷

For the purposes of determining the state’s payment obligation under paragraph (1) of subdivision (b) of section 6 of article XIII B of the Constitution, a mandate that is “determined in a preceding fiscal year to be payable by the state” means “any mandate for which the commission adopted a statewide cost estimate pursuant to this part during a previous fiscal year or that were identified as mandates by a predecessor agency to the commission,” which therefore includes the mandated programs approved by the Board of Control.⁹⁸ Annual reimbursement claims for a state-mandated program may be filed by February 15 *following the fiscal year in which costs are incurred*.⁹⁹ The Government Code then requires the State Controller’s Office “to submit by April 30 of each year a report to the Joint Legislative Budget Committee, the applicable fiscal committees, and the Director of Finance summarizing the total amount of unpaid claims submitted *before April 1 of that year*, and summarize any mandate deficiencies or surpluses, “for the purpose of determining the state’s payment obligation under paragraph (1) of subdivision (b) of Section 6 of Article XIII B of the California Constitution.”¹⁰⁰ The Controller’s report of “unpaid claims submitted before April 1 of that year” would include annual reimbursement claims filed “by February 15 *following the fiscal year* in which costs are incurred.”¹⁰¹ The Legislative Analyst is then required to report total annual state costs for mandated programs and, as appropriate, provide an analysis of specific mandates and make recommendations on whether the mandate should be repealed, funded, suspended, or modified.¹⁰² If the Legislature appropriates funds to reimburse a program’s costs for the preceding fiscal year, the Controller shall reimburse any eligible claimant by either October 15 or 60 days after the appropriation was made, whichever is later.¹⁰³

⁹⁷ Emphasis added.

⁹⁸ Government Code section 17561(e)(1).

⁹⁹ Government Code section 17560(a). Government Code section 17568 allows the Controller to penalize late filed annual reimbursement claims with a ten percent reduction, not to exceed \$10,000, and explicitly prohibits reimbursement for any claim filed more than a year after the deadline.

¹⁰⁰ Government Code section 17562(b)(2), emphasis added. A collection of these reports and their corresponding cover letters dating back to 2020 is located on the Controller’s website at https://sco.ca.gov/ard_mancost_deficiency.html (accessed February 25, 2026).

¹⁰¹ Government Code section 17560(a), emphasis added.

¹⁰² Government Code section 17562(d).

¹⁰³ Government Code section 17561(d).

Thus, a claimant is required to file its annual reimbursement claim for costs incurred in fiscal year 2017-2018 by February 15, 2019; these costs would then be included in the Controller's 2019 report filed with the Legislature by April 30, 2019; the Legislature either suspends the program making the mandate inoperative for that fiscal year, or appropriates funds for costs incurred by the program in fiscal year 2017-2018 in the Budget Act of 2019, which sets the state's budget for fiscal year 2019-2020; and then the Controller makes a payment to the claimant by October 15, 2019 or within 60 days of the Budget Act taking effect, whichever is later.

Therefore, the Controller had three years from the date the 2017-2018 reimbursement claim was filed on February 1, 2019, or until February 1, 2022, to initiate the audit. Since the Controller initiated the audit of the claimant's reimbursement claim for fiscal year 2017-2018 on August 5, 2022,¹⁰⁴ more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim, the audit for that reimbursement claim is untimely and void.

B. The Controller's Finding That the Claimant's Source Documentation for Salary and Benefit Costs, in its Entirety, Does Not Comply with the Parameters and Guidelines Is Incorrect as a Matter of Law and the Reduction of All Costs Claimed to \$0 Is Arbitrary and Capricious and Entirely Lacking in Evidentiary Support.

The Commission finds that the Controller's reduction of salary and benefit costs on the ground that the claimant's source documentation, in its entirety, does not comply with the Parameters and Guidelines, is incorrect as a matter of law and its reduction to \$0 is arbitrary, capricious, and entirely lacking in evidentiary support.

Although the Controller has authority to audit the records to verify the actual amount of mandated costs, the Controller's Office is required to comply with the regulatory requirements of the Parameters and Guidelines when auditing a claimant, and the interpretation of parameters and guidelines is a question of law.¹⁰⁵

Government Code section 17564(b) provides that "[c]laims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines . . . and claiming instructions." Government Code section 17571 requires the claiming instructions to conform to the parameters and guidelines. And section 1183.7 of the Commission's regulations requires the parameters and guidelines to include "instruction[s] on claim preparation, including instructions for direct and indirect cost reporting for actual costs incurred." The courts have been clear that the parameters and guidelines are regulatory in nature and are binding on the parties, and as the court in *Clovis Unified School Dist.* determined, this includes the documentation requirements for salaries and benefits stated in the parameters and

¹⁰⁴ Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

¹⁰⁵ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 798 ("Because the issues raised in this appeal are almost entirely legal ones subject to our independent review."); *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Bates v. Poway Unified School Dist.* (2022) 83 Cal.App.5th 907, 920.

guidelines.¹⁰⁶ The interpretation of parameters and guidelines, just like any other regulation, is a question of law.¹⁰⁷

The Parameters and Guidelines at issue here require a claimant to have source documents to support a claim for salaries and benefits that satisfy the following requirements:

- The documents must be contemporaneous source documentation showing “the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.” “Contemporaneous” means that the documents “are created at or near the same time the actual cost was incurred for the event or activity in question.” Contemporaneous source documents may include “employee time records or time logs.”¹⁰⁸
- Salaries and benefits costs must be identifiable to each reimbursable activity in Section V. of the Parameters and Guidelines.¹⁰⁹
- The claim shall identify the employee, show the classification of the employee involved, describe the mandated functions (i.e., the reimbursable activities) performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits.¹¹⁰

¹⁰⁶ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 799, (“Once the Commission determines that a state mandate exists, it adopts regulatory “[P]arameters and [G]uidelines” (P & G’s) to govern the state-mandated reimbursement. (§ 17557.) The Controller, in turn, then issues nonregulatory “[C]laiming [I]nstructions” for each Commission-determined mandate; these instructions must derive from the Commission’s test claim decision and its adopted P & G’s.”). See also, *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 809, footnote 5, where the court proceeded to apply the documentation requirements stated in the parameters and guidelines to several school district program audits conducted between 1998 and 2003, rejecting the Controller’s contemporaneous source document rule, which was not required by the parameters and guidelines for the audit period.

¹⁰⁷ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 798 (“Because the issues raised in this appeal are almost entirely legal ones subject to our independent review.”); *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Bates v. Poway Unified School Dist.* (2022) 83 Cal.App.5th 907, 920.

¹⁰⁸ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

¹⁰⁹ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

¹¹⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

The claimant supported its claimed costs by providing time sheets, in which employees reported their time daily and the employee and their supervisor signed and dated the time sheets at the end of the month, certifying them to be true and accurate to the best of their knowledge.¹¹¹ These are contemporaneous source documents, exactly the sort contemplated by the Parameters and Guidelines as reliable source documents.

The Controller has not presented any arguments or evidence disputing that these are contemporaneous source documents, but rather claims they do not provide all information required by the Parameters and Guidelines because they do not describe the “mandated functions” performed or the actual number of hours devoted to each function. This is incorrect; when read with the instructions on the back of the time sheet which identify the reimbursable activities and the activities which are not eligible for reimbursement, the time sheets do provide a description of the mandated functions.

The claimant’s time sheets sort claimants’ time into four categories of reimbursable activities: “3130-3133,” “3408(c) & 3408(d),” “3411(a) & 3421(c),” and “277, 278 & 278.5;” two categories of non-reimbursable activities: “277/278/278.5 Non-Claimable” and “Other — Non-Claimable (Briefly Explain Below);” and a category for reporting when the employee used vacation or sick leave.¹¹² The time sheet then describes what activities belong in each category in the instructions on the back of the time sheet, using descriptions such as “Activity...involving enforcement of custody orders;” “Activities...involving out-of-state decrees and any related court activity;” “Activities performed...securing the appearance of an offender personally before the court;” “Activities performed...in the return of an illegally concealed child or minor to its legal guardian;” and “All non-claimable custody of minor activities.”¹¹³

The statutes that imposed the state-mandated activities that created this program are located in Family Code sections 3130 and 3131. Family Code section 3130 requires that when a petition to determine custody of a child has been filed or when there is a temporary order pending determination of custody, and the whereabouts of the party in possession of the child are not known or there is reason to believe the party may not appear in the proceedings despite being ordered to appear personally with the child, “the district attorney shall *take all actions necessary to locate the party and the child* and to *procure compliance with the order to appear with the child* for purposes of adjudication of custody.”¹¹⁴ Similarly, Family Code section 3131 requires that when there is a custody or visitation order in place and the child is taken or detained by another person in violation of that order, “the district attorney shall *take all actions necessary to locate and return the child* and the person who violated the order and to *assist in the enforcement of the custody or visitation order or other order of the court* by

¹¹¹ Exhibit A, Incorrect Reduction Claim, pages 54-615 (Claimant’s Fiscal Year 2017-2018 through 2020-2021 Time Sheets).

¹¹² Exhibit A, Incorrect Reduction Claim, page 48 (Custody of Minor Time Study Sheet).

¹¹³ Exhibit A, Incorrect Reduction Claim, page 49 (Custody of Minor Time Study Sheet).

¹¹⁴ Family Code section 3130, emphasis added.

use of an appropriate civil or criminal proceeding.”¹¹⁵ The Parameters and Guidelines therefore define the scope of the mandate as authorizing reimbursement for “all actions necessary” to locate and return a child and for complying with a court order relating to child custody or visitation, as follows:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney *actively assist in the resolution of child custody and visitation problems*; for the *enforcement of custody and visitation orders*; for *all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for *complying with other court orders relating to child custody or visitation*, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.¹¹⁶

The Parameters and Guidelines then define the reimbursable activities for this program using the following four categories:

- (1) Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders; [...]
- (2) Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act, (Family Code sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session); [...]
- (3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren); [and ...]
- (4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.¹¹⁷

These are the same categories the claimant used for its description of which mandated activities should be reported under each section in the claimant’s time sheets. The

¹¹⁵ Family Code section 3131, emphasis added.

¹¹⁶ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.A.), emphasis added.

¹¹⁷ Exhibit A, Incorrect Reduction Claim, pages 1048-1049 (2009 Amendment to Parameters and Guidelines, Sections V.B.1., V.B.2., V.B.2.b.(3)., and V.B.2.b.(4).). Note that categories (3) and (4) are presented as subcategories to category (2). On June 12, 2026, the Commission approved a PGA that moved these two subcategories to their own categories to correct what the Controller described as a “clerical error.” See *Custody of Minors-Child Abduction and Recovery*, 25-PGA-01 (CSM-4237) <https://csm.ca.gov/matters/CSM-4237.shtml> (accessed February 27, 2026).

section titles are references to Family or Penal Code sections that are identified in the program caption and which help define the scope of the mandate. Therefore, contrary to the Controller's interpretation, the claimant's time sheets, which are contemporaneous, describe the specific mandated functions performed using the categories of reimbursable activities in the Parameters and Guidelines and claiming form provided by the Controller's Office for this mandated program, and identify the actual hours spent on the program. Time spent on mandated activities is reported under one of the four categories, and time spent on non-claimable activities is properly segregated into separate categories. Thus, the timesheets comply with the documentation requirements in the Parameters and Guidelines.

In response to the Draft Proposed Decision, the Controller's Office argues that the time sheets do not include a description of the *specific activities or cases* the employee worked on, and thus it was unable to test the validity of the time recorded.¹¹⁸ This argument focuses on the word "specific" from the definition of "direct costs" (i.e., direct costs are "costs that can be traced to specific...services, units, programs, activities or functions").¹¹⁹ This definition does not describe the documentation requirements when filing a reimbursement claim for salaries and benefits; it just defines direct costs. In addition, the Parameters and Guidelines do not require claimants to specifically itemize or identify each act performed to assist in the resolution of custody or visitation issues. The Parameters and Guidelines only require that the costs be identifiable "to each *reimbursable activity identified in Section V*" of the Parameters and Guidelines, which these time sheets identify.¹²⁰ In addition, there is nothing in the Parameters and Guidelines about requiring the claimant to identify the case name, unlike another program that also requires district attorneys to involve themselves in civil proceedings, which requires that time spent on reimbursable activities "must be specifically identified to a defendant."¹²¹

The Controller has the ability to request amendments to the Parameters and Guidelines that would require claimants to provide case names or other specific information the Controller wants for auditing purposes. However, even if an amendment were made today to add new documentation requirements to these Parameters and Guidelines, it

¹¹⁸ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 3. Alternatively, the claimant accused the Controller of requiring the claimant break its activities down by "subcategories," which the Controller denied. Regardless of whether the Controller calls the additional information it demands "subcategories," or "specific activities or cases," this requirement is not based on the Parameters and Guidelines.

¹¹⁹ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

¹²⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

¹²¹ See Commission on State Mandates, *Amendment to Parameters and Guidelines, Sexually Violent Predators*, 05-PGA-43 (CSM 4509), adopted October 30, 2009, <https://csm.ca.gov/decisions/022715.pdf> (accessed July 6, 2026), page 4 (Section IV.B.).

could not be applied retroactively to the reimbursement claims made during the audit period in this case without violating the claimant's due process rights.¹²²

Accordingly, the Commission finds that to the extent the Controller reduced costs on the ground that the claimant's time sheets, in their entirety, did not conform to the documentation requirements of the Parameters and Guidelines, that reduction is incorrect as a matter of law. However, the Controller also found some of the claimant's time sheets deficient due to issues with missing employee or supervisor signatures, time sheets signed before the end of the time-studied month, time sheets with the same signature for employee and supervisor, and time sheets that were signed a month or more after the time-studied month. These deficiencies were not disputed by the claimant and are not before the Commission and, therefore, the Commission makes no findings on the issues of alleged deficiencies in individual time sheets. Thus, the issue is remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.

Furthermore, the Controller's reduction of all costs claimed for salaries and benefits is arbitrary, capricious, and without evidentiary support. An abuse of discretion occurs when the governing agency does apply or properly interpret the governing law.¹²³ As explained, the Controller did not correctly interpret the Parameters and Guidelines, thus reducing all costs claimed is arbitrary and capricious. Additionally, the arbitrary and capricious standard requires a reasonable basis for the decision.¹²⁴ The claimant has been using the same time sheets without issue since 1994, but the Controller justified the reduction here by arguing this is the first audit of the claimant's program conducted under the 2009 amendment to the Parameters and Guidelines.¹²⁵ There was a prior

¹²² *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784, 799; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

¹²³ *Mandeson-Saleh v. Regents of University of California* (2021) 60 Cal.App.5th 674, 693 ("An abuse of discretion occurs if an agency did not apply or properly interpret the governing law or consider all relevant factors, or if there was no rational connection between the relevant factors, the choice made, and the purposes of the enabling statute or regulation.")

¹²⁴ *American Coatings Assn. v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 461 ("The arbitrary and capricious standard of review . . . is more deferential to agency decision-making than the substantial evidence standard. [Citation omitted.] Although both standards " 'require a *reasonable basis* for the decision' .")

¹²⁵ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division); Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 14.

audit in 2007, but it was based on the 1999 Parameters and Guidelines.¹²⁶ The Controller's assertion would be reasonable if the 2009 amendment made changes that related to the reason for this reduction. The 2009 amendment added the *contemporaneous* requirement for source documents; however the issue here is not whether the claimant provided contemporaneous documents, but whether those contemporaneous source documents "describe the mandated functions performed and specify the actual number of hours devoted to each function."¹²⁷ The requirements to describe the mandate functions performed and to specify the actual number of hours devoted to each function date back to the 1990 Parameters and Guidelines, the earliest version of the Parameters and Guidelines the Commission has on file.¹²⁸ Surely if these time sheets do not describe the mandated functions performed, the prior audit would have found this to be an issue as well. Thus, the explanation for why documentation that was previously acceptable is now considered noncompliant, is arbitrary and capricious.

Moreover, the Commission has previously held that an audit reduction to \$0 is arbitrary and capricious and without evidentiary support when there is reliable evidence in the record that the claimant incurred costs to comply with the mandate.¹²⁹ The Controller "does not dispute that the Claimant performed mandated activities," and acknowledges that "[t]he Claimant's case files and case counts support that the Claimant performed some level of reimbursable activities."¹³⁰ Accordingly, the Controller's the decision to reduce the claimant's costs to \$0 was arbitrary, capricious, and entirely lacking in evidentiary support.

C. The Controller's Finding that Good Cause Cases Are Not Reimbursable Is Incorrect as a Matter of Law.

Finally, the Controller's assertion that costs related to "good cause" cases under Penal Code section 278.7 are not reimbursable is incorrect as a matter of law.¹³¹ Penal Code sections 278, 278.5 and 278.7 do not impose any mandated activities on district attorneys themselves, but help define the scope of the mandate created by Family Code sections 3130 and 3131. The Parameters and Guidelines authorize reimbursement for

¹²⁶ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

¹²⁷ Exhibit A, Incorrect Reduction Claim, pages 1047 (2009 Amendment to Parameters and Guidelines, Section V.), 1098 (Final Audit Report).

¹²⁸ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 17-18 (Section VII.A.1.); Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 8 (Section VII.B.1).

¹²⁹ See Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 19-21.

¹³⁰ Exhibit G, Controller's Comments on the Draft Proposed Decision, pages 2-3.

¹³¹ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

“obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of custody or visitation orders, and “utilizing *any appropriate civil or criminal court action* to secure compliance.”¹³² The only non-reimbursable costs are those “associated with criminal prosecution, *commencing with the defendant's first appearance* in a California court, for offenses defined in Sections 278 or 278.5 of the Penal Code, wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.”¹³³ Furthermore, although Penal Code section 278.7 was never formally incorporated into this program’s Parameters and Guidelines, its predecessor, Penal Code section 277 was, and is still included in the caption today.¹³⁴

Based on this analysis, the Commission approves this IRC and concludes as follows:

- The audit for fiscal year 2017-2018 was untimely initiated and the claimant’s costs for that year of \$3,136,557 (consisting of \$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.
- The Controller’s finding that the claimant’s source documentation for salary and benefit costs, in its entirety, does not comply with the Parameters and Guidelines is incorrect as a matter of law and the reduction of all costs claimed to \$0 is arbitrary and capricious and entirely lacking in evidentiary support. The reimbursement claims are remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.¹³⁵
- The Controller’s finding that good cause cases are not reimbursable is incorrect as a matter of law and all costs reduced on this basis should be fully reinstated.

Accordingly, the Commission requests, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission’s regulations, that all costs incorrectly reduced be reinstated to the claimant.

COMMISSION FINDINGS

¹³² Exhibit A, Incorrect Reduction Claim, page 1048 (2009 Amendment to Parameters and Guidelines, Section V.B.1.b.) emphasis added.

¹³³ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.) emphasis added.

¹³⁴ See Penal Code section 277, as amended by Statutes of 1986, chapter 1210, section 1.

¹³⁵ As stated herein, the deficiencies found on individual time sheets were not disputed and not before the Commission.

I. Chronology

02/01/2019	The claimant filed its fiscal year 2017-2018 reimbursement claim. ¹³⁶
02/10/2020	The claimant filed its fiscal year 2018-2019 reimbursement claim. ¹³⁷
02/16/2021	The claimant filed its fiscal year 2019-2020 reimbursement claim. ¹³⁸
02/15/2022	The claimant filed its fiscal year 2020-2021 reimbursement claim. ¹³⁹
08/05/2022	The Controller initiated the audit. ¹⁴⁰
06/28/2023	The Controller issued the Draft Audit Report. ¹⁴¹

¹³⁶ There's a slight disagreement regarding when this claim was filed, as the claimant said in its response to the draft audit report it was filed on January 25, 2019, then in the IRC said it was January 31, 2019 (Exhibit A, Incorrect Reduction Claim, pages 38 (Declaration of Rachelle Anema, Assistant Audit-Controller) and 1118 (Final Audit Report)). According to the Controller's copy of the claimant's reimbursement claim form, it was filed on February 1, 2019 (Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 117 (Claimant's Reimbursement Claim Form, Fiscal Year 2017-2018)). As the January 25 date is based on when the claimant's authorized representative signed the reimbursement claim form, not when it was submitted, and the January 31 date is supported by a signed declaration but does not provide the records that are the basis of this knowledge, we will rely on the date in the Controller's records of February 1, 2019.

¹³⁷ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 122 (Claimant's Reimbursement Claim Form, Fiscal Year 2018-2019).

¹³⁸ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 127 (Claimant's Reimbursement Claim Form, Fiscal Year 2019-2020).

¹³⁹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 132 (Claimant's Reimbursement Claim Form, Fiscal Year 2020-2021).

¹⁴⁰ Exhibit A, Incorrect Reduction Claim Incorrect Reduction Claim, page 41 (Letter from Ken Howell, Audit Manager, dated August 5, 2022). There is also evidence of the Controller contacting the claimant earlier on July 26, 2022, to inform the claimant of the audit and schedule an entrance conference (see Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 150 (Email from Alexandra Bonezzi, Auditor, dated July 26, 2022)), however August 5, 2022 is when the Controller sent a letter formally initiating the audit, so we will rely on that date.

¹⁴¹ Exhibit A, Incorrect Reduction Claim, page 1095 (Final Audit Report).

07/27/2023	The claimant filed comments on the Draft Audit Report. ¹⁴²
05/02/2024	The Controller issued the Final Audit Report. ¹⁴³
07/25/2025	The claimant filed the IRC. ¹⁴⁴
12/09/2025	The Controller filed comments on the IRC. ¹⁴⁵
01/08/2026	The claimant filed rebuttal comments. ¹⁴⁶
04/23/2026	Commission staff issued the Draft Proposed Decision. ¹⁴⁷
05/13/2026	The County of Riverside filed comments on the Draft Proposed Decision. ¹⁴⁸
05/14/2026	The claimant filed comments on the Draft Proposed Decision. ¹⁴⁹
05/22/2026	The Controller filed comments on the Draft Proposed Decision. ¹⁵⁰

II. Background

A. The Test Claim Statute

In 1979, the Board of Control found Statutes of 1976, chapter 1399, to impose a reimbursable state mandate on county district attorney offices to assist in the resolution of child custody problems, and the enforcement of custody decrees and other orders of the court in a child custody proceeding. The Board of Control found that the mandated activities include “all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed child, proceedings with civil court actions, and guaranteeing the appearance of offenders and minors in court actions.”¹⁵¹

Specifically, the 1976 statute added sections 4600.1 and 4604 to and amended sections 5157, 5160, and 5169 of the Civil Code, added section 278 and 278.5 to the Penal Code, and amended sections 11478 and 11478.5 of the Welfare and Institutions Code,

¹⁴² Exhibit A, Incorrect Reduction Claim, page 1095 (Final Audit Report).

¹⁴³ Exhibit A, Incorrect Reduction Claim, page 1090 (Final Audit Report).

¹⁴⁴ Exhibit A, Incorrect Reduction Claim, page 1.

¹⁴⁵ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 1.

¹⁴⁶ Exhibit C, Claimant’s Rebuttal Comments, page 1.

¹⁴⁷ Exhibit D, Draft Proposed Decision.

¹⁴⁸ Exhibit E, County of Riverside’s Comments on the Draft Proposed Decision.

¹⁴⁹ Exhibit F, Claimant’s Comments on the Draft Proposed Decision.

¹⁵⁰ Exhibit G, Controller’s Comments on the Draft Proposed Decision.

¹⁵¹ Exhibit A, Incorrect Reduction Claim, page 1046 (2009 Amendment to Parameters and Guidelines, Section II.).

which required county district attorney offices to become involved in child custody matters.¹⁵² “Where previously parents or others interested in the custody status of minors pursued their interests in court with no assistance from law enforcement agencies, due to this statute counties are required to actively assist in the resolution of custody problems and the enforcement of custody decrees.”¹⁵³

Civil Code section 4604 required that when there is a petition to determine custody of a child filed with the courts or a temporary custody order pending a determination of custody, and either the location of the party with possession of the child is not known or there is a reason to believe that party will defy court orders to appear in the proceedings with the child personally, the district attorney “shall take all actions necessary to locate such party and the child and to procure compliance with the order to appear with the child for the purposes of adjudication of custody.”¹⁵⁴ It also said that after a custody decree has been entered, when a child is taken, enticed away, detained, or concealed in violation of that decree, the district attorney shall take all actions necessary to locate the person who violated the decree and the child and to assist in enforcing the custody order or decree.¹⁵⁵ Welfare and Institutions Code section 11478 also required all state, county, and local agencies to cooperate in the location of parents who have abandoned, deserted, or abducted children.¹⁵⁶

To facilitate this, several tools were provided to the courts and enforcement agencies in this legislation, including changes in the procedures for filing petitions to determine custody and enforce visitation rights, increased authorization to issue warrants of arrest to ensure compliance, and increased access to locator and other information maintained by county and State departments.

Penal Code section 278 established a crime when a defendant that does not have a right to custody of a child, acts with malicious intent to detain or conceal the child from their parent, guardian, or other person with lawful charge of the child, as follows:

Every person, not having a right to custody, who maliciously takes, entices away, detains, or conceals any minor child with intent to detain or conceal such child from a parent, or guardian, or other person having lawful charge to such child shall be punished by imprisonment in the state prison for two, three, or four years, a fine of not more than ten thousand dollars (\$10,000) or both, or imprisonment in a county jail for a period of not more

¹⁵² Statutes 1976, chapter 1399.

¹⁵³ Exhibit A, Incorrect Reduction Claim, page 1024 (2009 Amendment to Parameters & Guidelines, Section I.).

¹⁵⁴ Civil Code section 4604(a), as added by Statutes 1976, chapter 1399, section 3.

¹⁵⁵ Civil Code section 4604(b), as added by Statutes 1976, chapter 1399, section 3.

¹⁵⁶ Welfare and Institutions Code section 11478, as amended by Statutes 1976, chapter 399, section 15.

than one year, a fine of not more than one thousand dollars (\$1,000), or both.¹⁵⁷

Penal Code section 278.5 established a crime when the defendant takes, retains after the end of a visitation period, or conceals the child from their legal custodian in violation of a custody decree, or if the defendant has custody of the child pursuant to a court order and detains or conceals the child with intent to deprive another person of their right to custody or visitation in violation of a court order, as follows:

Every person who in violation of a custody decree takes, retains after the expiration of a visitation period, or conceals the child from his legal custodian, and every person who has custody of a child pursuant to an order, judgment or decree of any court which grants another person rights to custody or visitation of such child, and who detains or conceals such child with the intent to deprive the other person of such right to custody or visitation shall be punished by imprisonment in state prison for a period of not more than one year and one day or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.¹⁵⁸

The 1976 statute also

- Added Civil Code section 4600.1 (allowing parties in a dissolution of marriage proceeding to petition the court for a temporary custody order of any minor children);
- Added Civil Code section 4605 (authorizing the state to reimburse district attorney expenses incurred pursuant to Civil Code section 4604 to take all actions necessary to locate the party that has the child and the child and to procure compliance with the order to appear or to enforce a custody order), and for courts to allocate liability for reimbursement of district attorneys' actual expenses to either or both parties);
- Amended Civil Code section 5157 (prohibiting courts from exercising jurisdiction to modify a custody decree when the petitioner has violated the custody decree of another state, and requiring courts to notify the other party and the prosecuting attorney in the other state, and to issue orders to appear in a custody proceeding in the other state or place the child in foster care pending return to the rightful custodian);
- Amended Civil Code section 5160 (granting courts authority to order a party in a custody proceeding to appear personally with the child, and to issue an arrest warrant against the party if they do not comply);

¹⁵⁷ Penal Code section 278(a), as added by Statutes 1976, chapter 1399, section 10.5.

¹⁵⁸ Penal Code section 278.5(a), as added by Statutes 1976, chapter 1399, section 11.

- Amended Civil Code section 5169 (authorizing courts competent to hear custody matters in this state to order a person in this state to appear at a hearing or produce evidence upon the request of the court of another state); and
- Amended Welfare and Institutions Code section 11478.5 (directing the Attorney General to use its parent locator service to locate parents who deserted or abandoned their children to enforce their liability for child support and to locate and return abducted children and their parents).¹⁵⁹

In 1983, the Legislature amended Civil Code section 4604(b) to clarify it to also require district attorneys to enforce visitation orders.¹⁶⁰

In 1984, the Legislature added what is now former Penal Code section 277.¹⁶¹ Unlike former Penal Code section 278, which applied to defendants who had no right to custody of a child, and former Penal Code section 278.5, which applied when the defendant had a right to custody or visitation pursuant to a court order, former Penal Code section 277 applied when there was no court order determining custody or visitation rights. Under the circumstances when no court order determining custody exists, a crime is established if the defendant intentionally deprives another person of their right to custody, and maliciously takes, detains, conceals, or entices away the child, *without good cause*, as follows:

In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars (\$1,000), or both, or by imprisonment in the state prison for a period of one year and one day, a fine of five thousand dollars (\$5,000), or both.

A subsequently obtained court order for custody or visitation shall not affect the application of this section.

For the purposes of this section, "a person having a right of custody" means the legal guardian of the child or a person who has a parent and child relationship with the child pursuant to Section 197 of the Civil Code.¹⁶²

In 1986 the Legislature amended Penal Code section 277 by urgency statute to clarify "good cause" as used here to mean "a good faith belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from

¹⁵⁹ See Statutes 1976, chapter 1399, sections 2, 4, 5, 6, 7, 13, and 16.

¹⁶⁰ Civil Code section 4604(b), as amended by Statutes 1983, chapter 990, section 1.

¹⁶¹ Statutes of 1984, chapter 1207, section 1.

¹⁶² Penal Code section 277, as added by Statutes of 1984, chapter 1207, section 1.

immediate bodily injury or emotional harm.”¹⁶³ Thus, “good cause” for taking the child means that no crime exists.

In 1992, the Legislature repealed significant portions of the Civil Code, Code of Civil Procedure, Evidence Code, and Probate Code and moved their contents to the newly enacted Family Code.¹⁶⁴ Specifically, the court’s ability to issue temporary custody orders during a petition to determine custody in former Civil Code section 4600.1 was moved to and expanded on in Family Code sections 3060, 3061, 3062, 3063, and 3064.¹⁶⁵ Former Civil Code sections 4604(a), (b) and (c) were broken up into Family Code sections 3130, 3131, and 3132, respectively, without significant change to their contents. Former Civil Code section 4605 became Family Code section 3134, and Family Code section 3133 granted district attorneys the ability to request the court grant a temporary custody order if an order is needed to recover a child that is being detained or concealed in violation of a court order or a parent’s right to custody.¹⁶⁶ Former Civil Code sections 5157, 5160, and 5169 became Family Code sections 3408, 3411, 3421, respectively, without significant changes to their contents.¹⁶⁷

In 1996, the Legislature repealed and added back in all of Chapter 4 (commencing with Section 277), of the Penal Code, but renumbered some provisions.¹⁶⁸ Penal Code section 277 now provides statutory definitions for terms used in the chapter such as “right to custody” and “visitation.”¹⁶⁹ Penal Code section 278 was mostly unchanged from former section 278, and says:

Every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.¹⁷⁰

¹⁶³ Penal Code section 277, as amended by Statutes of 1986, chapter 1210, section 1.

¹⁶⁴ See Statutes of 1992, chapter 162.

¹⁶⁵ Statutes of 1992, chapter 162, section 10.

¹⁶⁶ Statutes of 1992, chapter 162, section 10.

¹⁶⁷ See Statutes of 1992, chapter 162, section 10.

¹⁶⁸ See Statutes of 1996, chapter 988, section 9.

¹⁶⁹ Penal Code section 277, as added by Statutes of 1996, chapter 988, section 9.

¹⁷⁰ Penal Code section 278, as added by Statutes of 1996, chapter 988, section 9. The current version received one last amendment since then with Statutes of 2011, chapter 15, section 313, which noted the punishment of imprisonment in state prison was pursuant to subdivision (h) of Section 1170.

The changes made to Penal Code section 278.5 however combine elements of both former Penal Code sections 277 and 278.5, as it applies regardless of whether there is a court order regarding custody or visitation rights, but no longer specifies the taking of the child must be without good cause. Section 278.5 states:

- (a) Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be punished by imprisonment in county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state prison for 16 months, or two or three years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.
- (b) Nothing contained in this section limits the court's contempt power.
- (c) A custody order obtained after the taking, enticing away, keeping, withholding, or concealing of a child does not constitute a defense to a crime charged under this section.¹⁷¹

The Legislature also added Penal Code section 278.7, which now states that Penal Code section 278.5 does not apply and a crime may not be established if a person with a right to custody of the child has a good faith and reasonable belief the child will suffer immediate bodily injury or emotional harm if left with the other person and thereafter reports to the district attorney's office with their name, address and telephone number, and the reason for his or her actions; commences a custody proceeding; and informs the district attorney's office of any change of address or telephone number of the defendant and the child. Penal Code section 278.7 says:

- (a) Section 278.5 does not apply to a person with a right to custody of a child who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child.
- (b) Section 278.5 does not apply to a person with a right to custody of a child who has been a victim of domestic violence who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child. "Emotional harm" includes having a parent who has committed domestic violence against the parent who is taking, enticing away, keeping, withholding, or concealing the child.

¹⁷¹ Penal Code section 278.5, as added by Statutes of 1996, chapter 988, section 9. The current version received one last amendment since then with Statutes of 2011, chapter 15, section 314, which noted the punishment of imprisonment in state prison was pursuant to subdivision (h) of Section 1170.

- (c) The person who takes, entices away, keeps, withholds, or conceals a child shall do all of the following:
- (1) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reasons the child was taken, enticed away, kept, withheld, or concealed.
 - (2) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).
 - (3) Inform the district attorney's office of any change of address or telephone number of the person and the child.
- (d) For the purposes of this article, a reasonable time within which to make a report to the district attorney's office is at least 10 days and a reasonable time to commence a custody proceeding is at least 30 days. This section shall not preclude a person from making a report to the district attorney's office or commencing a custody proceeding earlier than those specified times.
- (e) The address and telephone number of the person and the child provided pursuant to this section shall remain confidential unless released pursuant to state law or by a court order that contains appropriate safeguards to ensure the safety of the person and the child.¹⁷²

In 2006, the California Supreme Court found in *People v. Neidinger* that the “good faith and reasonable belief” language still only requires the defendant, like under former Penal Code section 277, to raise a reasonable doubt regarding the prosecution’s allegations that the defendant had malice and did not have “good cause” when taking or concealing the child, and that the malice requirement in section 278.5 and the good faith defense in section 278.7 are “intertwined, not entirely separate.”¹⁷³

In 1999, the Legislature repealed the Uniform Child Custody Jurisdiction Act (former Family Code sections 3400-3425) to replace it with the Uniform Child Custody

¹⁷² Penal Code section 278.7, as added by Statutes of 1996, chapter 988, section 9 (this is the current version of Penal Code section 278.7).

¹⁷³ *People v. Neidinger* (2006) 40 Cal.4th 67, 79.

Jurisdiction and Enforcement Act.¹⁷⁴ This made significant changes to the code sections within it that previously helped define the scope of the mandate imposed by this program as follows:

- Former Family Code section 3408 said courts may decline to exercise jurisdiction to determine custody or modify a custody order from another state in cases where the child was wrongfully taken from another state or the petitioner engaged in similar reprehensible conduct. When a court declines to exercise jurisdiction for this reason, it also required that the court notify the parent or other appropriate person with legal custody as well as the prosecuting attorney of the appropriate jurisdiction in the other state. If requested by the other state, the court shall order the petitioner to appear with the child in a custody proceeding in the other state, and may order the petitioner to return the child to the person with legal custody, or place the child in foster care pending return to the legal custodian if such an order would be ineffective.¹⁷⁵

Under current Family Code section 3428, courts are required to decline to exercise jurisdiction in cases where the party seeking to invoke its jurisdiction “engaged in unjustifiable conduct,” except under specific exceptions, and says that when a court declines to exercise jurisdiction for this reason “it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct.”¹⁷⁶

- Former Family Code section 3411 granted courts the ability to order any party to a custody proceeding located within the state to appear personally before the court, and may order a party located within the state with physical custody of the child to appear personally with the child. If the party with the child cannot be served or fails to obey the order, the court may issue an arrest warrant to secure the party’s appearance with the child. For parties located outside the state, the court may order that notices sent to parties outside the state include a statement directing the party to appear personally with or without the child and declaring that failure to appear may result in an adverse judgement; and can order that another party in the proceeding pay the necessary travel expenses of a party appearing from outside the state.¹⁷⁷

This provision was moved to Family Code section 3430, which still grants courts authority to order parties to a custody proceeding located within the state to appear personally before the court with or without the child; order a person with

¹⁷⁴ Statutes of 1999, chapter 867. This change has not been acknowledged in the current Parameters and Guidelines.

¹⁷⁵ See Family Code section 3408, as amended by Statutes of 1992, chapter 162, section 10.

¹⁷⁶ Family Code section 3428.

¹⁷⁷ See Family Code section 3411, as amended by Statutes of 1992, chapter 162, section 10.

physical custody of the child located within the state to appear personally with the child; order notices be sent to parties located outside the state; and to order another party pay for the travel expenses of parties appearing from outside the state. But the code section no longer specifies the ability to issue arrest warrants if an order to appear is ineffective and additionally grants the ability to enter any orders necessary to ensure the safety of the child and any persons ordered to appear.¹⁷⁸

- Former Family Code section 3421 required that, upon the request of the court of another state, courts in this state may order a person within this state to appear at a hearing to produce evidence or produce or give evidence under other procedures available in this state, a certified copy of the hearing or evidence adduced forwarded to the other court, or to order a party located within this state to appear personally before the court in the other state with or without the child, or to issue an arrest warrant to secure the party's appearance in the other state with the child if the party cannot be served or fails to obey the order to appear.¹⁷⁹

Current Family Code section 3412 grants courts in this state the ability to request the court of another state hold an evidentiary hearing; order a person to produce or give evidence pursuant to the procedures of that state; order an evaluation be made with respect to the custody of a child in a pending proceeding; forward to the court of this state a certified copy of the hearing transcript, evidence presented, and any evaluations prepared in compliance of the court's request; order a party in a custody proceeding or a person with physical custody of a child to appear in a proceeding with or without the child; and that courts in this state may do these same things at the request of the court in another state.¹⁸⁰

- The 1999 statute also added Family Code section 3135, which states that the Uniform Child Custody Jurisdiction and Enforcement Act does not limit the authority of a district attorney or arresting agency to act pursuant to Family Code section 3130 et seq., Penal Code section 279.6 (which grants law enforcement officers authority to take a child into protective custody), or any other applicable law.¹⁸¹

Thus, with all these changes, once the district attorney receives a request for assistance in enforcing a custody or visitation order or other court order related to a custody proceeding, the district attorney is required to "*take all actions necessary*," to locate parties and the child in a petition to determine custody or where a temporary custody order pending determination of custody has been entered, when the party is in possession of the child and their whereabouts are unknown or there is reason to believe

¹⁷⁸ Family Code section 3430.

¹⁷⁹ See Family Code section 3421, as amended by Statutes of 1992, chapter 162, section 10.

¹⁸⁰ Family Code section 3412.

¹⁸¹ Family Code section 3135.

they may not appear in the proceeding although ordered to appear personally with the child, and to “procure compliance with the order to appear.”¹⁸² District attorneys are also required to “*take all actions necessary*” to locate a person who has taken or detained a child in violation of a custody or visitation order entered by a court of competent jurisdiction and to “assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.”¹⁸³

B. The Board of Control’s Mandate Determination and Subsequent Amendments to the Parameters and Guidelines

In 1979, the Board of Control approved the Test Claim and found Statutes of 1976, chapter 1399 to impose a reimbursable state mandate on county district attorney offices.¹⁸⁴ Parameters and Guidelines were approved on January 21, 1981.¹⁸⁵ Records show the Parameters and Guidelines were amended on July 19, 1984; July 27, 1987; and October 26, 1989, however copies of these amendments and the original Parameters and Guidelines are not available.¹⁸⁶

In 1982, the Board of Control approved a statewide cost estimate for the program, which states the following:

- A. This statute requires counties to undertake specified activities in order to assist resolution of child custody disputes and enforce child custody decrees. Specifically, the law requires the District Attorney's Office to represent persons having custody of a child and assist them in gaining enforcement of custody decrees, in locating their children when they are unlawfully taken away, in defraying expenses related to the return of an illegally detained or concealed child, in proceeding with civil court action, and in guaranteeing appearance of offenders in court actions. Under prior law, the District Attorney was under no statutory obligation to assist or represent a parent or other person having custody of a child.
- B. With the concurrence of the Department of Finance, the Board determined that Chapter 1399, Statutes of [1976]¹⁸⁷ imposed an "increased level of service" upon counties.

¹⁸² Family Code section 3130.

¹⁸³ Family Code section 3131.

¹⁸⁴ Exhibit A, Incorrect Reduction Claim, page 1046 (2009 Amendment to Parameters and Guidelines, Section II.).

¹⁸⁵ Exhibit A, Incorrect Reduction Claim, page 1045 (2009 Amendment to Parameters and Guidelines).

¹⁸⁶ Exhibit A, Incorrect Reduction Claim, page 1045 (2009 Amendment to Parameters and Guidelines); Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 3.

¹⁸⁷ The Statewide Cost Estimate mistakenly cites to a 1980 statute. Chapter 1399 was adopted by Statutes of 1976. The 1980 statutes did not adopt laws up to chapter 1399. See 1979-1980 Summary Digest,

- C. In adopting parameters and guidelines, the Board approved reimbursement for activities necessary to assisting a child's custodian, including investigation, mediation, legal representation, service of warrants, preparation of reports, foster care, etc, provided that reimbursements be reduced by any costs assessed against an offender.
- D. The Department of Finance has estimated that \$3,691,000 has been incurred in order to comply with this mandate during the 1977-78 through 1982-83 fiscal years. The Board approves this estimate and, pursuant to Revenue and Taxation Code Section 2255, recommends that the Legislature appropriate the approved amount to the State Controller.¹⁸⁸

On February 22, 1990, the Parameters and Guidelines were amended again.¹⁸⁹ The 1990 Parameters and Guidelines identify the 1976 statute (the test claim statute) and 1983 statute (which provided that the enforcement requirements applied to visitation decrees as well as custody decrees) as the statutes creating the reimbursable state-mandated program and the 1990 Parameters and Guidelines define the scope of the mandate as follows:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney: actively assist in the resolution of child custody and visitation problems; the enforcement of custody and visitation decrees; take all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and comply with other court orders relating to child custody or visitation, as provided in Civil Code Section 4604, with the exception of those activities listed in Section VI [i.e., non-reimbursable costs, which are listed below].¹⁹⁰

The 1990 Parameters and Guidelines state the Board of Control found “a reimbursable state mandate upon counties by requiring district attorney offices to actively assist in the resolution of child custody problems including visitation disputes, the enforcement of custody decrees and of any other order of the court in a child custody proceeding.”¹⁹¹ The state-mandated activities include “all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed

https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1980/80Vol4_Summary.pdf (accessed July 1, 2026), page 480.

¹⁸⁸ Exhibit H (6), Statewide Cost Estimate, July 1982, pages 12-13.

¹⁸⁹ Exhibit H (1), 1990 Amendment to Parameters and Guidelines.

¹⁹⁰ Exhibit H (1), 1990 Amendment to Parameters and Guidelines, pages 3-5.

¹⁹¹ Exhibit H (1), 1990 Amendment to Parameters and Guidelines, pages 3 and 4.

child, proceedings with civil court actions, and guaranteeing the appearance of offenders and minors in court actions.”¹⁹²

The reimbursable activities identified in the 1990 Parameters and Guidelines are as follows:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation degrees [sic]:
 - a. Contact with child(ren) and other involved persons.
 - (1) Receipt of reports and requests for assistance.
 - (2) Mediating with or advising involved individuals. Mediating services may be provided by other departments. If this is the case, indicate the department.
 - (3) Locating missing or concealed offender and child.
 - b. Utilizing any appropriate civil or criminal court action to secure compliance.
 - (1) Preparation and investigation of reports and requests for assistance.
 - (2) Seeking physical restraint of offenders and/or the child(ren) to assure compliance with decrees or court orders.
 - (3) Process services and attendant court fees and costs.
 - (4) Depositions.
 - c. Physically recovering the child(ren).
 - (1) Travel expenses, food, lodging, and transportation for the escort and child.
 - (2) Other personal necessities for the child. All such items purchased must be itemized.
2. Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act (Civil Code Sections 5150 through 5174) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session).
 - a. District Attorney cost of notifications sent if jurisdiction is refused.
 - b. cost of providing foster home care or other short-term care for any child pending return to the out-of-jurisdiction custodian. The

¹⁹² Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 4.

reimbursable period of foster home care or other short-term care may not exceed three days unless special circumstances exist.

Please explain the special circumstances. A maximum of ten days per child is allowable. Costs must be identified per child, per day. This cost must be reduced by the amount of state reimbursement for foster home care which is received by the county for the child(ren) so placed.

- c. Cost of transporting the child to the out-of-jurisdiction custodian.
 - (1) Travel expenses, food, lodging, and transportation for the escort and child.
 - (2) Other personal necessities for the child. All such items purchased must be itemized. Cost recovered from any party, individual or agency, must be shown and used as an offset against costs reported in this section.
- 3. Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren).
 - a. Cost of serving arrest warrant or order and detaining the individual in custody, if necessary, to assure appearance in accordance with the arrest warrant or order.
 - b. Cost of providing foster home care or other short-term care for any child requiring such because of the detention of the individual having custody. The number of days for the foster home care or short-term care shall not exceed the number of days of the detention period of the individual having physical custody of the minor.
- 4. Return of an illegally obtained or concealed child to the legal custodian or agency.
 - a. Costs of food, lodging, transportation and other personal necessities for the child from the time he/she is located until he/she is delivered to the legal custodian or agency. All personal necessities purchased must be itemized.
 - b. Cost of an escort for the child, including costs of food, lodging, transportation and other expenses where such costs are a proper charge against the county. The type of escort utilized must be specified.

Any funds received as a result of costs assessed against a defendant or other party in a criminal or civil action for the return or care of the minor(s) (or defendant, if not part of a criminal

extradition) must be shown and used as an offset against these costs.¹⁹³

The 1990 version lists the following “non-reimbursable costs”:

- A. Costs associated with criminal prosecution, commencing with the defendant’s apprehension, surrender, or first appearance, for offenses defined in Sections 277, 278 and 278.5 of the Penal Code. [¶]
- B. Costs associated with locating an offender and serving a warrant related either to criminal or civil proceedings defined in Sections 277, 278 and 278.5 of the Penal Code wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.¹⁹⁴

The 1990 Parameters and Guidelines also identified the documentation requirements for salaries and benefits by requiring the claimant to “describe the mandated functions performed and specify the actual number of hours devoted to each function,” as follows:

Identify the employee(s), show the classification of the employee(s), involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. Benefits are reimbursable; however, benefit rates must be itemized. If no itemization is submitted, 21 percent must be used for computation of claimed cost.

The Parameters and Guidelines were amended again on July 22, 1993.¹⁹⁵ The caption was amended to identify the following code sections along with the 1976 test claim statute: Civil Code sections 4600.1, 4604, 5157, 5160, and 5169; Penal Code sections 278 And 278.5; and Welfare and Institutions Code section 11478.5.¹⁹⁶ In addition, some of the items in the “Reimbursable Costs” section were moved to a higher list level; i.e., activities 3 and 4 above (securing the appearance of the offender and the child on order of the court and return of an illegally obtained or concealed child to the legal custodian or agency) were moved under activity 2.¹⁹⁷ In addition, new phrasing in the

¹⁹³ Exhibit H (1), 1990 Amendment to Parameters and Guidelines, pages 5-7 (Section V.B.).

¹⁹⁴ Exhibit H (1), 1990 Amendment to Parameters and Guidelines, pages 7-8 (Section VI.), with a space added for readability between “A.” and “B.”

¹⁹⁵ Exhibit H (2), 1993 Amendment to Parameters and Guidelines, page 1.

¹⁹⁶ Exhibit H (2), 1993 Amendment to Parameters and Guidelines, page 1.

¹⁹⁷ The Controller would later describe this change in its filings for a subsequent parameters and guidelines amendment as a “clerical error.” See *Custody of Minors-Child Abduction and Recovery*, 25-PGA-01 (CSM-4237), <https://csm.ca.gov/matters/CSM-4237.shtml> (accessed June 29, 2026).

“Required Certification” section stated that “[a]n authorized representative of the claimant will be required to provide a certification of the claim, as specified by the State Controller’s claiming instructions, for those costs mandated by the state contained herein.”¹⁹⁸

On August 26, 1999, the Parameters and Guidelines were amended again and adopted on the Commission’s consent calendar.¹⁹⁹ The caption identifies the following current code sections: Family Code sections 3060 to 3064, 3130 to 3134.5, 3408, 3411, and 3421; Penal Code sections 277, 278, and 278.5; and Welfare and Institutions Code section 11478.5.²⁰⁰ The caption also identifies the 1976 test claim statute, the 1983 amendment, and two subsequent statutory amendments in 1992 and 1996, which are explained in Section I, Summary of Mandate, as follows:

Chapter 162, Statutes of 1992, repealed Sections 4600.1, 4604, 5157, 5160, and 5169 of the Civil Code and without substantial change enacted Sections 3060 to 3064, 3130 to 3134.5, 3408, 3411, and 3421 of the Family Code.

Chapter 988, statutes of 1996, the Parental Kidnapping Prevention Act, repealed Sections 277, 278 and 278.5 of the Penal Code and enacted in a new statutory scheme in Sections 277, 278 and 278.5 which eliminated the distinction between cases with and cases without a preexisting child custody order.²⁰¹

In addition, the description of the “Non-Reimbursable Costs” was amended as follows:

- A. Costs associated with criminal prosecution, commencing with the defendant’s apprehension, surrender, or first appearance, for offenses defined in Sections ~~277, 278 and 278.5~~ of the Penal Code wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.
- ~~B. Costs associated with locating an offender and serving a warrant related either to criminal or civil proceedings defined in Sections 277, 278 and 278.5~~

¹⁹⁸ Exhibit H (2), 1993 Amendment to Parameters and Guidelines, pages 4-5 (Sections V.B.1.c.(3-4).), 8 (Section X.).

¹⁹⁹ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments; Exhibit H (4), Commission on State Mandates Minutes, August 26, 1999.

²⁰⁰ Although the caption identifies all of these code sections, only Family Code sections 3130 and 3131 actually impose mandated activities on local agencies. The others provide context that help define the scope of the mandate.

²⁰¹ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 11-12 (Caption; section I, Summary of Mandate.).

~~of the Penal Code wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.~~²⁰²

Finally, the "Claim Preparation" section was amended to add language regarding direct and indirect costs, with clarifying amendments for materials and supplies, travel, and training conducted on the mandate.²⁰³

On October 30, 2009, the Parameters and Guidelines were amended beginning with claims filed for the July 1, 2005 through June 30, 2006 fiscal year.²⁰⁴ The 2009 Parameters and Guidelines govern the reimbursement claims at issue here. This amendment added what is now boilerplate text found at the start of every Reimbursable Costs and Activities section, stating that only actual costs may be claimed, that actual costs are costs that are actually incurred to implement the mandated activities, and that actual costs must be supported by contemporaneous source documents, such as employee time records, and corroborating documents cannot be substituted for contemporaneous source documents, as follows:

V. REIMBURSABLE COSTS

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge."

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

²⁰² Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, page 16-17 (Section VI.).

²⁰³ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 13 (Section V.B.), 17-20 (Section VII.).

²⁰⁴ Exhibit A, Incorrect Reduction Claim, pages 1045-1046 (2009 Amendment to Parameters and Guidelines).

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.²⁰⁵

The scope of the mandate remains stated as follows:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody or visitation, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.²⁰⁶

The reimbursable activities and “non-reimbursable costs” remain the same as the earlier version of the Parameters and Guidelines, with only “Costs associated with criminal prosecution, *commencing with the defendant's first appearance in a California court*, for offenses defined in Sections 278 or 278.5 of the Penal Code” listed as *not* eligible for reimbursement.²⁰⁷ The reimbursable activities in the 2009 Parameters and Guidelines state the following:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders, including:
 - a. Contact with child(ren) and other involved persons.
 - (1) Receipt of reports and requests for assistance
 - (2) Mediating with or advising involved individuals. Mediating services may be provided by other departments. If this is the case, indicate the department.
 - (3) Locating missing or concealed offender and child(ren).
 - b. Utilizing any appropriate civil or criminal court action to secure compliance.

²⁰⁵ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

²⁰⁶ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.A.).

²⁰⁷ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.).

- (1) Preparation and investigation of reports and requests for assistance.
 - (2) Seeking physical restraint of offenders and/or the child(ren) to assure compliance with court orders.
 - (3) Process services and attendant court fees and costs.
 - (4) Depositions.
- c. Physically recovering the child(ren).
 - (1) Travel expenses, food, lodging, and transportation for the escort and child(ren).
 - (2) Other personal necessities for the child. All such items purchased must be itemized.
- 2. Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act (Family Code Sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session).
 - a. Cost of providing foster care or other short-term care for any child pending return to the out-of-jurisdiction custodian. The reimbursable period of foster home care or other short-term care may not exceed three days unless special circumstances exist. Please explain the special circumstances. A maximum of ten days per child is allowable. Costs must be identified per child, per day. This cost must be reduced by the amount of state reimbursement for foster home care which is received by the county for the child(ren) so placed.
 - b. Cost of transporting the child(ren) to the out-of-jurisdiction custodian.
 - (1) Travel expenses, food, lodging, and transportation for the escort and child(ren).
 - (2) Other personal necessities for the child(ren). All such items purchased must be itemized. Costs recovered from any party, individual or

- agency, must be shown and used as an offset against costs reported in this section.
- (3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren).
 - (a) Cost of serving arrest warrant or order and detaining the individual in custody, if necessary, to assure appearance in accordance with the arrest warrant or order.
 - (b) Cost of providing foster home care or other short-term care for any child requiring such because of the detention of the individual having custody. The number of days for the foster home care or short-term care shall not exceed the number of days of the detention period of the individual having physical custody of the minor.
 - (4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.
 - (a) Costs of food, lodging, transportation and other personal necessities for the child(ren) from the time he/she is located until he/she is delivered to the legal custodian or agency. All personal necessities purchased must be itemized.
 - (b) Cost of an escort for the child(ren) including costs of food, lodging, transportation and other expenses where such costs are a proper charge against the county. The type of escort utilized must be specified.
Any funds received as a result of costs assessed against a defendant or other party in a criminal or civil action for the return or care of the minor(s) (or defendant, if not part of a criminal extradition) must be shown and used as an offset against these costs.

And allowable direct costs are identified in Section VII., which still requires that employee salary and benefit costs be supported with contemporaneous documents that “describe the mandated functions performed and specify the actual number of hours devoted to each function,” as follows:

A. Direct Costs

Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salary and Employees' Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. Benefits are reimbursable; however, benefit rates must be itemized. If no itemization is submitted, 21 percent must be used for computation of claimed cost.

2. Contracted Services

Provide copies of the contract, separately show the contract services performed relative to the mandate, and the itemized costs for such services. Invoices must be submitted as supporting documentation with the claim.

3. Materials and Supplies

Only expenditures which can be identified as a direct cost of the mandate such as, but not limited to, vehicles, office equipment, communication devices, memberships, subscriptions, publications, may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received from the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

4. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlement are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem. Ongoing training is essential to the performance of this mandate because of frequent turnover in staff, rapidly changing technology, and developments in case law, statutes, and procedures. Reimbursable training under this section includes child abduction training scheduled during the California Family Support Council's conferences, the annual advanced child abduction training sponsored by the California District Attorney Association, and all other professional training.²⁰⁸

Therefore, under the mandate found by the Board of Control, once the district attorney receives a request for assistance in enforcing a custody or visitation order or other court order related to a custody proceeding, the district attorney is obligated to involve themselves in resolving custody and visitation disputes, and all activities necessary to reaching a resolution are reimbursable up until the defendant's first appearance in a California court for the criminal offenses defined in Penal Code section 278 or 278.5, wherein the child has been returned to the person or agency with lawful custody.

While Family Code sections 3130 and 3131 impose the mandate on district attorneys, the other code sections added or amended by the test claim statute and identified in the Parameters and Guidelines help define the scope of the mandate.

C. The Audit's Findings

On August 5, 2022, the Controller initiated an audit of the costs claimed by the claimant's CAR program for the period of July 1, 2017 through June 30, 2021.²⁰⁹ The claimant claimed \$10,232,292 during the audit period, consisting of \$7,436,663 in salaries and benefits and \$2,855,569 in related indirect costs.²¹⁰ The Controller found all of these costs unallowable, primarily because the claimant did not provide contemporaneous source documentation to support the mandated functions performed

²⁰⁸ Exhibit A, Incorrect Reduction Claim, pages 1050-1051 (2009 Amendment to Parameters and Guidelines, Section VII.A.). On June 12, 2026, the Commission approved another Parameters and Guidelines Amendment, which moved reimbursable activities 2.b.(3) and 2.b.(4) back into their own categories 3 and 4, and corrected the list of amendment dates in the caption to include all previous amendments. Because these amendments clarified existing law, the Commission found they should date back to the entire reimbursement period. See *Custody of Minors-Child Abduction and Recovery*, 25-PGA-01 (CSM-4237), <https://csm.ca.gov/matters/CSM-4237/doc9.pdf> (accessed June 29, 2026).

²⁰⁹ Exhibit A, Incorrect Reduction Claim, page 41 (Letter from Ken Howell, Audit Manager, dated August 5, 2022).

²¹⁰ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

or the actual number of hours devoted to each function, and reduced the claimant's claim to \$0 as a result.²¹¹ The Controller's findings are as follows:

1. Insufficient Supporting Documentation

The claimant's employees filled out monthly time studies (time sheets)²¹² to record their time spent on mandated activities. The time sheets had employees record their time spent on mandated activities daily using the following categories:

- 3130 through 3133;
- 3408(c) and 3408(d);
- 3411(a) and 3421(c); and
- 277, 278, and 278.5.²¹³

The time sheets also had space to record how much time was spent on non-claimable activities, labeled as "277/278/278.5 Non-Claimable" and "Other — Non-Claimable (Briefly Explain Below)."²¹⁴ There was also space to record if the employee used vacation or sick leave. The instructions on the back of the time sheets described the categories of time as follows:

Section 3130-3133

Activity performed under item number (1) involving enforcement of custody orders should be indicated in this category.

Section 3408(c) and 3408(d)

Activities performed under item number (2) involving out-of-state decrees and any related court activity should be indicated in this category.

Section 3411(a) & 3421(c)

²¹¹ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

²¹² Although labeled "Custody of Minor Time Study," these records are actually time sheets, meant to comply with the Mandated Cost Manual for Local Agencies' guidance for actual time reporting. Time studies and actual time reporting provide different information about time spent on mandated activities, and have different requirements. The Controller acknowledged these are time sheets, as it acquiesced to calling them time sheets in its response to the claimant's comments on the draft audit report and in its comments on the IRC. See Exhibit A, Incorrect Reduction Claim, page 1107 (Final Audit Report), Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 13.

²¹³ Exhibit A, Incorrect Reduction Claim, page 48 (Los Angeles County District Attorney Custody of Minor Time Study).

²¹⁴ Exhibit A, Incorrect Reduction Claim, page 48 (Los Angeles County District Attorney Custody of Minor Time Study).

Activities performed under item number (3) securing the appearance of an offender personally before the court should be indicated in this category.

Section 277, 278, 278.5

Activities performed under item (4) in the return of an illegally concealed child or minor to its legal guardian should be indicated in this category.²¹⁵

The time sheets also provided the following instructions regarding time spent on non-claimable activities:

Section 277, 278, 278.5 – Non-Claimable (8)

All non-claimable custody of minors activities should be indicated in this category.

Other – Non-Claimable Activity Item Number (9)

Please explain any entries in this category.²¹⁶

The Controller found that the claimant's time sheets did not adequately describe the mandated functions performed or the actual number of hours devoted to each function. Through interviews with county personnel, the Controller determined that the district attorneys and investigators who work on this program are sometimes involved in activities after a defendant's arraignment date.²¹⁷ "Without a description of the mandated functions, we were unable to determine whether the county had claimed unallowable costs associated with criminal prosecution commencing with the defendant's first appearance in a California court, or claimed costs associated with non-mandated activities."²¹⁸

The Controller also examined case file documents from sample cases provided by the claimant's district attorneys and investigators for additional source documentation, however it found that none of the documents provided described mandated functions performed or the actual number of hours devoted to each function.²¹⁹ "Based on the documentation provided, [the Controller was] unable to determine the mandated functions performed, the actual number of hours devoted to each function, or the validity

²¹⁵ Exhibit A, Incorrect Reduction Claim, page 49 (Los Angeles County District Attorney Custody of Minor Time Study). The Controller did not discuss the claimant's descriptions of Section 3408(c) and 3408(d) or Section 3411(a) & 3421(c), possibly because the claimant did not claim any costs under those categories.

²¹⁶ Exhibit A, Incorrect Reduction Claim, page 49 (Los Angeles County District Attorney Custody of Minor Time Study).

²¹⁷ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

²¹⁸ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

²¹⁹ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

of the costs. Only actual costs traceable to source documents may be claimed for this program.”²²⁰

The claimant’s response to the draft audit report opened by noting the significant work done by its CAR program; during the audit period the Los Angeles District Attorney’s Office expended approximately 67,328 hours on the mandated program, district attorneys filed charges in 141 cases and declined 244 more, and these efforts resulted in the recovery or reunification of over 300 minors.²²¹ However the Controller’s audit valued that work at \$0.00, because it found that source documentation that had always been accepted in the past is now inadequate, reversing a decades-long position without any prior notice or warning, at a point where it is too late for the claimant to provide the documentation the Controller seeks.²²² The claimant insisted that the time sheets, salaries and benefits information, and indirect cost calculation provided to support the costs claimed are valid source documents that comply with the Parameters and Guidelines.²²³

The claimant also provided the Controller a list of each attorney, paralegal, and investigator assigned to compensable activities along with support documentation showing salaries, benefits, and indirect costs, as well as additional information, including a list of all matters handled by investigators as well as representative custody and Hague Convention matters, as further evidence of it performing mandated activities.²²⁴

The claimant also objected that the draft audit report did not reflect information provided during the audit that the claimant’s investigators’ time is spent almost exclusively on claimable activities, and the Intermediate Typist Clerk’s time is almost entirely devoted to supporting the investigators, which the claimant asserted made that time fully claimable as well.²²⁵ The claimant provided lists of the cases investigators handled during the audit period to support this, and the few times investigators assisted attorneys after filing a criminal case or the Intermediate Typist Clerk spent time assisting on non-claimable work, this time was properly recorded on employees’ time sheets.²²⁶ Additionally, the claimant’s paralegals work only under section 3130 and the Hague Convention, as such the claimant asserted their time is entirely claimable under Family Code section 3130-3133.²²⁷ Although the claimant’s deputy district attorneys do regularly perform both claimable and non-claimable work, they are instructed how to

²²⁰ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

²²¹ Exhibit A, Incorrect Reduction Claim, page 1100 (Final Audit Report).

²²² Exhibit A, Incorrect Reduction Claim, pages 1100-1101 (Final Audit Report).

²²³ Exhibit A, Incorrect Reduction Claim, page 1101 (Final Audit Report).

²²⁴ Exhibit A, Incorrect Reduction Claim, page 1102 (Final Audit Report).

²²⁵ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

²²⁶ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

²²⁷ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

allocate claimable and non-claimable time and certify they did so correctly in their time studies; there is no reason to find this time disallowable.²²⁸

Finally, the claimant objected to the Controller's determination that the sample case files did not describe the functions performed or the hours devoted to each task, as it explained the sample cases were not meant to show that information; that information was provided in the time sheets.²²⁹ The case file documents were meant to be corroborating documents that "reflect or are the claimable activities themselves, they are the court orders (memorializing court appearances), investigations, contacts, travel, and reports in the case."²³⁰ This was meant to corroborate that the activities for which reimbursement was sought were reimbursable activities under the Parameters and Guidelines. The claimant believed the eight district attorney case files and four investigator case files provided to be sufficiently representative of the cases claimant's deputy district attorneys and investigators worked on, however if the Controller found these samples insufficient the claimant asserted it was willing to make more cases available for review.

The Controller responded to the claimant's arguments as to whether its source documents were consistent with the Parameters and Guidelines by quoting the time sheet's instructions again and asserting that:²³¹

The time study/time sheet instructions list the Penal Code and Family Code section and "Activity performed" or "Activities performed." However, descriptions of the mandated activities performed are not provided.

Likewise, "non-claimable" activities are simply noted as "277/278/278.5 Non-Claimable" or "Other-Non-claimable." No further description of the activities performed is provided.²³²

The Controller continued by stating the "Salary and Employees' Benefits" section of the Parameters and Guidelines require the claimants' documentation "Identify the employee(s), show the classification of the employee(s) involved, **describe the mandated functions performed and specify the actual number of hours devoted to each function**, [emphasis added] the productive hourly rate, and the related benefits. The average number of hours may be claimed if supported by a documented time study."²³³ The Mandated Cost Manual the claimant relied on is based on the Parameters and Guidelines, and also required all claims submitted to the Controller to comply with the Controller's claiming instructions and the Parameters and Guidelines.²³⁴

²²⁸ Exhibit A, Incorrect Reduction Claim, pages 1104-1105 (Final Audit Report).

²²⁹ Exhibit A, Incorrect Reduction Claim, page 1105 (Final Audit Report).

²³⁰ Exhibit A, Incorrect Reduction Claim, page 1105 (Final Audit Report).

²³¹ Exhibit A, Incorrect Reduction Claim, page 1107 (Final Audit Report).

²³² Exhibit A, Incorrect Reduction Claim, page 1107 (Final Audit Report).

²³³ Exhibit A, Incorrect Reduction Claim, pages 1107-1108 (Final Audit Report).

²³⁴ Exhibit A, Incorrect Reduction Claim, page 1108 (Final Audit Report).

As for the claimant's complaint that it has used this form without issue since at least 1994, this is the Controller's first audit of the claimant's CAR program conducted since the current Parameters and Guidelines were adopted in 2009; the only prior audit was issued in 2007 and was subject to the prior Parameters and Guidelines adopted in 1999.²³⁵ The claimant had prior notice of these changes, as the mandated cost manual notes that the Parameters and Guidelines were amended in October 30, 2009 to clarify source document requirements.²³⁶ The mandated cost manual is provided to claimants annually, and furthermore the Commission provided a notification to all state agencies and interested parties before the meeting where it adopted the amendment, to allow interested parties an opportunity to comment on the proposed changes.²³⁷ The claimant was not unduly prejudiced by this, as claimants are responsible for reviewing relevant materials, including changes to the Parameters and Guidelines before submitting their reimbursement claim, and are responsible for ensuring their claims adhere to the Parameters and Guidelines requirements.²³⁸ The documents the claimant provided during the audit do not describe the mandated functions performed or the actual number of hours devoted to each function, and providing case files to support that the claimant's investigators' time is almost exclusively spent on claimable activities (i.e., enforcing custody orders) does not comply with the requirement to support the actual number of hours devoted to each function; furthermore the Parameters and Guidelines do not allow the claimant's Intermediate Typing Clerk's time to be "fully claimable" simply because his work is solely devoted to supporting the investigators.²³⁹ "Documenting time spent on activities under Family Code section 3130-3133, without describing the mandated functions performed or specifying the number of hours devoted to each function, does not comply with the Parameters and Guidelines."²⁴⁰ These time records are not adequate source documents, and the documents in claimant's case files are merely corroborating documents, which can support source documents, but are not a substitute for source documents themselves.²⁴¹

2. Reduction of Costs in Good Cause Cases

Additionally, the Controller noted it found out through interviews with personnel that one of the claimant's employees, the Intermediate Typist Clerk, spent some time on activities related to Penal Code section 278.7 ("good cause") cases.²⁴² The claimant's time sheets did not have a space for time spent on activities for "good cause" cases. The Controller asserts that "good cause" cases are an unallowable cost because the

²³⁵ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

²³⁶ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

²³⁷ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

²³⁸ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

²³⁹ Exhibit A, Incorrect Reduction Claim, pages 1109-1110 (Final Audit Report).

²⁴⁰ Exhibit A, Incorrect Reduction Claim, pages 1110-1111 (Final Audit Report).

²⁴¹ Exhibit A, Incorrect Reduction Claim, page 1111 (Final Audit Report).

²⁴² Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

Parameters and Guidelines do not specifically identify “good cause” cases as a reimbursable cost. The Controller also notes that the Parameters and Guidelines incorporate Penal Code sections 278 and 278.5 as amended by the 1996 statute, which is the same chapter that added Penal Code section 278.7, yet Penal Code section 278.7 was not incorporated into the Parameters and Guidelines.²⁴³

The claimant objected to the position that costs related to Penal Code section 278.7 are non-reimbursable and explained that Penal Code section 278.7 is not its own crime, but sets forth a defense to Penal Code section 278.5, as such there is no such thing as a separate 278.7 case.²⁴⁴ The work in question performed by the Intermediate Typist Clerk was inputting reports filed with the District Attorney’s Office into a database so that there would be a record of the report should this defense be raised.²⁴⁵ Time spent on this activity was de minimis, but in any case, should be claimable as part of the activities under Penal Code sections 278 and 278.5.²⁴⁶ “The parameters and guidelines do not identify ‘good cause’ hearings as reimbursable costs because there is no such hearing independent of Penal Code [section] 278 or 278.5; Penal Code [section] 278.7 is simply a defense that can be raised in those hearings.”²⁴⁷

The Controller’s audit findings were not changed.²⁴⁸

3. Other Issues with Claimant’s Individual Time Sheets

The audit also noted the following issues with individual time sheets filed by some of the claimant’s employees:

- Time sheets that were not signed by the employee and/or the employee’s supervisor.
- Time sheets that were signed before the end of the month.
- Time sheets where the signature was the same for the employee and the employee’s supervisor.
- Time sheets that were signed a month or more after the end of the month.²⁴⁹

²⁴³ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

²⁴⁴ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

²⁴⁵ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report). A condition to being eligible for the “good cause” defense in Penal Code section 278.7(c) is that the person who took the child must file a report with the district attorney’s office where the child resided which includes the name, current address and telephone number of the child and defendant, and the reasons why the child was taken, and the person must also inform the district attorney’s office of any changes in address or telephone number.

²⁴⁶ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

²⁴⁷ Exhibit A, Incorrect Reduction Claim, page 1104 (Final Audit Report).

²⁴⁸ Exhibit A, Incorrect Reduction Claim, page 1110 (Final Audit Report).

²⁴⁹ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

The claimant responded to these issues in its comments on the audit report but did not assert these issues in its IRC as another basis for the Controller's alleged incorrect reduction of costs and, thus, this Decision does not address these issues.²⁵⁰

The claimant has not challenged the reductions on this basis and therefore, the issues with individual time sheets is not before the Commission.

III. Positions of the Parties

A. County of Los Angeles

The claimant filed this IRC on July 25, 2025.²⁵¹ Its arguments for why the Controller's actions during the audit were erroneous and an abuse of discretion can be summarized as follows:

1. The Fiscal Year 2017-2018 Audit Was Untimely Initiated

The audit for the fiscal year 2017-2018 reimbursement claim was not commenced within three years of the filing of the claim, as required by Government Code section 17558.5(a). The claimant filed the fiscal year 2017-2018 reimbursement claim on February 1, 2019, and the Controller initiated its audit on August 5, 2022. Because the audit was not timely commenced, the audit of this fiscal year claim is barred by the statute of limitations.

The Controller's position in the final audit report was that the fiscal year 2017-2018 audit was timely based on the provision in Government Code section 17558.5(a) that "if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim," as payment of the claim was issued on August 15, 2019.²⁵²

The claimant argues that provision does not apply here.²⁵³ The normal rule under Government Code section 17558.5(a) is that the audit is to be initiated no later than three years after the date that the reimbursement claim was filed or last amended, and the provision relied on is an exception to that rule that only applies when "no funds are appropriated or no payment is made to a claimant for the program *for* the fiscal year for which the claim is filed."²⁵⁴ A plain meaning interpretation of Government Code section 17558.5(a) would mean the exception only applies when no funds have been

²⁵⁰ See Exhibit A, Incorrect Reduction Claim, pages 1105-1106 (Final Audit Report); Government Code section 17551(d); California Code of Regulations, title 2, section 1185.1(f)(2), which requires the IRC to include "[a] written detailed narrative that describes the alleged incorrect reductions."

²⁵¹ Exhibit A, Incorrect Reduction Claim, page 1.

²⁵² Exhibit A, Incorrect Reduction Claim, pages 1106-1107 (Final Audit Report).

²⁵³ Exhibit A, Incorrect Reduction Claim, page 21.

²⁵⁴ Exhibit A, Incorrect Reduction Claim, page 21 (emphasis added by claimant).

appropriated or no payments made for the fiscal year for which the claim was filed.²⁵⁵ It is undisputed that funds *were* appropriated and payment was made to the claimant for that fiscal year. As that exception does not apply here, the Controller had to initiate its audit within three years of the claimant filing its claim. The Controller failed to timely initiate this audit within the three-year period, therefore the audit of the 2017-2018 reimbursement claim was untimely, and the costs incurred for fiscal year 2017-2018 of \$3,136,557 should be reinstated.²⁵⁶

In its rebuttal comments, the claimant says that the Controller's interpretation of Government Code section 17558.5(a) requires a change in how the provision is worded. "The Controller's Office is requesting the Commission to substitute the word 'in' for the word 'for' so that Section 17558.5(a)'s second sentence would read 'if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed, the time for the Controller's Office to initiate an audit shall commence to run from the date of initial payment of the claim.'"²⁵⁷ This would be inconsistent with the plain meaning of Government Code section 17558.5(a). It also argues the Controller's reliance on a past IRC Decision in which the Commission found the exception applied is inapposite, as that case involved a reimbursement claim in which no payment was issued until six years after the claim was filed, making it impossible to initiate an audit within the normal three-year period.²⁵⁸ The alternative deadline obviously applied in that circumstance. Here, the Controller had ample time to initiate an audit within three years of when the reimbursement claim was filed.

2. The Claimant's Source Documentation Is Compliant with the Parameters and Guidelines

The claimant argues its claims were in fact supported by adequate documentation in accordance with the Parameters and Guidelines.

The current Parameters and Guidelines require claimed costs be supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities, and that such source documents be created at or near the same time the actual cost was incurred for the event or activity in question. The source documents the claimant provided in support of its reimbursement claims were employee time sheets, salary and benefits information, and an indirect cost calculation.²⁵⁹ The claimant says these source documents are consistent with the Parameters and Guidelines' requirements for contemporaneous source documents.

²⁵⁵ Exhibit A, Incorrect Reduction Claim, page 21 citing to *Romano v. Rockwell International, Inc.* (1996) 14 Cal.4th 479, 493 for the plain meaning rule.

²⁵⁶ Exhibit A, Incorrect Reduction Claim, page 22.

²⁵⁷ Exhibit C, Claimant's Rebuttal Comments, pages 5-6, emphasis added by claimant.

²⁵⁸ Exhibit C, Claimant's Rebuttal Comments, page 6 (discussing *Integrated Waste Management*, 14-0007-I-04).

²⁵⁹ Exhibit A, Incorrect Reduction Claim, pages 22, 23.

Each time sheet was completed daily by the employee based on his or her personal knowledge. The time sheets segregated time spent on claimable and non-claimable matters, and contained instructions for how the time sheet was to be completed and distinguished between mandated activities, ensuring that the time sheets were filled out correctly and time was correctly allocated between mandated and non-mandated activities. Total time spent on both claimable and non-claimable matters was recorded daily to ensure this time was reported accurately, and each time sheet was certified, signed, and dated by the employee at the end of the month, and further signed and certified by the employee's supervisor. This ensured that time sheets were completed at or near the time cost were incurred in compliance with the Parameters and Guidelines, and minimized the risk of time being misallocated.²⁶⁰

The claimant also provided a list of each attorney, paralegal, and investigator assigned to compensable activities in support of the claim, as well as support documents showing salaries, benefits, and indirect costs.²⁶¹ To support that its investigators' time was almost exclusively spent on claimable activities, the claimant also provided a list of cases the investigators handled during the audit period and sample case files so the Controller could confirm the activities performed.²⁶²

The Controller, however, found these source documents to be insufficient, because they did not provide descriptions of the mandated activities. The claimant argues this position is not well founded, because the Parameters and Guidelines describe the reimbursable activities to include:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders, including

. . .

- b. Utilizing any appropriate civil or criminal court action to secure compliance . . .

2. Court actions and costs in cases involving child custody or visitation orders from another jurisdiction . . .²⁶³

The claimant's time sheets described these activities by referencing the relevant Family and Penal code sections, which the claimant argues is a sufficient description. The time sheets also had a category for non-reimbursable time, which the claimant asserts did not require any further description because it was not seeking reimbursement of that time.²⁶⁴ The claimant concludes that its time sheets therefore did describe the mandated activities as set forth in the Parameters and Guidelines, and non-claimable

²⁶⁰ Exhibit A, Incorrect Reduction Claim, page 23.

²⁶¹ Exhibit A, Incorrect Reduction Claim, page 23.

²⁶² Exhibit A, Incorrect Reduction Claim, page 24.

²⁶³ Exhibit A, Incorrect Reduction Claim, page 25.

²⁶⁴ Exhibit A, Incorrect Reduction Claim, page 25.

time was properly excluded from reimbursement by providing a separate category for reporting that time.²⁶⁵

In its rebuttal comments, the claimant asserts that the Controller's position that its source documents did not provide descriptions of the mandated activities lacks merit, because it maintains that its time sheets did provide descriptions of the mandated activities, using language that was almost identical to the Parameters and Guidelines.²⁶⁶ It was inaccurate to characterize the descriptions as merely references to Family and Penal Code sections, as those references "were just shorthand for referring to 'obtaining compliance with court orders,' including 'enforcement of child custody . . . orders,' and 'return of an illegally concealed child' as set forth in Sections V.B.1 and 2.b(4) of Parameters and Guidelines."²⁶⁷ If the claimant had said "enforcement of custody orders" or "return of an illegally concealed child" instead of referring to the relevant Family and Penal Code sections, it would still have described the same activity.²⁶⁸ The time sheets did not just make references to code sections but described reimbursable activities using the same language as the Parameters and Guidelines.

The claimant also responded to the Controller's claim that it filled out the reimbursement claim form incorrectly by noting that when filling out the section in the form where claimants provide activity cost details, it filled out two pages of that form each year; one for costs under Family Code section 3130-3133, and one for costs under Penal Code section 277, 278 and 278.5.²⁶⁹ Family Code section 3130-3133 describes complying with and enforcing court orders, and Penal Code section 277, 278, and 278.5 describe returning illegally concealed children. Although these activities were both claimed under "compliance with court orders," both activities were included in the reimbursement claims.²⁷⁰

3. The Controller Imposed an Unlawful Underground Regulation, Violating Due Process

The claimant claims that the Controller acknowledged the time sheets provided adequate descriptions, based on its statement in the final audit report that "The time study/time sheet instructions list the Penal Code and Family Code section and 'Activity performed' or 'Activities performed.'"²⁷¹ Yet the Controller still denied reimbursement,

²⁶⁵ The claimant also maintained its objections to the Controller's assertion that time spent on "good cause" cases is not reimbursable in a footnote. Exhibit A, Incorrect Reduction Claim, pages 25-26, footnote 4. The Controller did not respond to this in its comments on the IRC.

²⁶⁶ Exhibit C, Claimant's Rebuttal Comments, page 7.

²⁶⁷ Exhibit C, Claimant's Rebuttal Comments, page 8.

²⁶⁸ Exhibit C, Claimant's Rebuttal Comments, page 8.

²⁶⁹ Exhibit C, Claimant's Rebuttal Comments, page 9.

²⁷⁰ Exhibit C, Claimant's Rebuttal Comments, page 9.

²⁷¹ Exhibit A, Incorrect Reduction Claim, page 26.

and the claimant theorizes this is because its time sheets did not break the reflected activities down into further subcategories.²⁷²

But this requirement is not in the Parameters and Guidelines. The Parameters and Guidelines require that source documents show the validity of costs, when they were incurred, and their relationship to the reimbursable activities. Reimbursable activities include “obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders ... including utilizing any appropriate civil or criminal court action to secure compliance” and “court actions and costs in cases involving child custody or visitation orders from another jurisdiction...”²⁷³ Source documents in support of salaries and benefits costs must also “[i]dentify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate and the related benefits.”²⁷⁴ “Nowhere do the Parameters and Guidelines state that the source documents must identify not only the reimbursable activities being claimed but also further break those activities into subcategories of those activities.”²⁷⁵

The claimant argues that by requiring the reimbursable activities be further broken down into subcategories, the Controller imposed an unlawful underground regulation.²⁷⁶ The Administrative Procedures Act requires agencies to give public notice of any proposed regulations and state the reasons for the regulation and provide the complete proposed text so the public can comment on the proposed text, and then respond to all comments and forward all materials relied on to the Office of Administrative Law for review.²⁷⁷ The claimant was never notified of this requirement or was advised that its time studies were insufficient, as demonstrated by the fact it used these time sheets for decades and always received reimbursement without issue.²⁷⁸ It was only after the Controller initiated the audit that the claimant was told of this requirement, at which point it was too late to revise the time studies for the audit period.²⁷⁹ To reverse years of precedent without any notice or warning is an unlawful underground regulation.

²⁷² Exhibit A, Incorrect Reduction Claim, page 26.

²⁷³ Exhibit A, Incorrect Reduction Claim, page 26 citing Sections V. and V.B.1. and 2. in the Parameters and Guidelines.

²⁷⁴ Exhibit A, Incorrect Reduction Claim, page 26 citing Section VII.A.1. in the Parameters and Guidelines.

²⁷⁵ Exhibit A, Incorrect Reduction Claim, page 27.

²⁷⁶ Exhibit A, Incorrect Reduction Claim, page 27.

²⁷⁷ Exhibit A, Incorrect Reduction Claim, page 27 citing to the summary of Government Code section 11340 et seq. in *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 569.

²⁷⁸ Exhibit A, Incorrect Reduction Claim, page 27.

²⁷⁹ Exhibit A, Incorrect Reduction Claim, page 32.

To be deemed an underground regulation, the policy or rule at issue must meet two requirements: (1) the agency must intend it to apply generally rather than in a specific case; and (2) the agency must adopt it to implement, interpret, or make specific the law enforced by the agency.²⁸⁰ The claimant argues this is the case here. The claimant asserts that the Controller's policy of requiring time sheets to include subcategories of the mandated activities has been generally applied, as since November 2022, the Controller has conducted 11 audits of counties' reimbursement claims for this mandated program, and allegedly applied this policy in each.²⁸¹ This policy has also been adopted as part of how the Controller implements the Child Custody mandate and the Parameters and Guidelines enforcing it, as the Controller applies this policy when determining whether a claimant has provided adequate source documentation to comply with the Parameters and Guidelines.²⁸²

The Controller claimed in the Final Audit Report that the 2009 Amendment to the Parameters and Guidelines put the claimant on notice of these requirements, however the claimant asserts again that the current Parameters and Guidelines do not specify that mandated activities must be broken down into these subcategories.²⁸³ Even if it did, there was no notice of this change as the 2009 amendment was presented as simply adding "boilerplate language" that had been used in other Parameters and Guidelines since 2003, with no mention of a requirement to break mandated activities down into subcategories.²⁸⁴ The regulated community therefore had no notice of any substantive changes being made.

To additionally support that there was no notice of this requirement, the claimant cited the Mandated Cost Manual, which gives the following instructions for actual time reporting:

Each program's Ps & Gs define reimbursable activities for each mandated cost program. When employees work on multiple activities, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that must:

- (1) Reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee.
- (2) Account for the total activity for which each employee is compensated.
- (3) Be prepared at least monthly and must coincide with one or more pay

²⁸⁰ Exhibit A, Incorrect Reduction Claim, page 28 citing *Modesto City Schools v. Education Audits Appeals Panel* (2004) 123 Cal.App.4th 1365, 1381.

²⁸¹ Exhibit A, Incorrect Reduction Claim, page 28 (the claimant provided five of these audits to support the claim, located on pages 899-1018).

²⁸² Exhibit A, Incorrect Reduction Claim, page 28.

²⁸³ Exhibit A, Incorrect Reduction Claim, page 29.

²⁸⁴ Exhibit A, Incorrect Reduction Claim, page 29.

periods.

(4) Be signed by the employee.²⁸⁵

The claimant states these requirements do not mention anything about breaking reimbursable activities into subcategories, and that its time sheets comply with the Mandated Cost Manual's requirements.²⁸⁶

It is within the Controller's power to impose a policy requiring that the claimant break down their activities into subcategories, but only with proper notice and opportunity to give comment, as required by the APA. Imposing those requirements without notice is an illegal underground regulation, and applying the requirements retroactively when it's no longer possible to create the contemporaneous source documents needed violates due process.²⁸⁷

4. The Controller's Decision to Reduce the Reimbursement Claim to Zero Is Arbitrary and Capricious.

Alternatively, the claimant argues that it was arbitrary and capricious to reduce its claim to zero, as there is no dispute that mandated services were rendered. Even if the time sheets were not adequate source documentation and the claimant did not comply with the Parameters and Guidelines, the Controller should have instead provided reimbursement based on a reasonable estimate of the costs of services rendered.²⁸⁸

The claimant cites a previous IRC Decision (*The Stull Act*, 14-9825-I-01), in which the Controller found that the claimant did not support its claim with contemporaneous source documents and initially reduced the claim to zero.²⁸⁹ After the audit, the claimant provided additional documentation, which the Controller found showed some mandated activities had been performed during the audit period and offered to reimburse the claimant \$35,967 for those activities. As there was no dispute that mandated activities occurred, the Commission found it was arbitrary and capricious to reduce the claim to zero, and that the claimant should be reimbursed the amount offered by the Controller.²⁹⁰ The claimant insists those same circumstances apply here, as there is no dispute its district attorneys and investigators performed mandated activities during the audit period.²⁹¹

²⁸⁵ Exhibit A, Incorrect Reduction Claim, page 30 quoting the 2024 Mandated Cost Manual for Local Agencies, page 15.

²⁸⁶ Exhibit A, Incorrect Reduction Claim, page 30.

²⁸⁷ Exhibit A, Incorrect Reduction Claim, pages 31-32 citing *Municipal Stormwater and Urban Runoff Discharges*, 20-0304-I-07.

²⁸⁸ Exhibit A, Incorrect Reduction Claim, page 33.

²⁸⁹ Exhibit A, Incorrect Reduction Claim, page 33.

²⁹⁰ Exhibit A, Incorrect Reduction Claim, page 33.

²⁹¹ Exhibit A, Incorrect Reduction Claim, page 33.

The claimant further proposes an alternative method to determine reimbursable costs: after the audit, and without conceding its previous time sheets were inadequate, it revised its time sheets to include subcategories of the activities and tasks, which it used starting in fiscal year 2023-2024.²⁹² These time sheets show 7,794.67 hours spent on mandated activities that year, at a cost of \$1,567,429.62.²⁹³ This is less than the amount claimed for any year in the audit period, although the claimant certifies the number of employees working on these cases each year was the same or similar as when it collected this post-audit data.²⁹⁴ The Controller has previously used data collected after the audit period to determine a reasonable reimbursement amount, which the Commission upheld as not arbitrary, capricious, or lacking in evidentiary support.²⁹⁵ The claimant therefore asks that the same rule be applied here, and that the Commission should order that the claimant be reimbursed at least \$1,567,429.62 for each of the fiscal years at issue.²⁹⁶

The claimant provided the following evidence with its IRC in support of the claims made:

- Declaration of Rachelle Anema, Assistant Audit-Controller for the County of Los Angeles, certifying that the letter from the Controller's Office dated August 5, 2022 attached to this declaration as Exhibit 1; the copies of the claiming instructions issued during the audit period attached in section 8 of the IRC; the final audit report attached in section 9 of the IRC; and the reimbursement claims submitted for the audit period attached in section 10 of the IRC; are all true and correct copies. The declaration also provides testimony of how much the claimant claimed and received each year for this mandated program in fiscal year 2008-2009 through fiscal year 2020-2021, and the dates on which a claim was submitted and when the payment was made for fiscal year 2017-2018 through fiscal year 2020-2021.²⁹⁷
- A letter from the State Controller's Office initializing the audit dated August 5, 2022 and signed by Ken Howell, Audit Manager.²⁹⁸
- Declaration of Rosa Alarcon, Assistant Head Deputy of the Los Angeles District Attorney's Office's Target Crimes Division, asserting that she has supervisory

²⁹² Exhibit A, Incorrect Reduction Claim, page 34.

²⁹³ Exhibit A, Incorrect Reduction Claim, page 34 (the fiscal year 2023-2024 timesheets were included in the IRC's exhibits, see pages 619-892).

²⁹⁴ Exhibit A, Incorrect Reduction Claim, page 35.

²⁹⁵ Exhibit A, Incorrect Reduction Claim, pages 34-35 citing *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03.

²⁹⁶ Exhibit A, Incorrect Reduction Claim, page 35.

²⁹⁷ Exhibit A, Incorrect Reduction Claim, pages 37-38 (Declaration of Rachelle Anema, Assistant Audit-Controller for the County of Los Angeles).

²⁹⁸ Exhibit A, Incorrect Reduction Claim, pages 40-42 (Letter from State Controller's Office, August 5, 2022).

responsibilities over the Child Abduction section and her duties include approving employee time sheets. The declaration provides testimony of how much time was spent by the Child Abduction section and the Bureau of Investigations Child Abduction Unit on various activities for this mandated program; that the Deputy District Attorneys, paralegals, and investigators each recorded their time daily using the provided time sheets; and declares that Exhibits 1, 2, and 3 attached to this declaration (consisting of a blank copy of the time sheet used during the audit period; an example copy of the revised time sheet used in fiscal year 2023-2024; and redacted copies of the time sheets filled out by employees in fiscal year 2017-2018 through fiscal year 2020-2021, respectively) are true and correct copies.²⁹⁹

- A blank copy of the Los Angeles County District Attorney Custody of Minor Time Study, Rev. 2/94.³⁰⁰
- A copy of the revised Los Angeles County District Attorney Custody of Minor Time Study that's been partially filled out with sample information as an example.³⁰¹
- Copies of the Los Angeles County District Attorney Custody of Minor Time Study, Rev. 2/94, which were filled out by the claimant's employees from July 2017 through June 2021, with employee names, signatures, and identification numbers redacted.³⁰²
- Declaration of Jennifer Martin, Sergeant of the Los Angeles District Attorney's Office's Bureau of Investigations' Criminal Division, Torrance Branch who was Sergeant for the Child Abduction Unit from April 2022 to October 2024, and a Senior Investigator for that unit for eight years prior. The declaration testifies that she had supervisory responsibility over the Child Abduction Unit's investigators and staff, and describes the work performed by this unit.³⁰³
- Declaration of Lam Tran, Fiscal Officer, Budget & Fiscal Services Division of the Los Angeles County District Attorney's Office, certifying that Exhibits 1 and 2

²⁹⁹ Exhibit A, Incorrect Reduction Claim, pages 43-46 (Declaration of Rose Alarcon, Assistant Head Deputy of the Los Angeles District Attorney's Office's Target Crimes Division).

³⁰⁰ Exhibit A, Incorrect Reduction Claim, pages 48-49 (Los Angeles County District Attorney Custody of Minor Time Study).

³⁰¹ Exhibit A, Incorrect Reduction Claim, pages 51-52 (Revised Los Angeles County District Attorney Custody of Minor Time Study).

³⁰² Exhibit A, Incorrect Reduction Claim, pages 54-615 (Claimant's Fiscal Year 2017-2018 through 2020-2021 Time Sheets).

³⁰³ Exhibit A, Incorrect Reduction Claim, pages 616-617 (Declaration of Jennifer Martin, Sergeant of the Criminal Division, Torrance Branch, Los Angeles District Attorney's Office's Bureau of Investigations).

attached to this declaration (consisting of redacted copies of the time sheets filled out by the Child Abduction section and Child Abduction unit in fiscal year 2023-2024 and a chart of the number of employees in these units in fiscal years 2020-2021 through 2023-2024, respectively) are true and correct, and that the time sheets show that in fiscal year 2023-2024, employees spent 7,794.67 hours devoted to reimbursable program activities, at a cost of \$1,567,429.62.³⁰⁴

- Copies of the Revised Los Angeles County District Attorney Custody of Minor Time Study which employees filled out for the months of July 2023 through June 2024, employee names and identification numbers redacted.³⁰⁵
- A table showing the total number of program employees, total number of program hours, and the total claimed amount for fiscal years 2020-2021 through 2023-2024.³⁰⁶
- Declaration of Howard Gest, attorney, declaring that Exhibits 1 and 2 attached to this declaration (consisting of “State Controller’s Office Schedule A1: Detail of State-Mandated Program Payments by Fiscal Year” and five audit reports issued by the State Controller’s Office, respectively) are true copies downloaded from the State Controller’s website on June 9, 2025.³⁰⁷
- State Controller’s Office Schedule A1: Detail of State-Mandated Program Payments by Fiscal Year, which shows the appropriation number for the CAR program in fiscal year 2017-2018 was 0001-8885-2019-295-98, and in fiscal year 2018-2019 was 0001-8885-2020-295-98.³⁰⁸
- Five Final Audit Reports for audits of different counties’ reimbursement claims for this program (Ventura County, November 2022; San Joaquin County, May 2023; San Diego County, July 2023; Shasta County, August 2023; and Orange County, December 2024).³⁰⁹

³⁰⁴ Exhibit A, Incorrect Reduction Claim, page 618 (Declaration of Lam Tran, Fiscal Officer, Budget & Fiscal Services Division of the Los Angeles County District Attorney’s Office).

³⁰⁵ Exhibit A, Incorrect Reduction Claim, pages 620-891 (Claimant’s Fiscal Year 2023-2024 Time Sheets).

³⁰⁶ Exhibit A, Incorrect Reduction Claim, page 893 (SB90 Child Abduction and Recovery Summary Fiscal Year 2020-2021 to Fiscal Year 2023-2024).

³⁰⁷ Exhibit A, Incorrect Reduction Claim, page 894 (Declaration of Howard Gest, Attorney).

³⁰⁸ Exhibit A, Incorrect Reduction Claim, pages 896-898 (State Controller’s Office Schedule A1: Detail of State-Mandated Program Payments by Fiscal Year).

³⁰⁹ Exhibit A, Incorrect Reduction Claim, pages 900-1018 (Final Audit Reports for other audits).

- Section 8, claiming instructions for fiscal years 2017-2018 through 2020-2021.³¹⁰
- Section 9, the final audit report.³¹¹
- Section 10, the claimant's reimbursement claims filed for fiscal years 2017-2018 through 2020-2021, including documentation of the ICRP calculation; tables showing employee names, job classification, hourly rate, claimed hours worked, employee benefits, and indirect costs; an indirect cost proposal; cost factors; and, for fiscal year 2017-2018 only, a letter dated December 31, 2018, signed by Jackie Lacey, district attorney.³¹²

On May 14, 2026, the claimant filed comments on the Draft Proposed Decision, in which it expressed full support for the Draft Proposed Decision's findings.³¹³

B. State Controller's Office

The Controller responded to the claimant's arguments as follows:

1. The Audit of the Fiscal Year 2017-2018 Reimbursement Claim Was Timely.

The Controller maintains that it timely initiated the fiscal year 2017-2018 audit, stating that while the claimant filed its reimbursement claim on February 1, 2019, the initial payment for this claim was made on August 15, 2019. Government Code section 17558.5(a) tolls the time to initiate the audit of a claim "if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed," to three years from the date of initial payment on the claim. Therefore, the Controller had until August 15, 2022, to initiate its audit of the fiscal year 2017-2018 claim.³¹⁴ As the Controller first contacted the claimant regarding the audit on July 26, 2022, and sent an engagement letter on August 5, 2022, the audit was timely. The Controller also cites a past IRC Decision in which the Commission found this rule applied in support of this interpretation.³¹⁵

2. The Claimant's Source Documentation Is Not Compliant with the Parameters and Guidelines.

The Controller argues that simply referring to the code sections on the time sheets does not equate to describing the mandated activities:

³¹⁰ Exhibit A, Incorrect Reduction Claim, pages 1020-1087 (Claiming Instructions, fiscal years 2017-2018 through 2020-2021).

³¹¹ Exhibit A, Incorrect Reduction Claim, pages 1089-1129 (Final Audit Report).

³¹² Exhibit A, Incorrect Reduction Claim, pages 1131-1209 (Reimbursement Claims, Fiscal Years 2017-2018 through 2020-2021).

³¹³ Exhibit F, Claimant's Comments on the Draft Proposed Decision, pages 1-2.

³¹⁴ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 11.

³¹⁵ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 11 citing the Decision on *Integrated Waste Management*, 14-0007-I-04.

The time study/time sheet instructions list the Penal Code and Family Code section and “Activity performed” or “Activities performed.” Descriptions of the mandated activities, as listed in section IV of the Ps and Gs, are not provided. Simply “referring to the Family and Penal code sections” does not equate to describing the mandated activities set forth in the Ps and Gs.³¹⁶

The Controller also notes that the claimant filled out the reimbursement claim forms incorrectly. The reimbursement claim form has space to report the costs incurred under each of the four reimbursable activities categories. Although the claimant claims it performed mandated activities including “Obtaining compliance with court orders relating to custody orders” and “The return of an illegally concealed child or minor to its legal custodian,” the Controller argues that “the county’s fiscal year claim forms contradict this assertion as the county claimed only reimbursable activity 1 ‘Compliance with Court Orders.’”³¹⁷

3. The Controller Did Not Impose an Unlawful Underground Regulation Violating Due Process.

The Controller did not acknowledge that the claimant’s time sheets comply with the Parameters and Guidelines, as asserted by the claimant. Instead, the Controller found the time sheets did not describe the mandated activities, when they were incurred, or their relationship to reimbursable activities.³¹⁸ The claimant’s time sheet form does not list what the “activity” or “activities” are but instead reference a series of Family and Penal Code sections, which the Controller asserts does not comply with the requirements of the Parameters and Guidelines.³¹⁹

The Controller denies that it requires the claimant’s time sheets break activities down into further subcategories. “The SCO never instructed the county how to complete their time sheets.”³²⁰ The reduction was based on a lack of contemporaneous source documentation that described the mandated functions performed and the actual number of hours devoted to each function, not a lack of subcategories.³²¹ The requirements the Controller based its decision on came directly from the Parameters and Guidelines, which require that supporting documentation for salaries and employees’ benefits must “describe the mandated functions performed and specify the actual number of hours devoted to each function.”³²² “The county believes that referring to family and penal code sections complies with the Ps and Gs requirement for documentation to ‘describe

³¹⁶ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 12.

³¹⁷ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 12.

³¹⁸ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 13.

³¹⁹ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 13.

³²⁰ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 13.

³²¹ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 14.

³²² Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 13.

the mandated functions performed and specify the actual number of hours devoted to each function.’ A reference is not a description.”³²³ The requirement to describe the mandated functions performed and specify the actual number of hours devoted to each function is found in the 2009 Parameters and Guidelines which control for the entire audit period. Claimants were properly informed when the 2009 amendment took place and have had a duty every year since then to review all relevant materials and ensure their claim is compliant before filing their reimbursement claims.³²⁴ Claimants therefore had notice of this requirement and it is not a violation of due process.

In response to the claimant’s argument that it has been using these time sheets since 1994 without issue, the Controller points out this is the first audit of the claimant’s reimbursement claims for CAR since the Parameters and Guidelines were last amended in 2009 to require that the claimants provide contemporaneous source documentation. There is no “policy” of requiring activities be broken into subcategories; just consistent application of the Parameters and Guidelines’ requirement that the claimant provide contemporaneous source documentation to support the mandated functions performed and the actual number of hours devoted to each function, which was the basis for the Controller’s conclusions.³²⁵

The previous IRC Decision the claimant cites in support of a violation of due process to impose requirements without prior notice (*Municipal Stormwater and Urban Runoff Discharges*, 20-0304-I-07) is distinguishable from this case, as it involved costs that were incurred before the state adopted Parameters and Guidelines for that program.³²⁶ As such, the claimant was not on notice of the contemporaneous source document requirements when it incurred costs, and it would have been a violation of due process to require the claimant comply with that requirement. Here, the current version of the Parameters and Guidelines was adopted in 2009, long before the claimant incurred the costs at issue. The claimant had notice of the 2009 Parameters and Guidelines amendment, as a notice of the proposed changes was issued to all interested parties prior to adopting the 2009 amendment, and the Mandated Cost Manual which is issued to claimants each year states that the Parameters and Guidelines were amended in 2009.³²⁷ It is the claimant’s responsibility to review all relevant materials, including any changes to the Parameters and Guidelines, before submitting a reimbursement claim, and it is also responsible for ensuring that its reimbursement claim adheres to all of the Parameters and Guidelines’ requirements.³²⁸

³²³ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 13.

³²⁴ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 15.

³²⁵ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 14.

³²⁶ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 14.

³²⁷ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 15.

³²⁸ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 15.

4. It Was Not Arbitrary and Capricious to Reduce the Reimbursement Claim to Zero.

The Controller asserts that it was not arbitrary and capricious to reduce the claimant's reimbursement claim, because the claimant's source documentation did not comply with the Parameters and Guidelines. The Controller cites a previous IRC Decision (*The Stull Act*, 14-9825-I-02) to support that the decision to reduce the claimant's reimbursement claim to zero was not arbitrary and capricious. In that previous IRC decision, a claimant relied on staff estimates for how much time they spent on the mandate, used this to find the average time claimed on mandated activities, and estimated its costs based on these averages. The Controller correctly found this did not comply with the contemporaneous source document rule and that the claimant did not claim actual costs, as required by the Parameters and Guidelines. The requirements of the Parameters and Guidelines, as a quasi-judicial decision, are final and binding. As such, failure to comply with the Parameters and Guidelines meant that "the Controller could have reduced the entire claim to zero," and that "[a]ny such reduction would have been correct as a matter of law."³²⁹ Furthermore, it was the claimant's responsibility to establish actual costs using "source documents that show the validity of such costs, when they were incurred and *their relationship to the reimbursable activities*."³³⁰

The Controller also distinguishes this IRC from the one in *The Stull Act*, 14-9825-I-01 Decision the claimant relies on. There, the audit involved reimbursement claims for several years prior to when the state adopted Parameters and Guidelines for the program; the claimant therefore was not put on notice of the contemporaneous source document rule, and was not able to provide contemporaneous source documents.³³¹ That is not the case here, as the claimant had notice of the contemporaneous source document requirement since 2009 when the Parameters and Guidelines were amended.

Moreover, the Controller argues that the Parameters and Guidelines do not allow for using an alternative means to determine the reasonable costs incurred.³³² The prior IRC decision the claimant relies on for its contention that it would be appropriate to use post-audit period data to determine a reimbursement amount (*Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03) is distinguishable from this IRC because while both this IRC and the prior IRC are for the same mandated program, the prior IRC was subject to the prior version of the Parameters and Guidelines from 1999.³³³ As such, there was no requirement to support costs with contemporaneous source documents, and post-audit data could be relied on instead. Here, the claims are subject

³²⁹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 16.

³³⁰ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 16, emphasis in original.

³³¹ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 16.

³³² Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 16.

³³³ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 17.

to the 2009 Parameters and Guidelines, which require that “...only actual costs must be claimed...actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities...a source document is a document created at or near the same time the actual cost was incurred for the event or activity in question...”³³⁴ Using “post-audit period data to support claimed costs would be completely contradictory to the clearly expressed documentation requirements in the Ps and Gs.”³³⁵

The Controller provided the following documents as evidence to support the assertions made in its comments:

- A declaration by Lisa Kurokawa, Bureau Chief, Compliance Audits Bureau, Division of Audits, declaring that all copies of records provided are true copies of records either provided by the claimant or retained at the Controller’s place of business.³³⁶
- The Mandated Cost Manual’s claiming instructions for CAR for fiscal years 2018-2019, 2019-2020, and 2020-2021.³³⁷
- The initiation of audit letter dated August 5, 2022, signed by Ken Howell, Audit Manager, Compliance Audits Bureau, Division of Audits.³³⁸
- The Final Audit Report.³³⁹
- The claimant’s reimbursement claim forms for fiscal years 2017-2018 through 2020-2021, stamped with dates filed.³⁴⁰
- The 2009 Amendment to Parameters and Guidelines.³⁴¹

³³⁴ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 17.

³³⁵ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 17.

³³⁶ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 4-5 (Declaration of Lisa Kurokawa, Bureau Chief).

³³⁷ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 19-71 (Mandated Cost Manual and Claiming Instructions).

³³⁸ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 73-75 (Letter from Ken Howell, Audit Manager, August 5, 2022).

³³⁹ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 76-116 (Final Audit Report).

³⁴⁰ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 117-136 (Claimant’s Reimbursement Claims, fiscal years 2017-2018 through 2020-2021)

³⁴¹ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, pages 137-145 (2009 Amendment to Parameters and Guidelines).

- Payment records from the Bureau of Local Reimbursements, showing that initial payment of the fiscal year 2017-2018 reimbursement claim was made on August 15, 2019.³⁴²
- An email from Alexandra Bonezzi, Auditor, dated July 26, 2022, stating the Controller's intent to audit the claimant's reimbursement claims for the audit period.³⁴³
- An email from Alexandra Bonezzi, Auditor, dated August 5, 2022, forwarding the official engagement letter.³⁴⁴
- The Notice of Draft Staff Analysis, Comment Period, and Hearing Date for the 2009 amendment to the Parameters and Guidelines (05-PGA-43 (4237)).³⁴⁵
- A prior IRC Decision, *Integrated Waste Management*, 14-0007-I-04.³⁴⁶
- A prior IRC Decision, *Municipal Stormwater and Urban Runoff Discharges*, 20-0304-I-07.³⁴⁷
- A prior IRC Decision, *The Stull Act*, 14-9825-I-02.³⁴⁸

5. The Controller's Comments on the Draft Proposed Decision.

On May 22, 2026, the Controller filed its response to the Draft Proposed Decision.³⁴⁹ It insists the time sheets were inadequate source documents, because there was not enough information to validate the claimed costs through an audit.³⁵⁰ "[T]he Controller reduced the claim because it was unable to validate the timesheets, and accordingly, any actual costs of performing such activities."³⁵¹ The Controller argues that "the time

³⁴² Exhibit B, Controller's Comments on the Incorrect Reduction Claim, pages 146-149 (Payment records from the Bureau of Local Reimbursements).

³⁴³ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 150 (Email from Alexandra Bonezzi, Auditor, July 26, 2022).

³⁴⁴ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 151 (Email from Alexandra Bonezzi, Auditor, August 5, 2022).

³⁴⁵ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 152 (Notice of Draft Staff Analysis, Comment Period, and Hearing Date, 05-PGA-43 (4237)).

³⁴⁶ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, pages 154-196 (*Integrated Waste Management*, 14-0007-I-04).

³⁴⁷ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, pages 198-246 (*Municipal Stormwater and Urban Runoff Discharges*, 20-0304-I-07).

³⁴⁸ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, pages 248-280 (*The Stull Act*, 14-9825-I-02).

³⁴⁹ Exhibit G, Controller's Comments on the Draft Proposed Decision.

³⁵⁰ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

³⁵¹ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

records must meet the minimum requirements of a supporting document and must show the validity of the costs and the costs [sic] relationship to the reimbursable activities.”³⁵² The Parameters and Guidelines state that “claimed costs must be identified to **each** reimbursable activity...” that “direct costs are defined as costs that can be traced to **specific** goods, services, units, programs, activities, or functions,” and that Salaries and Employee Benefits shall “describe the mandated functions performed.”³⁵³ Although the Parameters and Guidelines do not specify the level of detail needed for this description, the Controller asserts that “Absent a specific description, the time record must meet the minimum requirement of a supporting document and must show the validity of the costs and the costs relationship to the reimbursable activities.”³⁵⁴

The Controller’s procedure for validating the accuracy of time records is to select a sample of the records and ensure that the claimant’s employees: 1) did not record time incorrectly; 2) did not claim time for unallowable activities; 3) did not misclassify unallowable activities as allowable activities; 4) did not claim budgeted or estimated time instead of actual time; and 5) did not include time worked on cases that were unrelated to the mandate.³⁵⁵ Because the claimant “did not include a description of the specific activities or cases the employee worked on,” the Controller was unable to test the validity of the time claimed in the time sheets, and “there is no ascertainable way to determine the validity of the time because there is no traceable relationship between the hours claimed and the reimbursable activities.”³⁵⁶ The audit found that “due to the lack of sufficient description of activities/cases in the supporting time record, it is impossible to identify the evidence to validate or refute the accuracy of the time sheets because there is no relationship or tracing of the time record to the work that supports the record.”³⁵⁷

The Controller argues that the interpretation of the Parameters and Guidelines in the Draft Proposed Decision undermines the Controller’s audit authority in a way that “may render the Controller’s audit authority all but meaningless in future claims for reimbursement.”³⁵⁸ The Controller’s audit authority is rooted in the state Constitution, with the specific authority to audit mandate reimbursement claims granted by Government Code sections 17558.5 and 17561. “Accordingly, the Commission cannot interpret the Ps and Gs in such a manner as to defeat the Controller’s audit

³⁵² Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2.

³⁵³ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2, emphasis added by the Controller.

³⁵⁴ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2.

³⁵⁵ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2.

³⁵⁶ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3.

³⁵⁷ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3. This is not a direct quote of the Final Audit Report but how the Controller summarizes the audit’s findings in its comments.

³⁵⁸ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2.

authority.”³⁵⁹ Presuming the claimant’s time sheets are accurate does “not become conclusive of those facts so as to deprive the controller of his duty to audit the claim and to refuse payment thereof if it appears to be illegal.”³⁶⁰ The Commission’s determination it must presume the claimant’s time sheets are compliant sets a precedent that would require auditors to presume all similar time records are accurate even if they would have been found to be grossly inaccurate if the claimant had provided a description of the specific activities or cases.³⁶¹

Additionally, the Controller argues that presuming the claimant’s employees reported their time accurately because “there is no evidence to the contrary” mischaracterizes the audit’s findings. The audit did not find there was no evidence that employees reported their time inaccurately, but that “due to the lack of sufficient description of activities/cases in the supporting time record, it is impossible to identify evidence to validate or refute the accuracy of the time sheets because there is no relationship or tracing of the time record to the work that supports the record.”³⁶² Furthermore, there is evidence of some of the time sheets being faulty, as the Final Audit Report noted several time sheets with various deficiencies such as missing employee or supervisor signatures, the same employee signing as both employee and supervisor, and signatures that were dated at the start of the month,, or in the middle of the month, or anywhere between one to six months after the studied month, or with no date at all.³⁶³

Although “the Controller does not dispute that the Claimant performed mandated activities,” and it acknowledges that “the Claimant’s case files and case counts support the Claimant performed some level of reimbursable activities,” the Controller insists that it was not arbitrary, capricious, or lacking in evidentiary support to reduce the claimant’s costs to \$0.³⁶⁴ To be reimbursed for mandated activities, a claimant must first file a reimbursement claim that is compliant with the Parameters and Guidelines’ requirements, including the requirement to provide compliant source documentation as evidence of the claimed costs. Claimants bear the initial burden of providing this evidence, and when a claimant fails to comply with the Parameters and Guidelines, the Controller may reduce that claim to \$0.³⁶⁵ Corroborating documents cannot be substituted for source documents, therefore when source documents are not compliant, the Controller cannot reasonably find allowable costs based solely on corroborating

³⁵⁹ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2.

³⁶⁰ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2, quoting *Madden v. Riley* (1942) 53 Cal.App.2d 814, 819.

³⁶¹ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3.

³⁶² Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3. This is not a quote of any specific findings made in the Final Audit Report.

³⁶³ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3.

³⁶⁴ Exhibit G, Controller’s Comments on the Draft Proposed Decision, pages 2-4.

³⁶⁵ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 5.

evidence. The decision to reduce costs to \$0 was therefore reasonable because the claimant did not meet the minimum requirements for a reimbursement claim.³⁶⁶

Additionally, the Controller argues the Draft Proposed Decision misapplies the standard of review in its finding that reducing the costs to \$0 was arbitrary or capricious. The Commission's standard of review when reviewing the Controller's audit decisions is compared to the abuse of discretion standard, where the scope of review is limited, out of deference to the agency's authority and expertise, and the court may not reweigh evidence or substitute its judgement for the agency's.³⁶⁷

The Controller contends these circumstances are distinguishable from the audit in *The Stull Act*, 14-9825-I-01 because in that case the additional evidence supported a way the Controller could reasonably use to estimate reimbursable costs.³⁶⁸ Similar evidence does not exist in this case. Instead, the facts here are more like the previous IRC *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, as in that case, the claimant tried to claim reimbursement for the costs of two full-time employees, relying on payroll documentation and a time study. The Controller found the payroll documentation did not comply with the Parameters and Guidelines, and explained its reasons for rejecting the time study, and so these employees' costs were reduced to \$0 because the actual time spent performing mandated activities could not be validated. The Commission found that it could not substitute its own judgement on the audit decision to reject the time study, and that the decision to reduce costs to \$0 when the claimant did not comply with the Parameters and Guidelines was correct as a matter of law and not arbitrary, capricious, or unsupported by the evidence in the record. Finding the Controller's decision is now arbitrary and capricious when source documents are non-compliant would undo the Commission's own precedent.³⁶⁹ In light of these arguments, the Controller requests the Commission reconsider the conclusions in the Draft Proposed Decision.

C. County of Riverside

On May 13, 2026, the County of Riverside (Riverside) filed comments on the Draft Proposed Decision.³⁷⁰ Riverside was the claimant in another audit for its CAR program

³⁶⁶ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 5.

³⁶⁷ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 6, citing *Stone v. Regents of University of California* (1999) 77 Cal.App.4th 736, 745.

³⁶⁸ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 7.

³⁶⁹ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 7.

³⁷⁰ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision. Riverside asserts itself as an interested party because it has "a direct and material stake in the legal questions this proceeding presents." (Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 1.) Commission regulations define an interested party as "a local agency or school district with subvention rights in the matter under article XIII B, section 6, of the California Constitution," while an interested person is "anyone who is not a party or interested party with respect to that matter." (California

for fiscal years 2017-2018 through 2019-2020, in which the Controller disallowed \$3,649,699 of Riverside's \$3,762,254 claim, allegedly based on the same grounds of inadequate source documentation and the position that "good cause" cases under Penal Code section 278.7 are not reimbursable.³⁷¹ Riverside has filed its own IRC with the Commission challenging that disallowance.³⁷²

Riverside expresses its support for the findings in the Draft Proposed Decision, and goes into detail on how the facts in this IRC are similar to those at play in its own case.³⁷³ Additionally, Riverside points to a letter Commission staff sent to the mailing list for a recent amendment to the CAR program's Parameters and Guidelines (25-PGA-01).³⁷⁴ In that letter, staff noted that some commenters suggested additional changes beyond what was originally proposed in the request regarding "good cause" cases and documentation requirements. Staff explained that, according to the Commission's regulations, these additional changes would need to be filed as a separate Parameters and Guidelines Amendment.³⁷⁵ Riverside interprets this as evidence supporting a conclusion that the Parameters and Guidelines do not contain any requirements regarding "good cause" cases or documentation:

The legal implication of this ruling is precise: the Commission cannot address Good Cause treatment or documentation requirements within 25-PGA-01 because those subjects are not in the current Ps&Gs. A new filing would be required to put those questions before the Commission because the current Ps&Gs do not answer them. This is official, signed, published confirmation from the body with exclusive jurisdiction over this mandate that the two standards the SCO has applied in field audits of Los Angeles, Riverside, Sacramento, and Ventura Counties — a function-level documentation standard and a Good Cause exclusion — have no basis in the current Ps&Gs.

The Draft PD reaches the same conclusion through statutory interpretation. The Commission's March 16, 2026 letter reaches it through procedural ruling. Together, they confirm from two independent directions that the SCO invented and applied standards that the Commission itself

Code of Regulations, title 2, section 1181.2(h)-(i).) Although Riverside may be invested in the legal questions at issue in this matter, it does not have any subvention rights with respect to the reimbursement claims and IRC filed by the claimant here. It is therefore more properly classified as an interested person.

³⁷¹ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 1.

³⁷² Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 1. The Commission received the initial filings for Riverside's IRC on June 19, 2026.

³⁷³ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, pages 1-3.

³⁷⁴ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 3.

³⁷⁵ See California Code of Regulations, title 2, section 1183.17(c).

has not adopted. The Commission should take note of this confirmation and incorporate it into the reasoning underlying the final Proposed Decision.³⁷⁶

Riverside concludes by asking that the Commission adopt the Draft Proposed Decision in full and that its holdings be consistently applied across all pending IRCs for the program, which the Controller decided based on the same incorrect methodology.³⁷⁷

IV. Discussion

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, *de novo*, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.³⁷⁸ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."³⁷⁹

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard

³⁷⁶ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 3. In a PGA, the Commission's jurisdiction is limited to the request filed. Pursuant to section 1183.17(c) of the Commission's regulations, additional requests for amendments made in comments to an existing request for a parameters and guidelines amendment are not before the Commission unless a separate matter is filed requesting that amendment. Any new proposals for amendments addressed in comments shall be filed as a new parameters and guidelines amendment request.

³⁷⁷ Exhibit E, County of Riverside's Comments on the Draft Proposed Decision, page 4.

³⁷⁸ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

³⁷⁹ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.³⁸⁰ Under this standard, the courts have found:

When reviewing the exercise of discretion, “[t]he scope of review is limited, out of deference to the agency’s authority and presumed expertise: ‘The court may not reweigh the evidence or substitute its judgement for that of the agency. [Citation.]’” ... “In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support...” [Citations.] When making that inquiry, the “ ‘ court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute.” [Citation.] ”³⁸¹

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.³⁸² In addition, sections 1185.1(f)(3) and 1185.2(d) and (e) of the Commission’s regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.³⁸³

A. The Claimant Timely Filed this IRC Within Three Years from the Date the Claimant First Received from the Controller a Final State Audit Report, Letter, or Other Written Notice of Adjustment to a Reimbursement Claim, which Complies with Government Code Section 17558.5(c).

Government Code section 17558.7(a) states: “If the Controller reduces a claim approved by the commission, the claimant may file with the commission an incorrect reduction claim pursuant to regulations adopted by the commission.” Section 1185.1(c) of the Commission’s regulations requires an IRC to be filed no later than three years after the date the claimant receives a final state audit report, letter, or other written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c). Under Government Code section 17558.5(c), the Controller is required to notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a reimbursement claim resulting from an audit or review.

³⁸⁰ *Johnson v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

³⁸¹ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

³⁸² *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

³⁸³ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

The notice must specify which claim components were adjusted and in what amount, as well as interest charges, and the reason for the adjustment.³⁸⁴

Here, the Controller issued the final audit report on May 2, 2024.³⁸⁵ The audit report specifies the claim components and amounts adjusted, as well as the reasons for the adjustments, and therefore complies with the section 17558.5(c) notice requirements.³⁸⁶ The IRC was filed on July 25, 2025.³⁸⁷ This is within three years of issuing the final audit report, and is therefore timely.

B. The Controller's Audit of the Fiscal Year 2017-2018 Reimbursement Claim Was Untimely Initiated Pursuant to Government Code Section 17558(a) and, Therefore, the Audit of the 2017-2018 Claim Is Void and the Claimed Costs for that Fiscal Year of \$3,136,557 Should Be Reinstated.

Government Code section 17558.5(a) says:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

The deadlines in Government Code Section 17558.5(a) impose a statute of repose, which is a period during which an audit or review must be initiated if an audit is to be conducted, and after which the claimant may enjoy repose, dispose of any evidence or documentation to support their claims, and assert a defense that the audit is not timely and therefore void. The court in *Giest v. Sequoia Ventures, Inc.*, described a statute of repose as follows:

Unlike an ordinary statute of limitations which begins running upon accrual of the claim, [the] period contained in a statute of repose begins when a specific event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted.” [citations] A statute of repose thus is harsher than a statute of limitations in that it cuts off a right of action after a specified period of time, irrespective of accrual or even notice that a legal right has been invaded.³⁸⁸

³⁸⁴ Government Code section 17558.5(c).

³⁸⁵ Exhibit A, Incorrect Reduction Claim, page 1090 (Final Audit Report).

³⁸⁶ Exhibit A, Incorrect Reduction Claim, pages 1089-1129 (Final Audit Report).

³⁸⁷ Exhibit A, Incorrect Reduction Claim, page 1.

³⁸⁸ *Giest v. Sequoia Ventures, Inc.* (2000) 83 Cal.App.4th 300, 305.

Described by another court in *Inco Development Corp. v. Superior Court*, the characteristics of a statute of repose include that it is “not dependent upon traditional concepts of accrual of a claim, but is tied to an independent, objectively determined and verifiable event...”³⁸⁹ Courts have ruled that when a deadline is for the protection of a person or class of persons, and the language of the statute as a whole indicates the Legislature’s intent to enforce the deadline, the deadline is mandatory.³⁹⁰

Here, the plain language of section 17558.5 provides that the deadline to initiate an audit is “no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.” This is the default deadline which is meant to apply in most circumstances. However, the statute also allows a tolling of the deadline based on the date of initial payment on the claim “if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed.” Because the structure and purpose of the statute suggests that it is mandatory, an audit not initiated within the correct timeframe must be held void.

The claimant believes that the default deadline applies to the audit for the 2017-2018 reimbursement claim, as the Legislature appropriated funds to reimburse this claim, and the audit is therefore untimely. The Controller believes that the deadline was tolled, because the payment on this claim was made on August 15, 2019.

The Commission finds that the default deadline applies in this case and that audit for the 2017-2018 reimbursement claim was not timely initiated under section 17558.5(a).

Under the rules of statutory interpretation, the Commission is required to first read the plain language of the statute, as the best indicator of legislative intent.³⁹¹ Statutory language is given its usual and ordinary meaning, and if there is no ambiguity, then courts presume the lawmakers meant what they said, and the plain meaning of the law prevails.³⁹² The plain language here is not ambiguous or unclear; the tolled deadline for the Controller to initiate an audit only applies if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed.

In this case, the facts are not in dispute – the claimant filed its fiscal year 2017-2018 reimbursement claim on February 1, 2019.³⁹³ The Legislature appropriated \$12,730,000 towards payment of mandate claims for costs incurred in fiscal year 2017-2018 for the *Custody of Minors — Child Abduction and Recovery* program in the Budget Act of 2019, which became effective immediately upon its adoption on June 27, 2019.³⁹⁴

³⁸⁹ *Inco Development Corp. v. Superior Court* (2005), 131 Cal.App.4th 1014.

³⁹⁰ *People v. McGee* (1977) 19 Cal.3d 948, 962, citing *Morris v. County of Marin* (1977) 18 Cal.3d 901, 909-910.

³⁹¹ *People v. Standish* (2006) 38 Cal.4th 858, 869.

³⁹² *Hart v. Hart* (2025) 115 Cal.App.5th 571, 577.

³⁹³ Exhibit B, Controller’s Comments on the Incorrect Reduction Claim, page 117 (Claimant’s Fiscal Year 2017-2018 Reimbursement Claim Form).

³⁹⁴ See Statutes of 2019, Chapter 23, section 2, Item 8885-295-0001, Schedule 1(e). Note there is a small error in this Budget Act, as it says the appropriation is for

The Controller then issued a payment to reimburse the claimant for the costs claimed in the fiscal year 2017-2018 reimbursement claim on August 15, 2019.³⁹⁵ Based on these facts and the plain language of Government Code section 17558.5(a), an appropriation was made, and the default deadline based on the date the claim was filed controls for how long the Controller had to initiate its audit. The Controller then initiated an audit of the claimant's reimbursement claims for fiscal years 2017-2018 through 2020-2021 on August 5, 2022.³⁹⁶ This date is more than three years after the date the claimant filed its fiscal year 2017-2018 reimbursement claim, making the audit for that reimbursement claim untimely.

The Controller, however, seems to have read into the statute a requirement that for the tolling of the time to initiate an audit to apply, the Legislature must not have appropriated funds to reimburse claimants for their costs incurred in the fiscal year being claimed *at the time the claimant files their reimbursement claim*.³⁹⁷ This interpretation reads language into the statute that is not there, which violates the rules of statutory construction.³⁹⁸ According to the plain language of the statute, the alternative language that tolls or delays the deadline to initiate an audit only applies "if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed." Nothing says that this must occur before the

mandated program costs incurred through fiscal year 2016-2017, not fiscal year 2017-2018. This appears to be a case of the Legislature copying from the previous year's Budget Act during drafting and forgetting to update the year, as the Budget Act of 2018 also reimbursed costs for this mandated program for fiscal year 2016-2017 (See Statutes of 2018, Chapter 29, section 2, Item 8885-295-0001), and the Budget Act of 2020 moved on to reimbursement for fiscal year 2018-2019 (See Statutes of 2020, Chapter 6, section 2, Item 8885-295-0001). Regardless, this error does not mean the Budget Act of 2019 did not appropriate funds for costs incurred by this program in fiscal year 2017-2018, as the Controller acknowledged this was an appropriation for costs incurred through the 2017-2018 fiscal year in the Mandated Cost Manual for 2018-2019 (Exhibit H (5), Mandated Cost Manual for Local Agencies, September 1, 2019, page 5).

³⁹⁵ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 146 (Division of Accounting and Reporting, Bureau of Local Reimbursements, Payments for a Claim).

³⁹⁶ Exhibit A, Incorrect Reduction Claim, page 1126 (Engagement Letter).

³⁹⁷ Alternatively, the claimant suggests the Controller has replaced "for" for "in" in its reading of Government Code section 17558.5(a), so it reads "if no funds are appropriated or no payment is made to a claimant for the program *in* the fiscal year for which the claim is filed." (emphasis added by claimant). This would have the same effect of requiring the appropriation occur before the claim is filed.

³⁹⁸ *Nevarrez v. San Marino Skilled Nursing and Wellness Centre, LLC* (2013) 221 Cal.App.4th 102, 130 ("...in construing a statute, we are not permitted to 'insert qualifying provisions not included' in the statute, nor edit it 'to conform to an assumed intention which does not appear from its language.' [Citation]").

claim is filed. And, here, it is undisputed that an appropriation was made for this program for fiscal year 2017-2018 costs on June 27, 2019, and payment was made on August 15, 2019.

The plain language of section 17558.5(a) makes sense when read in light of the Legislature's constitutional obligation to reimburse mandated programs and the statutory process in place for how appropriations are made for annually reimbursed mandated programs. Article XIII B, section 6(b)(1) in the California Constitution says "Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined *in a preceding fiscal year* to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law."³⁹⁹ Suspension means that no appropriation is made for the mandated program for a fiscal year and the mandate is rendered inoperable for that year.⁴⁰⁰

For the purposes of determining the state's payment obligation under paragraph (1) of subdivision (b) of section 6 of article XIII B of the Constitution, a mandate that is "determined in a preceding fiscal year to be payable by the state" means "any mandate for which the commission adopted a statewide cost estimate pursuant to this part during a previous fiscal year or that were identified as mandates by a predecessor agency to the commission," which therefore includes the mandated programs approved by the Board of Control.⁴⁰¹ Annual reimbursement claims for a state-mandated program may be filed by February 15 following the fiscal year in which costs are incurred.⁴⁰² The Government Code then requires the State Controller's Office "to submit by April 30 of each year a report to the Joint Legislative Budget Committee, the applicable fiscal committees, and the Director of Finance summarizing the total amount of unpaid claims submitted *before April 1 of that year*, and summarize any mandate deficiencies or surpluses, "for the purpose of determining the state's payment obligation under paragraph (1) of subdivision (b) of Section 6 of Article XIII B of the California Constitution."⁴⁰³ The Controller's report of "unpaid claims submitted before April 1 of that year" would include annual reimbursement claims filed "by February 15 *following*

³⁹⁹ Emphasis added.

⁴⁰⁰ Government Code section 17581.

⁴⁰¹ Government Code section 17561(e)(1).

⁴⁰² Government Code section 17560(a). Government Code section 17568 allows the Controller to penalize late filed annual reimbursement claims with a ten percent reduction, not to exceed \$10,000, and explicitly prohibits reimbursement for any claim filed more than a year after the deadline.

⁴⁰³ Government Code section 17562(b)(2), emphasis added. A collection of these reports and their corresponding cover letters dating back to 2020 is located on the Controller's website at https://sco.ca.gov/ard_mancost_deficiency.html (accessed February 25, 2026).

the fiscal year in which costs are incurred.”⁴⁰⁴ The Legislative Analyst is then required to report total annual state costs for mandated programs and, as appropriate, provide an analysis of specific mandates and make recommendations on whether the mandate should be repealed, funded, suspended, or modified.⁴⁰⁵ If the Legislature appropriates funds to reimburse a program’s costs for the preceding fiscal year, the Controller shall reimburse any eligible claimant by either October 15 or 60 days after the appropriation was made, whichever is later.⁴⁰⁶

Thus, a claimant is required to file its reimbursement claim for costs incurred in fiscal year 2017-2018 by February 15, 2019; these costs would then be included in the Controller’s 2019 report filed with the Legislature by April 30, 2019; the Legislature either suspends the program making the mandate inoperative for that fiscal year, or appropriates funds for costs incurred by the program in fiscal year 2017-2018 in the Budget Act of 2019, which sets the state’s budget for fiscal year 2019-2020; and then the Controller makes a payment to the claimant by October 15, 2019 or within 60 days of the Budget Act taking effect, whichever is later.

If the Controller’s interpretation of Government Code section 17558.5(a) were correct, and an appropriation must be made before the claim was filed for the default deadline to apply, it would mean that *all* annually reimbursed mandated programs must rely on the tolled or delayed deadline instead of the default deadline, as funds are never appropriated before the claim was filed. Under the California Constitution and the Government Code, funds are appropriated for the preceding fiscal year (i.e., *after* the annual claims are filed). The Controller’s interpretation would therefore lead to absurd results because the exception in section 17558.5(a) would swallow the rule.⁴⁰⁷ The more reasonable reading is based on the plain language of the statute; when the Controller receives a reimbursement claim for an annual program, the Controller must wait to see if it will be funded in the next Budget Act. If funds are appropriated, the Controller makes a payment to the claimant, and it is then required to initiate an audit within three years of when the claim was filed. If funds are not appropriated and the program is suspended instead, or if for some other reason a payment was not made to the claimant to reimburse this claim, then the Controller can consider its deadline to initiate the audit tolled until funding is appropriated and a payment is made to the claimant.

The audit of the fiscal year 2017-2018 reimbursement claim is therefore untimely, and the claimant’s claimed costs for fiscal year 2017-2018 of \$3,136,557 (consisting of

⁴⁰⁴ Government Code section 17560(a), emphasis added.

⁴⁰⁵ Government Code section 17562(d).

⁴⁰⁶ Government Code section 17561(d).

⁴⁰⁷ *Apartment Assn. of Los Angeles County, Inc. v. City of Los Angeles* (2009) 173 Cal.App.4th, 13, 26 (rejecting statutory interpretation where “the exception would swallow the rule”).

\$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.

C. The Controller's Finding That the Claimant's Source Documentation for Salary and Benefit Costs, in its Entirety, Does Not Comply with the Parameters and Guidelines Is Incorrect as a Matter of Law and the Reduction of All Costs Claimed to \$0 Is Arbitrary and Capricious and Entirely Lacking in Evidentiary Support.

As explained in the Background, the claimant provided time sheets completed daily to support the costs claimed for salaries and benefits, which identified the claimable and non-claimable activities, and at the end of each month the time sheets were signed and dated by the employee and their supervisor, certifying the time sheets to be true and accurate to the best of their knowledge.⁴⁰⁸ The claimant also provided a list of each attorney, paralegal, and investigator assigned to this program, as well as support documents showing salaries, benefits, and indirect costs.⁴⁰⁹ To support that its investigators' time was almost exclusively spent on claimable activities, the claimant also provided a list of cases the investigators handled during the audit period and sample case files so the Controller could confirm the activities performed.⁴¹⁰

The Controller, however, reduced all salary and benefit costs on the grounds that the claimant's time sheets did not adequately describe the mandated functions performed or the actual number of hours devoted to each function. "Without a description of the mandated functions, we were unable to determine whether the county had claimed unallowable costs associated with criminal prosecution commencing with the defendant's first appearance in a California court, or claimed costs associated with non-mandated activities."⁴¹¹

The claimant contends that the reduction is incorrect as a matter of law since its time sheets are consistent with the Parameters and Guidelines' requirements for contemporaneous source documents and describe the mandated activities performed using the reimbursable activities identified in the Parameters and Guidelines, and that any additional requirement imposed by the Controller to identify costs by subcategories, which is not stated in the Parameters and Guidelines, violates the claimant's due process rights and constitutes an underground regulation.⁴¹²

In response to the Draft Proposed Decision, the Controller now contends that the claimant's time sheets are not adequate because "the time recorded did not include a description of the specific activities or cases the employee worked on," and, without this

⁴⁰⁸ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

⁴⁰⁹ Exhibit A, Incorrect Reduction Claim, page 23.

⁴¹⁰ Exhibit A, Incorrect Reduction Claim, page 24.

⁴¹¹ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

⁴¹² Exhibit A, Incorrect Reduction Claim, pages 22-27.

description, “there is no ascertainable way to determine the validity of the time because there is no traceable relationship between the hours claimed and the reimbursable activities.”⁴¹³

Thus, while the Controller initially explained its reduction by saying that the claimant “did not provide contemporaneous source documentation to support the mandated functions performed or the actual number of hours devoted to each function,” it appears the Controller’s concern is more specifically with whether the description in the claimant’s contemporaneous source documents identifies “the specific activities or cases the employee worked on” in sufficient detail for it to be able to verify the costs were actually incurred.

The Commission finds that the Controller’s reduction of costs on this basis is incorrect as a matter of law and arbitrary, capricious, and entirely lacking in evidentiary support.

1. The Controller’s Finding That the Entirety of the Claimant’s Source Documentation for Salary and Benefit Costs Does Not Comply with the Parameters and Guidelines Is Incorrect as a Matter of Law.

The Controller views the reduction of costs in this case to be solely within its audit authority, requiring the Commission to defer to its audit decisions.⁴¹⁴

However, while the Controller has the authority to audit the records to verify the actual amount of mandated costs,⁴¹⁵ the Controller’s Office is required to comply with the regulatory requirements of the Parameters and Guidelines when auditing the records of a claimant, and as explained below, this is an issue of law.

Government Code section 17564(b) provides that “[c]laims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines . . . and claiming instructions.” Government Code section 17571 requires the claiming instructions to conform to the parameters and guidelines. And section 1183.7 of the Commission’s regulations requires the parameters and guidelines to include “instruction[s] on claim preparation, including instructions for direct and indirect cost reporting for actual costs incurred.” The courts have been clear that the parameters and guidelines are regulatory in nature and are binding on the parties, and as the court in *Clovis Unified School Dist.* determined, this includes the documentation requirements for salaries and benefits stated in the parameters and

⁴¹³ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 3.

⁴¹⁴ Exhibit G, Controller’s Comments on the Draft Proposed Decision, page 2 (“the Commission cannot interpret the Ps and Gs in such a manner as to defeat the Controller’s audit authority.”).

⁴¹⁵ Government Code section 17561.

guidelines.⁴¹⁶ The interpretation of parameters and guidelines, just like any other regulation, is a question of law.⁴¹⁷

a. The Documentation Requirements in the Parameters and Guidelines.

The Parameters and Guidelines for this program, in Section V., state that only actual costs may be claimed and must be traceable and supported by contemporaneous source documentation that shows “the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.”⁴¹⁸ Contemporaneous source documentation is a document created at or near the same time the actual cost was incurred for the event or activity in question, and the Parameters and Guidelines specifically identify “employee time records or time logs” as examples of valid and reliable contemporaneous source documentation.⁴¹⁹ Other corroborating documents “may” also be provided.⁴²⁰

⁴¹⁶ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201; *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 799, (“Once the Commission determines that a state mandate exists, it adopts regulatory “[P]arameters and [G]uidelines” (P & G’s) to govern the state-mandated reimbursement. (§ 17557.) The Controller, in turn, then issues nonregulatory “[C]laiming [I]nstructions” for each Commission-determined mandate; these instructions must derive from the Commission’s test claim decision and its adopted P & G’s.”). See also, *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 809, footnote 5, where the court proceeded to apply the documentation requirements stated in the parameters and guidelines to several school district program audits conducted between 1998 and 2003, rejecting the Controller’s contemporaneous source document rule, which was not required by the parameters and guidelines for the audit period.

The court in *Clovis* also found that the Controller’s contemporaneous source document rule was an unenforceable underground regulation. (*Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 807.) The claimant asserts that the Controller’s actions here also constitute an underground regulation and submits several audit reports in support of its argument that the Controller’s audit rule was generally applicable. (Exhibit A, Incorrect Reduction Claim, pages page 28, 899-1018.) The Commission, however, does not reach that issue.

⁴¹⁷ *Clovis Unified School District v. Chiang* (2010) 188 Cal.App.4th 794, 798 (“Because the issues raised in this appeal are almost entirely legal ones subject to our independent review.”); *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 310; *Bates v. Poway Unified School Dist.* (2022) 83 Cal.App.5th 907, 920.

⁴¹⁸ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

⁴¹⁹ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

⁴²⁰ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

The Parameters and Guidelines define direct costs and indirect costs, and direct costs are “costs that can be traced to specific . . . services, units, programs, activities or functions.”⁴²¹ Direct costs include salaries and benefits and these “costs must be identifiable to *each reimbursable activity identified in Section V*” of the Parameters and Guidelines.⁴²² To claim the actual costs for salaries and benefits, claimants are required to “[i]dentify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study.”⁴²³ The “mandated functions” are the reimbursable activities performed by the employee.

There are no other requirements in the Parameters and Guidelines for claiming reimbursement for salaries and benefits. If, however, a claimant were to claim costs for food, lodging, transportation and other personal necessities for a child in the course of physically recovering a child and returning them to their legal custodian or agency, the Parameters and Guidelines require those costs to be itemized.⁴²⁴ And if costs are claimed to provide foster care or other short-term care for any child pending return to the out-of-jurisdiction custodian, “Costs must be identified per child.”⁴²⁵ This language is not required when claiming salaries and benefits. In fact, for salaries and benefit costs, the Parameters and Guidelines make it clear that the scope of the mandate is to “actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for *all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for *complying with other court orders relating to child custody or visitation*.”⁴²⁶ And the Parameters and Guidelines include examples of employee costs that can occur under each reimbursable activity. For example, the first category of reimbursable activities lists the possible costs for employee salaries that are eligible for reimbursement as follows:

⁴²¹ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.).

⁴²² Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.), emphasis added.

⁴²³ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

⁴²⁴ Exhibit A, Incorrect Reduction Claim, pages 1048-1049 (2009 Amendment to Parameters and Guidelines, Sections V.B.1.c.(2), V.B.2.b.(2), and V.B.2.b.(4)(a), Reimbursable Activities).

⁴²⁵ Exhibit A, Incorrect Reduction Claim, page 1049 (2009 Amendment to Parameters and Guidelines, Section V.B.2.a., Reimbursable Activities).

⁴²⁶ Exhibit A, Incorrect Reduction Claim, page 1047, (2009 Amendment to Parameters and Guidelines, Section V.A.), emphasis added.

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders, **including**.⁴²⁷
 - a. Contact with child(ren) and other involved persons.
 - (1) Receipt of reports and requests for assistance.
 - (2) Mediating with or advising involved individuals. Mediating services may be provided by other departments. If this is the case, indicate the department.
 - (3) Locating missing or concealed offender and child.
 - b. Utilizing any appropriate civil or criminal court action to secure compliance.
 - (1) Preparation and investigation of reports and requests for assistance.
 - (2) Seeking physical restraint of offenders and/or the child(ren) to assure compliance with decrees or court orders.
 - (3) Process services and attendant court fees and costs.
 - (4) Depositions.
 - c. Physically recovering the child(ren).
 - (1) Travel expenses, food, lodging, and transportation for the escort and child.
 - (2) Other personal necessities for the child. All such items purchased must be itemized.⁴²⁸

Thus, a claimant has to have source documents to support a claim for salaries and benefits that satisfy the following requirements:

- The documents must be contemporaneous source documentation showing “the validity of such costs, when they were incurred, and their relationship to the reimbursable activities.”⁴²⁹

⁴²⁷ The words “includes” or “including” are words of enlargement and can be viewed as examples of the types of costs incurred. *People v. Aguirre* (2021) 64 Cal.App.5th 652, 661-662.

⁴²⁸ Exhibit A, Incorrect Reduction Claim, page 1048 (2009 Amendment to Parameters and Guidelines, Section V.B.1.), emphasis added.

⁴²⁹ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

- Salaries and benefits costs must be identifiable to each reimbursable activity in Section V. of the Parameters and Guidelines.⁴³⁰
- The claim shall identify the employee, show the classification of the employee involved, describe the mandated functions (i.e., the reimbursable activities) performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits.⁴³¹

The claimant has satisfied these requirements.

b. The Claimant's Time Sheets Satisfy the Documentation Requirements of the Parameters and Guidelines.

The time sheets the claimant provided in this case to support its claim for salaries and benefits are employee time records or time logs, exactly the type of source documentation contemplated by the Parameters and Guidelines. Employees recorded their time spent on claimable and non-claimable activities in their time sheets daily, and at the end of each month the time sheets were signed and dated by the employee and their supervisor, certifying the time sheets to be true and accurate to the best of their knowledge.⁴³² The claimant's Assistant Head Deputy District Attorney declares the following:

The Deputy District Attorneys, paralegals and investigators were all instructed to complete these timesheets on a daily basis (Exhibit 1, page 2). The timesheet contains instructions on which activities fell within the form's particular categories, and specifically distinguishes between claimable and non-claimable activities. Each employee is required to certify that the sheet reflects a true and accurate report of his or her time. Each timesheet is also reviewed by the employee's supervisor, who must also certify that the time and activities reflected are true and correct, to the best of the supervisor's knowledge and belief.⁴³³

⁴³⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

⁴³¹ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

⁴³² Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

⁴³³ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

These are contemporaneous time records that show the distribution of time of each employee's actual daily activity.⁴³⁴ The monthly signatures coincide with pay periods, and were signed, dated, and certified by both the employee and their supervisor.⁴³⁵ This is precisely what the Parameters and Guidelines identify as reliable contemporaneous source documentation to support a claim for reimbursement.

The Controller claims that these documents do not provide a description of the mandated functions performed.

The time study/time sheet instructions list the Penal Code and Family Code section and "Activity performed" or "Activities performed." However, descriptions of the mandated activities performed are not provided.

Likewise, "non-claimable" activities are simply noted as "277/278/278.5 Non-Claimable" or "Other-Non-claimable." No further description of the activities performed is provided.⁴³⁶

The Controller further states the following:

- "Documenting time spent on activities under FC sections 3130 through 3133, without describing the mandated functions performed and specifying the number of hours devoted to each function, does not meet the requirements of the parameters and guidelines."⁴³⁷
- "Simply 'referring to the Family and Penal code sections' does not equate to describing the mandated activities set forth in the Ps and Gs."⁴³⁸

However, the Controller's assertion that the time sheets do not provide a description of the mandated functions is incorrect. When read with the instructions on the back of the time sheets, which identify the reimbursable activities and the activities that are not eligible for reimbursement, the time sheets do provide a description of the mandated functions using each of the reimbursable activities identified in Section V. of the Parameters and Guidelines.

The claimant's time sheets sort claimants' time into four categories of reimbursable activities: "3130-3133," "3408(c) & 3408(d)," "3411(a) & 3421(c)," and "277, 278 & 278.5;" two categories of non-reimbursable activities: "277/278/278.5 Non-Claimable" and "Other — Non-Claimable (Briefly Explain Below);" and a category for reporting

⁴³⁴ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

⁴³⁵ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

⁴³⁶ Exhibit A, Incorrect Reduction Claim, page 1107 (Final Audit Report).

⁴³⁷ Exhibit A, Incorrect Reduction Claim, pages 1110-1111 (Final Audit Report).

⁴³⁸ Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 12.

when the employee used vacation or sick leave.⁴³⁹ The time sheet then describes what activities belong in each category in the instructions on the back of the time sheet as follows:

Section 3130-3133

Activity performed under item number (1) involving enforcement of custody orders should be indicated in this category.

Section 3408(c) and 3408(d)

Activities performed under item number (2) involving out-of-state decrees and any related court activity should be indicated in this category.

Section 3411(a) & 3421(c)

Activities performed under item number (3) securing the appearance of an offender personally before the court should be indicated in this category.

Section 277, 278, 278.5

Activities performed under item (4) in the return of an illegally concealed child or minor to its legal guardian should be indicated in this category.

[...]

Section 277, 278, 278.5 – Non-Claimable (8)

All non-claimable custody of minors activities should be indicated in this category.

Other – Non-Claimable Activity Item Number (9)

Please explain any entries in this categories.

[...]

Vacation Time, Sick Leave, Etc. Item Number (12)

All vacation, sick leave, etc., utilized should be indicated in this category.⁴⁴⁰

This description is consistent with the mandated activities and scope of those activities identified in the Parameters and Guidelines, and when completed, the time sheet shows the actual time the employee spent performing duties under the mandate instead of performing non-reimbursable activities.

The statutes that imposed the state-mandated activities that created this program are located in Family Code sections 3130 and 3131. Family Code section 3130 requires that when a petition to determine custody of a child has been filed or when there is a temporary order pending determination of custody, and the whereabouts of the party in possession of the child are not known or there is reason to believe the party may not

⁴³⁹ Exhibit A, Incorrect Reduction Claim, page 48 (Custody of Minor Time Study Sheet).

⁴⁴⁰ Exhibit A, Incorrect Reduction Claim, page 49 (Custody of Minor Time Study Sheet).

appear in the proceedings despite being ordered to appear personally with the child, “the district attorney shall *take all actions necessary to locate the party and the child* and to *procure compliance with the order to appear with the child* for purposes of adjudication of custody.”⁴⁴¹ Similarly, Family Code section 3131 requires that when there is a custody or visitation order in place and the child is taken or detained by another person in violation of that order, “the district attorney shall *take all actions necessary to locate and return the child* and the person who violated the order and to *assist in the enforcement of the custody or visitation order or other order of the court* by use of an appropriate civil or criminal proceeding.”⁴⁴² The Parameters and Guidelines therefore define the scope of the mandate as authorizing reimbursement for “all actions necessary” to locate and return a child and for complying with a court order relating to child custody or visitation, as follows:

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney *actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren)* by use of any appropriate civil or criminal proceeding; and for *complying with other court orders relating to child custody or visitation*, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.⁴⁴³

The Parameters and Guidelines define the reimbursable activities for this program using the following four categories:

- (1) Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders; [...]
- (2) Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act, (Family Code sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session); [...]
- (3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren); [and ...]

⁴⁴¹ Family Code section 3130, emphasis added.

⁴⁴² Family Code section 3131, emphasis added.

⁴⁴³ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.A.), emphasis added.

(4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.⁴⁴⁴

The claiming instructions and reimbursement claim form the Controller provided also use these same four categories, more succinctly labeled “Compliance with Court Orders,” “Court Costs for Out-of-Jurisdiction Cases,” “Secure Appearance of Offender,” and “Return of Children to Custodian.”⁴⁴⁵

The claimant’s time sheets use these same categories of reimbursable activities to describe each of the categories under which employees report their time on mandated functions. The first category is labeled “Section 3130-3133, which is a reference to Family Code sections 3130-3133. As discussed above, Family Code sections 3130 and 3130 impose the mandate to “take all actions necessary...to procure compliance with the order to appear with the child,” and to “take all actions necessary...to assist in the enforcement of the custody or visitation order or other order of the court.” Family Code section 3132 clarifies that when the district attorney performs these duties, it is doing so on behalf of the court and is not representing any party in the custody proceeding, while section 3133 grants district attorneys the ability to request the court grant a temporary custody order pending further hearings, if it is needed to recover a child that is being detained or concealed in violation of a custody order or a parent’s right to custody. Accordingly, this first category in the claimant’s time sheet is for activities “involving enforcement of custody orders,” which is the first category of reimbursable activities in the Parameters and Guidelines.⁴⁴⁶

The second category on the time sheet is labeled “Section 3408(c) & 3408(d),” which is a reference to Family Code section 3408, which, at the time it was added to the Parameters and Guidelines, was part of the Uniform Child Custody Jurisdiction Act, and required that when a court refused to exercise jurisdiction on a petition to determine custody or a petition to modify an existing custody order from out-of-state because the petitioner wrongfully took the child from another state or engaged in similar reprehensible conduct, it shall notify the parent or other appropriate person in the other state as well as the prosecuting attorney of the appropriate jurisdiction, and if requested by the court of the other state, order the petitioning party to appear with the child in a custody proceeding in the other state or return the child to the person who has legal custody, or to place the child in foster care pending return to their legal custodian if it

⁴⁴⁴ Exhibit A, Incorrect Reduction Claim, pages 1048-1049 (2009 Amendment to Parameters and Guidelines, Sections V.B.1., V.B.2., V.B.2.b.(3)., and V.B.2.b.(4).). Note that categories (3) and (4) are presented as subcategories to category (2). A recently approved PGA moved these subcategories to their own categories, as the Controller asserted they were placed under (2) through a clerical error. See *Custody of Minors-Child Abduction and Recovery*, 25-PGA-01 (CSM-4237) <https://csm.ca.gov/matters/CSM-4237.shtml> (accessed February 27, 2026).

⁴⁴⁵ Exhibit A, Incorrect Reduction Claim, page 1069 (Fiscal Year 2019-2020 Claiming Instructions).

⁴⁴⁶ Family Code sections 3130 and 3131.

appears the order will be ineffective.⁴⁴⁷ This statute defines the scope of the mandate for the district attorney's offices to incur costs for obtaining compliance with court orders and costs in cases involving child custody or visitation orders from another jurisdiction, the second category of reimbursable activities in the Parameters and Guidelines. Accordingly, the second category in the claimant's time sheet is for activities "involving out-of-state decrees and any related court activity."

The third category on the time sheet is labeled "Section 3411(a) & 3421(c)," which is a reference to Family Code sections 3411 and 3421. At the time these code sections were added to the Parameters and Guidelines under the Uniform Child Custody Jurisdiction Act, Family Code section 3411(a) granted courts authority to order any party in a custody proceeding who is in this state to appear personally before the court, with or without the child, or to issue an arrest warrant if the party cannot be served, fails to obey the order to appear, or it appears the order will be ineffective. Family Code section 3421(c) allowed courts to do the same at the request of a court of another state.⁴⁴⁸ This provides context and helps define the scope of the mandate to secure the appearance of the offender and children when an arrest warrant has been issued or other order of the court to produce the offender or children, which is the third category of reimbursable activities in the Parameters and Guidelines. Accordingly, the third category in the claimant's time sheet is for activities related to "securing the appearance of an offender personally before the court."

The fourth category on the time sheet is labeled "Section 277, 278, 278.5," which is a reference to Penal Code sections 277, 278, and 278.5. At the time they were added to the Parameters and Guidelines, these three code sections all established the crime of taking, enticing away, detaining or concealing a child to deprive another person of their right to custody or visitation, each under different circumstances.⁴⁴⁹ The only costs which are non-claimable according to the Parameters and Guidelines are "Costs associated with criminal prosecution, *commencing with the defendant's first appearance in a California court*, for offenses defined in Sections 278 or 278.5 of the Penal Code, wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency."⁴⁵⁰ These statutes therefore provide context and help define the scope of the mandate to return an illegally concealed child to its legal custodian or agency, the fourth category of reimbursable activities. The fourth category in the

⁴⁴⁷ Family Code section 3408(c) and (d), as added by Statutes of 1992, chapter 162, section 10.

⁴⁴⁸ Family Code sections 3411(a) and 3421(c), as added by Statutes of 1992, chapter 162, section 10.

⁴⁴⁹ See Penal Code sections 278 and 278.5, as added by Statutes of 1976, Chapter 1399 sections 10 and 11; Penal Code section 277, as added by Statutes of 1984, Chapter 1207. Penal Code sections 278 and 278.5 still establish this crime, although section 277 has been since amended and now provided statutory definitions.

⁴⁵⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.).

claimant's time sheets is therefore for activities performed in "the return of an illegally concealed child or minor to its legal guardian." Referencing these Penal Code sections also helps provide context and scope to the non-claimable activities, as the only costs that are not reimbursable are those associated with criminal prosecution for the offenses defined in Penal Code sections 278 and 278.5, commencing with the defendant's first appearance in California Court and after the child has been returned to their legal custodian.

The claimant's time sheets, created at or near the time the costs were incurred, therefore provide descriptions for each of its categories under which employees report their time, using the same descriptions that are used for each reimbursable activity in the Parameters and Guidelines. An employee reporting two hours under "Section 3130-3133" is reporting they spent two hours to enforce custody orders; if they report an hour under "Section 277, 278, 278.5," they are reporting an hour spent returning an illegally concealed child to its legal custodian; if they report three hours under "Section 277, 278, 278.5 – Non-claimable" they are reporting three hours on activities to criminally prosecute someone under Penal Code sections 278 or 278.5, commencing with their first appearance in court and after the child has been returned.

Thus, the time sheets, when read in context with the instructions, do not simply identify code sections as asserted by the Controller's Office, but they describe the mandated activity or function performed and the actual number of hours devoted to those functions, using the reimbursable activities identified in Section V. of the Parameters and Guidelines, as required by the Parameters and Guidelines.

The Controller's Office now asserts that the time sheets do not include a description of the *specific activities or cases* the employee worked on and, thus, it was unable to test the validity of the time recorded.⁴⁵¹ The Controller focuses on the word "specific" within the definition of "direct costs" (i.e., direct costs are "costs that can be traced to specific . . . services, units, programs, activities or functions") to support its contention,⁴⁵² but that definition does not describe the documentation requirements when filing a claim for reimbursement for salaries and benefits; it just defines direct costs. And the Controller admits that "the Ps and Gs do not specify the level of detail required in the description of the mandated functions."⁴⁵³

Nowhere in the Parameters and Guidelines does it require a claimant to specifically itemize or identify each act performed by the claimant's employee to assist in the resolution of custody and visitation issues. The Parameters and Guidelines only require

⁴⁵¹ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 3. Alternatively, the claimant accused the Controller of requiring the claimant break its activities down by "subcategories," which the Controller denied. Regardless of whether the Controller calls the additional information it demands "subcategories," or "specific activities or cases," this requirement is not based on the Parameters and Guidelines.

⁴⁵² Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

⁴⁵³ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 2.

that the costs be identifiable “to *each reimbursable activity identified in Section V*” of the Parameters and Guidelines, which the time sheets here identify.⁴⁵⁴

Moreover, it is not clear how a description of more specific activities in addition to the four reimbursable activities would help validate the claim when the time sheets clearly identify the reimbursable activities performed and the time spent on the activities that are not eligible for reimbursement (i.e., those activities involving the criminal prosecution for the offenses defined in Penal Code sections 278 and 278.5, commencing with the defendant’s first appearance in California Court and after the child has been returned to their legal custodian.) The time sheets were prepared daily by attorneys, paralegals, and investigators that work in the Child Abduction Unit; a unit established to comply with this mandated program.⁴⁵⁵

In addition, the Parameters and Guidelines do not require the claimant to identify the case name. This is unlike the Parameters and Guidelines for *Sexually Violent Predators*, 05-PGA-43 (CSM 4509) which is another state-mandated program that requires district attorneys to involve themselves in civil proceedings, and the Parameters and Guidelines for that program expressly require that the district attorney’s time to comply with the reimbursable activities “must be specifically identified to a defendant.”⁴⁵⁶

When adopting or amending parameters and guidelines, the Controller can request that the Commission include a requirement in the parameters and guidelines for the claimants to provide the case name or other specific information the Controller wants for auditing purposes.⁴⁵⁷ As stated in the Government Code and the Commission’s regulations, “claims for direct and indirect costs . . . shall be filed in the manner prescribed in the parameters and guidelines” and the parameters and guidelines are required to include “instruction[s] on claim preparation, including instructions for direct and indirect cost reporting for actual costs incurred.”⁴⁵⁸ However, even if the

⁴⁵⁴ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.).

⁴⁵⁵ Exhibit A, Incorrect Reduction Claim, pages 43, 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles’ District Attorney’s Office, Targeted Crimes Division).

⁴⁵⁶ See Commission on State Mandates, Amendment to Parameters and Guidelines, *Sexually Violent Predators*, 05-PGA-43 (CSM 4509), adopted October 30, 2009, <https://csm.ca.gov/decisions/022715.pdf> (accessed July 6, 2026), page 4 (Section IV.B.).

⁴⁵⁷ Government Code section 17557(d) and section 1183.17 of the Commission’s regulations allow the parties to request an amendment of the parameters and guidelines to clarify reimbursable activities consistent with the original decision or to amend the boilerplate language for the program.

⁴⁵⁸ Government Code section 17564, 17571; California Code of Regulations, title 2, section 1183.7.

Parameters and Guidelines were amended today to add documentation requirements, those requirements could not be applied retroactively to the prior 2017-2021 audit years in question without violating the due process rights of the claimant. Parameters and guidelines are regulatory in nature and are interpreted the same as regulations and statutes.⁴⁵⁹ As such, due process requires reasonable notice of any substantive change affecting the substantive rights and liabilities of the parties.⁴⁶⁰ A change is substantive if it imposes new, additional, or different liabilities on past conduct.⁴⁶¹ “The retroactive application of a [rule in a regulation or statute] is one that affects rights, obligations or conditions that existed before the time of the statute's enactment, giving them an effect different from that which they had under the previously existing law.”⁴⁶² Therefore, if a provision in the parameters and guidelines affects the substantive rights or liabilities of the parties such that it changes the legal effects of past events, it may be considered unlawfully retroactive under principles of due process.⁴⁶³ This was explained in *Clovis Unified School Dist. v. Chiang*, where the Controller used the contemporaneous source document rule (CSDR) to reduce reimbursement claims for state-mandated school district programs when the parameters and guidelines did not include that requirement.⁴⁶⁴ Notably, and of relevance here, the Controller requested that the court take judicial notice that the Commission more recently adopted the contemporaneous source document rule by amending the parameters and guidelines for these programs. The court denied the request and did not apply the CSDR to the audits of costs incurred in past years, since no notice was provided to the claimant.⁴⁶⁵ The court determined that the parameters and guidelines in effect at the time the mandated costs were incurred were the parameters and guidelines that governed the audit.⁴⁶⁶

Accordingly, the Commission finds that to the extent the Controller reduced costs on the ground that the claimant's time sheets, in their entirety, did not conform to the documentation requirements of the Parameters and Guidelines, that reduction is incorrect as a matter of law. However, the Controller also found some of the claimant's time sheets deficient due to issues with missing employee or supervisor signatures, time sheets signed before the end of the time-studied month, time sheets with the same signature for employee and supervisor, and time sheets that were signed a month or

⁴⁵⁹ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 799.

⁴⁶⁰ *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784.

⁴⁶¹ *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527.

⁴⁶² *In re Cindy B.* (1987) 192 Cal.App.3d 771, 779.

⁴⁶³ *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

⁴⁶⁴ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 797, 801-802.

⁴⁶⁵ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 809, footnote 5.

⁴⁶⁶ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 812-813.

more after the time-studied month. These deficiencies were not disputed by the claimant and are not before the Commission and, therefore, the Commission makes no findings on the issues of alleged deficiencies in individual time sheets. Thus, the issue is remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.

2. The Controller's Reduction of All Costs Claimed to \$0 Is Arbitrary and Capricious and Entirely Lacking in Evidentiary Support.

With respect to the Controller's audit decisions, the Commission must determine whether the decisions are arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁴⁶⁷ The courts have been clear, however, that an abuse of discretion occurs if a governmental agency exercising its discretion does not apply or properly interpret the governing law.⁴⁶⁸ As explained above, the Controller has not correctly interpreted the regulatory Parameters and Guidelines and, thus, its reduction of all costs claimed for salaries and benefits is arbitrary and capricious.

In addition, the arbitrary and capricious standard of review requires a reasonable basis for the decision.⁴⁶⁹ In this case, the claimant has been using the same time sheets to support its claimed costs for this program since 1994 without issue.⁴⁷⁰ The Controller contends, however, the time sheets were never an issue before because this is the first audit conducted under the current Parameters and Guidelines enacted in 2009. The Controller states there was a prior audit conducted on the claimant's program in 2007, but it was subject to the 1999 Parameters and Guidelines.⁴⁷¹ This argument would only be a reasonable explanation if the changes that occurred with the 2009 amendment

⁴⁶⁷ *Johnson v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 983-984. See also, *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

⁴⁶⁸ *Mandeson-Saleh v. Regents of University of California* (2021) 60 Cal.App.5th 674, 693 ("An abuse of discretion occurs if an agency did not apply or properly interpret the governing law or consider all relevant factors, or if there was no rational connection between the relevant factors, the choice made, and the purposes of the enabling statute or regulation.")

⁴⁶⁹ *American Coatings Assn. v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 461 ("The arbitrary and capricious standard of review . . . is more deferential to agency decision-making than the substantial evidence standard. [Citation omitted.] Although both standards " 'require a *reasonable basis* for the decision' .")

⁴⁷⁰ Exhibit A, Incorrect Reduction Claim, page 45 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles' District Attorney's Office, Targeted Crimes Division).

⁴⁷¹ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report); Exhibit B, Controller's Comments on the Incorrect Reduction Claim, page 14.

related to its reasons for reducing the claim now. The 2009 amendment added the requirement that claimants support their actual costs using *contemporaneous* source documentation.⁴⁷² As discussed, the issue with this claim is not whether the claimant provided contemporaneous source documentation, but whether those source documents “support the mandated functions performed or the actual number of hours devoted to each function.”⁴⁷³ The Parameters and Guidelines do require claimants “Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits” when claiming direct costs for employee salaries and benefits.⁴⁷⁴ However, this information was also required in the 1999 version of the Parameters and Guidelines, and dates back to the earliest version of the Parameters and Guidelines the Commission has on file.⁴⁷⁵ The only thing that has changed with respect to the requirement to provide this information is that it must now be provided through contemporaneous source documentation, which is what the claimant’s time sheets are. Surely, if the time sheets do not describe the mandated functions performed, the 2007 audit should have found this to be an issue back then as well. Thus, the Controller’s explanation for why it found documentation that was previously acceptable no longer complies, is arbitrary and capricious.

Moreover, the Commission has previously held that an audit reduction to \$0 is arbitrary and capricious and without evidentiary support when there is reliable evidence in the record that the claimant incurred costs to comply with the mandate. For example, in *The Stull Act*, 14-9825-I-01 IRC, a school district claimed \$1,270,240 in salaries and benefits and related indirect costs for performing state mandated teacher evaluations in fiscal years 1997-1998 through 2004-2005.⁴⁷⁶ The Controller’s audit reduced these costs to \$0 as it found the claimant did not provide contemporaneous source documentation to support the actual costs, even though the Controller agreed that 1,149 of the evaluations were performed by the claimant and fall within the scope of the mandate, and that the claimant “(1) performed the required evaluations as contained in its Collective Bargaining Agreements, (2) confirmed that the activities were performed,

⁴⁷² Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.).

⁴⁷³ Exhibit A, Incorrect Reduction Claim, page 1098 (Final Audit Report).

⁴⁷⁴ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VII.A.1.).

⁴⁷⁵ Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 17-18 (Section VII.A.1.); Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 8 (Section VII.B.1.).

⁴⁷⁶ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 2-3.

and (3) provided the SCO auditors the district's procedure and forms."⁴⁷⁷ After the claimant filed an incorrect reduction claim challenging this decision, the Controller offered to reevaluate the claim if the claimant provided a list of the employees evaluated in those years.⁴⁷⁸ The claimant did so, and on review, the Controller agreed that some of the evaluations fell within the scope of the mandate, and offered to reimburse \$35,967, based on the number of evaluations found to be within the scope of the mandate and the average amount of time the claimant's evaluators spent on each evaluation it performed in fiscal years 2006-2007 and 2007-2008.⁴⁷⁹ The claimant rejected this offer as it felt the Controller should have used a different method to determine the average amount of time spent on evaluations, and the Incorrect Reduction Claim continued.⁴⁸⁰ Although the Commission found the Controller was correct that the claimant did not provide contemporaneous source documentation, it also found it was arbitrary and capricious to reduce the claimant's costs to \$0 when there was evidence in the record supporting the claimant performed mandated activities and there was no real dispute between the parties that these activities occurred.⁴⁸¹ The Commission then determined that the Controller's method of finding the \$35,967 reimbursement it offered was not arbitrary or capricious and was supported by evidence in the record, and no evidence supported using the longer evaluation time the claimant wanted, and therefore ordered that the claimant be reimbursed that amount.⁴⁸²

⁴⁷⁷ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), page 19.

⁴⁷⁸ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), page 11.

⁴⁷⁹ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 12-13.

⁴⁸⁰ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), page 13.

⁴⁸¹ Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016, <https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 19-21.

⁴⁸² Commission on State Mandates, Incorrect Reduction Claim Decision on *The Stull Act*, 14-9825-I-01, adopted September 23, 2016,

The Controller, however, believes the evidence in this case is more like the incorrect reduction claims in *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03.⁴⁸³ These prior claims involved a claimant who was seeking reimbursement for its full-time employees' salaries and benefits costs.⁴⁸⁴ In fiscal years 1999-2000 through 2001-2002, the two full-time employees were supported with only payroll documentation, which gave no indication of the actual time spent on mandated activities. The Controller found these payroll documents did not support the mandate-related hours claimed, and reduced all costs claimed for these employees. The claimant then provided a time study conducted in fiscal year 2004-2005, which it tried to use retroactively to support the costs that were reduced from the fiscal years 1999-2000 through 2001-2002 claims. The Controller identified many issues with the time study that made it inappropriate for supporting the claimed costs for any of these years and therefore rejected the time study as a supporting document.⁴⁸⁵ The Commission found that the Controller's full reduction of costs for these employees was correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support on the ground that the payroll documentation originally provided by the claimant did not verify the time spent on the program and did not comply with the documentation requirements of the parameters and guidelines.⁴⁸⁶ The Commission also found, based on the evidence in the record, the Controller's decision to reject the time study as inadequate documentation to support the costs claimed is not arbitrary, capricious, or entirely lacking in evidentiary support.⁴⁸⁷

However, a key difference between incorrect reduction claims in *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03 and this claim is that the claimant's only

<https://csm.ca.gov/matters/documents/Decisionwebfinal.pdf> (accessed March 2, 2026), pages 21-25.

⁴⁸³ Exhibit G, Controller's Comments on the Draft Proposed Decision, page 7; Commission on State Mandates, Incorrect Reduction Claim on *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, adopted March 25, 2016, <https://csm.ca.gov/matters/08-4237-I-02/doc20.pdf> (accessed June 30, 2026).

⁴⁸⁴ Commission on State Mandates, Incorrect Reduction Claim on *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, adopted March 25, 2016, <https://csm.ca.gov/matters/08-4237-I-02/doc20.pdf> (accessed June 30, 2026), pages 8-9.

⁴⁸⁵ Commission on State Mandates, Incorrect Reduction Claim on *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, adopted March 25, 2016, <https://csm.ca.gov/matters/08-4237-I-02/doc20.pdf> (accessed June 30, 2026), page 17.

⁴⁸⁶ Commission on State Mandates, Incorrect Reduction Claim on *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, adopted March 25, 2016, <https://csm.ca.gov/matters/08-4237-I-02/doc20.pdf> (accessed June 30, 2026), page 15.

⁴⁸⁷ Commission on State Mandates, Incorrect Reduction Claim on *Child Abduction and Recovery*, 08-4237-I-02 and 12-4237-I-03, adopted March 25, 2016, <https://csm.ca.gov/matters/08-4237-I-02/doc20.pdf> (accessed June 30, 2026), page 15.

evidence in the prior case for the full-time employees' costs was the payroll documents that gave no indication of the actual time spent on the mandated activities and a time study that estimated actual time. There was no other evidence supporting that the full-time employees performed mandated activities during the audit period. The decision to reduce the claimant's full-time employee costs to \$0 was therefore not arbitrary or capricious, but instead supported by the fact there was no evidence in support of the claimant incurring costs to perform mandated activities.

Here, there is evidence in the record of the claimant performing mandated activities, and by disregarding this evidence, the Controller did not "adequately [consider] all relevant factors, and [demonstrate] a rational connection between those factors, the choice made, and the purposes of the enabling statute."⁴⁸⁸ In addition to the contemporaneous time sheets provided by the claimant in this case identifying the mandated functions performed, the claimant provided a list of cases handled under the mandate during the audit period, as well as sample case files from its district attorneys and investigators.⁴⁸⁹ These included eight case files from district attorneys, which were for civil cases that were handled under the Hague Convention and included minute orders from the Los Angeles County Superior Court, attorney case notes, court transcripts, and emails, as well as one case file from a child abduction case handled by the District Attorney's Office's Bureau of Investigations, which included the investigator's notes, contacts, and reports.⁴⁹⁰ In addition, in declarations filed under penalty of perjury, the claimant reported that during the audit period it filed charges in 141 cases, declined to prosecute in 244 more, expended approximately 67,328 hours on mandated activities for these cases, and this work resulted in the recovery or reunification of over 300 minors.⁴⁹¹ It also handled 112 Hague cases and opened approximately 535 civil recovery order cases.⁴⁹² The Controller admits the claimant performed the mandate: The Controller "does not dispute that the Claimant performed mandated activities," and

⁴⁸⁸ *American Bd. of Cosmetic Surgery, Inc., v. Medical Bd. of California*, (2008) 162 Cal.App.4th 534, 547-548.

⁴⁸⁹ Exhibit A, Incorrect Reduction Claim, page 1109 (Final Audit Report).

⁴⁹⁰ Exhibit A, Incorrect Reduction Claim, pages 1099, 1105 (Final Audit Report). The claimant actually provided four investigator's case files, however three of these were for cases that occurred outside the audit period and therefore do not provide evidence of mandated activities performed during that time.

⁴⁹¹ Exhibit A, Incorrect Reduction Claim, page 44 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles County District Attorney's Office Targeted Crimes Division).

⁴⁹² Exhibit A, Incorrect Reduction Claim, page 44 (Declaration of Rosa Alarcon, Assistant Head Deputy, Los Angeles County District Attorney's Office Targeted Crimes Division).

acknowledges that “[t]he Claimant’s case files and case counts support that the Claimant performed some level of reimbursable activities.”⁴⁹³

Accordingly, the Controller’s decision to reduce the claimant’s costs to \$0 was arbitrary, capricious, and entirely lacking in evidentiary support.

D. The Controller’s Finding that Good Cause Cases Are Not Reimbursable Is Incorrect as a Matter of Law.

The Controller also noted its issue with the fact the claimant’s time sheets do not have a space for reporting time spent on “good cause” cases under Penal Code section 278.7, asserting that this time is not claimable because Penal Code section 278.7 is not identified in the Parameters and Guidelines.⁴⁹⁴ The claimant argued these costs should be claimable under section 278 and 278.5.⁴⁹⁵

As discussed above, the scope of the mandate in the Parameters and Guidelines says that “Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody or visitation, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in Section VI.”⁴⁹⁶ The Parameters and Guidelines authorize reimbursement for “obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of custody or visitation orders, and “utilizing *any appropriate civil or criminal court action* to secure compliance.”⁴⁹⁷ The only non-reimbursable costs are those “associated with criminal prosecution, *commencing with the defendant’s first appearance* in a California court, for offenses defined in Sections 278 or 278.5 of the Penal Code, wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.”⁴⁹⁸

Thus, under the Parameters and Guidelines, all activities performed by district attorneys’ offices in these cases relating to child custody or visitation proceedings and the enforcement of those proceedings pursuant to Family Code sections 3130 to

⁴⁹³ Exhibit G, Controller’s Comments on the Draft Proposed Decision, pages 2-3.

⁴⁹⁴ Exhibit A, Incorrect Reduction Claim, page 1099 (Final Audit Report).

⁴⁹⁵ Exhibit A, Incorrect Reduction Claim, pages 25-26, 1104 (Final Audit Report). The Commission recently decided on this same issue in another IRC. See *Custody of Minors — Child Abduction and Recovery*, 24-4237-I-04, Decision, pages 49-56.

⁴⁹⁶ Exhibit A, Incorrect Reduction Claim, page 1047 (2009 Amendment to Parameters and Guidelines, Section V.A.).

⁴⁹⁷ Exhibit A, Incorrect Reduction Claim, page 1048 (2009 Amendment to Parameters and Guidelines, Section V.B.1.b.) emphasis added.

⁴⁹⁸ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.) emphasis added.

3134.5, including the use of any appropriate criminal court action to secure compliance, is eligible for reimbursement until the defendant's first appearance in court for allegations that the defendant committed the crimes in sections 278 and 278.5.

Although the Controller argues that since Penal Code section 278.7 is not expressly identified in the Parameters and Guidelines the costs associated with section 278.7 are not eligible for reimbursement, Penal Code sections 278, 278.5, and 278.7 simply put the reimbursable activities, which are mandated by Family Code sections 3130 and 3131, into context and define the scope of the mandate. The Penal Code sections themselves do not impose any state-mandated activities on the county. Specifically, the mandate imposed by Family Code sections 3130 and 3131 requires district attorneys to "take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for the purposes of adjudication of custody," and to "take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order by use of an appropriate civil or criminal proceedings."⁴⁹⁹

Penal Code sections 278 and 278.5 establish the crimes for maliciously taking or concealing a child in cases where the defendant has or does not have a right to custody. And, pursuant to the plain language of the Parameters and Guidelines, all costs to obtain compliance with court orders relating to child custody or visitation proceedings and the enforcement of those orders, and utilizing any appropriate criminal court action to secure compliance are eligible for reimbursement up to the point of the "defendant's first appearance in a California Court, for offenses defined in Sections 278 or 278.5 of the Penal Code."⁵⁰⁰ Any costs incurred by the district attorney's office after the defendant's direct appearance in court on those crimes is not reimbursable.

If the facts establish that the defendant acted with "good cause" when taking or concealing the child pursuant to Penal Code section 278.7, the defendant will not be guilty of the crime in section 278.5. As the court determined, the criminal intent or malice requirement in Penal Code section 278.5 and the good faith defense in section 278.7 *are intertwined*.⁵⁰¹ Thus, facts or circumstances addressing any "good cause" element in these proceedings have to be addressed by the district attorney's office in order to comply with the mandate to "actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody or visitation."

In this instance, the sole activity in question is the claimant's Intermediate Clerk Typist inputting reports filed by a person who keeps, withholds, or conceals a child into a database so there will be a record of this report should the defense be raised in a future

⁴⁹⁹ Family Code sections 3130 and 3131.

⁵⁰⁰ Exhibit A, Incorrect Reduction Claim, page 1050 (2009 Amendment to Parameters and Guidelines, Section VI.A.).

⁵⁰¹ *People v. Neidinger* (2006) 40 Cal.4th 67, 79, emphasis added.

proceeding under Penal Code section 278.5.⁵⁰² An important condition to a defendant being eligible for the defense provided in Penal Code section 278.7 is that the person who takes, entices away, keeps, withholds, or conceals the child do all of the following:

1. Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reason the child was taken, enticed away, kept, withheld, or concealed.
2. Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).
3. Inform the district attorney's office of any change of address or telephone number of the person and the child.⁵⁰³

Thus, whether a defendant complied with these reporting requirements is a key factor to whether the defendant is eligible for a "good cause" defense under Penal Code section 278.7.⁵⁰⁴ District attorneys would need to know whether a defendant is eligible for this defense, ideally before deciding to file charges against them. Thus, the activity of inputting reports supporting a good cause defense into a database in accordance with Penal Code section 278.7 falls within the scope of the mandate.

Additionally, the Controller is incorrect that Penal Code section 278.7 has never been part of the Parameters and Guidelines. Although that specific code section as it exists today was never formally incorporated, its predecessor was incorporated and is still included in the Parameters and Guidelines today. Prior to 1996, Penal Code section 277 provided for the "good cause" defense and stated that:

In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars

⁵⁰² Exhibit A, Incorrect Reduction Claim, page 25-26, footnote 4 (Written Narrative).

⁵⁰³ Penal Code section 278.7(c).

⁵⁰⁴ Compare with *People v. Jo* (2017) 15 Cal.App.5th 1128 (In which a defendant who claimed to have had "good cause" but did not comply with the reporting requirements was unable to use Penal Code section 278.7 as a defense).

(\$1,000), or both, or by imprisonment in the state prison for a period of one year and one day, a fine of five thousand dollars (\$5,000), or both.⁵⁰⁵

It also defined “good cause” to mean “a good faith belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury or emotional harm,” which is the same definition used now in Penal Code section 278.7.⁵⁰⁶ Prior to enacting current Penal Code section 278.7, the common law necessity defense also “require[d] the individual committing the crime to report to the proper authorities immediately after attaining a position of safety from the peril.”⁵⁰⁷ Thus, there was an existing practice that a person had a statutory and common law defense to maliciously taking, detaining, concealing, or enticing away a child with the intent to deprive a person or agency of their right to custody, if the person had a right to custody of the child and had a good faith belief it was necessary to protect the child from immediate bodily injury or emotional harm, and the person was expected to report to the proper authorities as part of the defense, just like with Penal Code section 278.7.

Penal Code section 277 was added in 1984, with the definition of “good cause” added in 1986. This was after the enactment of the statute that created this state-mandated program. However, amendments to the Parameters and Guidelines expressly identified former section 277 alongside Penal Code sections 278 and 278.5 when defining costs associated with prosecuting a defendant for criminal offenses identified in those sections as non-reimbursable costs.⁵⁰⁸ This shows that the expectation to consider whether a defendant had “good cause” existed as a reimbursable component in prior amendments to the Parameters and Guidelines and district attorneys were required and were eligible to claim reimbursement to determine what court actions (civil or criminal) would be most appropriate when actively assisting in the resolution of custody disputes at the time (i.e., costs that were not tied to the criminal prosecution of the defendant, which are not reimbursable).

At some point, Penal Code section 277 was also added to the list of statutes located in the Parameters and Guidelines’ caption.⁵⁰⁹ In 1996, the Legislature renumbered the Child Abduction chapter of the Penal Code, which merged former Penal Code sections 277 and 278.5 into the current Penal Code section 278.5; changed Penal Code section

⁵⁰⁵ Penal Code section 277, as added by Statutes of 1984, chapter 1207, section 1.

⁵⁰⁶ Penal Code section 277, as amended by Statutes of 1986, chapter 1210, section 1.

⁵⁰⁷ *People v. Beach* (1987) 194 Cal.App.3d 955, 972.

⁵⁰⁸ Exhibit H (1), 1990 Amendment to Parameters and Guidelines, page 7-8.

⁵⁰⁹ See Exhibit H (3), 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, page 11 (This is the staff analysis from the 1999 amendment, which includes the proposed changes to the text in strikethrough and underline. No changes are noted for Penal Code section 277, 278, and 278.5 in the caption.). This item was adopted on consent. (Exhibit H (4), Commission on State Mandates Minutes, August 26, 1999, page 7.)

277 to define terms used in the chapter; and added Penal Code section 278.7.⁵¹⁰ When the Parameters and Guidelines were amended in 1999 to reflect these changes, Penal Code section 277 was removed from the non-reimbursable costs section, but was not removed from the caption.⁵¹¹

Accordingly, although Penal Code section 278.7 is not mentioned in the current Parameters and Guidelines, the Penal Code section that was its predecessor is included, and has been since before the change in law, making the Controller's assertion that costs related to "good cause" cases are not reimbursable incorrect as a matter of law.

V. Conclusion

Based on the forgoing analysis, the Commission approves this IRC and concludes as follows:

- The audit for fiscal year 2017-2018 was untimely initiated and the claimant's costs for that year of \$3,136,557 (consisting of \$2,242,310 in direct costs for salaries and benefits and \$894,247 in claimed indirect costs) should be fully reinstated.
- The Controller's finding that the claimant's source documentation for salary and benefit costs, in its entirety, does not comply with the Parameters and Guidelines is incorrect as a matter of law and the reduction of all costs claimed to \$0 is arbitrary and capricious and entirely lacking in evidentiary support. The reimbursement claims are remanded back to the Controller to reinstate those amounts incorrectly reduced on the ground that all timesheets did not conform to the documentation requirements of the Parameters and Guidelines.⁵¹²
- The Controller's finding that good cause cases are not reimbursable is incorrect as a matter of law and all costs reduced on this basis should be fully reinstated.

Accordingly, the Commission requests, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that all costs incorrectly reduced be reinstated to the claimant.

⁵¹⁰ Statutes of 1996, chapter 988.

⁵¹¹ See Exhibit H (3) 1999 Amendment to Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 11 and 16.

⁵¹² As stated herein, the deficiencies found on individual time sheets were not disputed and not before the Commission.