

ITEM 4
PROPOSED DECISION AND AMENDMENT TO
PARAMETERS AND GUIDELINES

Education Code Section 52056(c)
Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1)
Statutes 2000, Chapter 695 (SB 1552)
Academic Performance Index (01-TC-22)

As Modified by:
Statutes 2013, Chapter 47 (AB 97)
18-MR-01
Department of Finance, Requester

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issued September 27, 20191-19

Exhibit D

Controller's Comments on the Draft Expedited Proposed Decision and Amendment to
Parameters and Guidelines, filed October 18, 20191-7



September 27, 2019

Ms. Amber Alexander
Department of Finance
915 L Street, 7th Floor
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: First Hearing Decision

First Hearing: Adequate Showing

Academic Performance Index (01-TC-22), 18-MR-01

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by
Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

Dear Ms. Alexander:

On September 27, 2019, the Commission on State Mandates (Commission) adopted the Decision on the adequate showing issue for the above-named matter and directed staff to notice a second hearing to determine whether to adopt a new Test Claim Decision to supersede the previously adopted Test Claim Decision. (Cal. Code Regs., tit. 2, § 1190.5(b).)

Sincerely,

Heather Halsey
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
FIRST HEARING: ADEQUATE
SHOWING ON:

Education Code Section 52056(c)
Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1) and Statutes 2000,
Chapter 695 (SB 1552)
As Alleged to be Modified by:
Statutes 2013, Chapter 47 (AB 97)
Filed on March 8, 2019
By the Department of Finance, Requester

Case No.: 18-MR-01

Academic Performance Index (01-TC-22)

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

(Adopted September 27, 2019)

(Served September 27, 2019)

DECISION

The Commission on State Mandates (Commission) heard and decided this Mandate Redetermination during a regularly scheduled hearing on September 27, 2019. Dan Hanower appeared on behalf of the Department of Finance.

Government Code section 17570 and section 1190.1 et seq. of the Commission's regulations establish the mandate redetermination process. In addition, the laws applicable to the Commission's determination of a reimbursable state-mandated program are article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181.1 et seq., and related case law.

The Commission adopted the Proposed Decision at the hearing by a vote of 7-0, and directed staff to notice a second hearing to determine whether to adopt a new Test Claim Decision to supersede the previously adopted Test Claim Decision as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Mark Hariri, Representative of the State Treasurer	Yes
Jeannie Lee, Representative of the Director of the Office of Planning and Research	Yes
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	Yes
Sarah Olsen, Public Member	Yes
Carmen Ramirez, City Council Member	Yes
Jacqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	Yes

Summary of the Findings

The Commission finds that the Department of Finance (Finance) has made an adequate showing that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Academic Performance Index*, 01-TC-22 mandate may be modified based on a subsequent change in law, such that Finance has a substantial probability of prevailing at the second hearing. Specifically, Statutes 2013, chapter 47, section 102 expressly repealed the statute that imposed the mandate. Pursuant to Government Code section 17570(d)(4), the Commission will hold a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.

COMMISSION FINDINGS

I. Chronology

- | | |
|------------|--|
| 03/08/2019 | Finance filed the Request for Mandate Redetermination. ¹ |
| 05/08/2019 | The State Controller's Office (Controller) filed comments on the Mandate Redetermination. ² |
| 06/28/2019 | Commission staff issued the Draft Proposed Decision, First Hearing. ³ |

II. Background

On July 31, 2009, the Commission adopted the Test Claim Statement of Decision in *Academic Performance Index*, 01-TC-22, finding that Education Code section 52056(c), as added and amended by the test claim statutes imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Education Code section 52056(c) was part of the Public Schools Accountability Act of 1999 (PSAA),⁴ which established a new statewide school accountability system.⁵ To measure the level of achievement under the new accountability system, PSAA established the Academic Performance Index (API) as a method for measuring the performance of schools, especially the academic performance of pupils, and for demonstrating comparable improvement in academic

¹ Exhibit A, Request for Mandate Redetermination.

² Exhibit D, Controller's Comments on the Request for Mandate Redetermination.

³ Exhibit E, Draft Proposed Decision, First Hearing.

⁴ Former Education Code sections 52050 -52058.

⁵ As enacted, the Public Schools Accountability Act of 1999 consisted of three component parts: (1) the Academic Performance Index (API) [§ 52052], a method of measuring pupil performance; (2) the Intermediate Intervention/Underperforming Schools Program (II/USP) [§§ 52053 - 52055], an intervention and sanctions program to assist low-performing schools; and (3) the Governor's High Achieving/Improving Schools Program, an incentive program that rewards high-performing schools pursuant to a Governor's Performance Award Program [§§ 52056 - 52058].

achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.⁶ The Test Claim Statement of Decision explains the API as follows:

A school's API is a number that ranges from 200 to 1000 and is calculated from the results for each school's students on statewide tests. The state has set 800 as the API target for all schools to meet. Schools that fall short of 800 are required to meet annual growth targets until that goal is achieved. API targets vary for each school.⁷

The PSAA also established the High Achieving/Improving Schools Program in Education Code sections 52056-52058, an incentive program that monitored schools' progress, and provided monetary and non-monetary rewards pursuant to a Governor's Performance Award Program for schools that meet or exceed performance targets or demonstrate high achievement. As part of the program, the Superintendent of Public Instruction (SPI) was required to annually rank all public schools by the value of the API in decile categories by grade level, and by the value of the API when compared to schools with similar characteristics (such as pupil ethnicity, pupil socioeconomic status, etc.), and to report the target annual growth rates of schools and the actual growth rates attained.⁸ The SPI was also required to publish the rankings on the Internet.⁹ The school district governing boards were then required to "discuss the results of the annual ranking" at a regularly scheduled meeting, pursuant to section 52056(c).

The Commission found that only subdivision (c) of section 52056 imposed a reimbursable state-mandated activity for the governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and the SPI's school rankings.¹⁰ All other statutes and regulations pled in the Test Claim were denied.¹¹

On May 27, 2010, the Commission adopted the Parameters and Guidelines, which also approved the following reasonably necessary activities pursuant to Government Code section 17557 and former section 1183.1 of the Commission's regulations: obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion.¹² Thus, section IV of the Parameters and Guidelines identifies the reimbursable activities as follows:

For each eligible claimant, the following activity is reimbursable:

⁶ Former Education Code section 52052.

⁷ Exhibit B, Test Claim Statement of Decision, page 3 (citing to California Department of Education "Parent and Guardian Guide to California's 2008-09 Accountability Progress Reporting System").

⁸ Former Education Code section 52056(a).

⁹ Former Education Code section 52056(a).

¹⁰ Exhibit B, Test Claim Statement of Decision, page 41.

¹¹ Exhibit B, Test Claim Statement of Decision, page 41.

¹² Exhibit F, Final Staff Analysis and Proposed Parameters and Guidelines (Item 7), pages 6-7.

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.

Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.¹³

The Alleged Subsequent Change in Law

Statutes 2013, chapter 47, was a budget bill that replaced existing revenue limits and categorical funding provided to schools with the Local Control Funding Formula (LCFF), effective July 1, 2013. As part of the bill, section 102 repealed Article 4 of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, commencing with section 52056, thereby repealing the High Achieving/Improving Schools Program.

Mandate Redetermination Process under Section 17570

Government Code section 17570 provides a process for a test claim decision to be redetermined and superseded by a new test claim decision if a subsequent change in law, as defined, has modified the state's liability for reimbursement. The redetermination process calls for a two-step hearing process. At the first hearing, the requester must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution."¹⁴ A subsequent change in law is defined in section 17570 as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on

¹³ Exhibit C, Parameters and Guidelines, pages 2-3, emphasis in original.

¹⁴ California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

November 2, 2004. A “subsequent change in law” also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.¹⁵

An “adequate showing” is determined in the Commission’s regulations as follows:

The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.¹⁶

If the Commission finds, at the first hearing, that:

The requester has made an adequate showing, when considered in light of all of the written comments, rebuttals and supporting documentation in the record and testimony at the hearing, the Commission shall publish a decision finding that an adequate showing has been made and setting the second hearing on whether the Commission shall adopt a new test claim decision to supersede the previously adopted test claim decision.¹⁷

III. Positions of the Parties, Interested Parties, and Interested Persons

A. Department of Finance, Requester

Finance asserts that Statutes 2013, chapter 47 “repealed the requirement that school district governing boards must discuss their annual ranking following the annual publication of the API school rankings.”¹⁸

Finance concludes that “the reimbursable activities identified in the Academic Performance Index Statement of Decision (01-TC-22) cease to be eligible for reimbursements effective July 1, 2018. Therefore, based on the change in law, the state’s liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution should be zero.”¹⁹

¹⁵ Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

¹⁶ California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

¹⁷ California Code of Regulations, title 2, section 1190.5(a)(5)(B) (Register 2014, No. 21).

¹⁸ Exhibit A, Request for Mandate Redetermination, page 4. Finance also states that “[g]iven the repeal of the authorizing statute, any required activities pursuant to the California Code of Regulations related to the API are unsupported by statute and should no longer be a basis for mandated activities.” (Exhibit A, Request for Mandate Redetermination, page 4.) The Commission denied all regulations pled in the Test Claim, and approved only Education Code section 52056(c), as added and amended by Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1), and Statutes 2000, Chapter 695 (SB 1552). (Exhibit B, Test Claim Statement of Decision, page 41.)

¹⁹ Exhibit A, Request for Mandate Redetermination, page 5.

In addition, Finance states that “According to the State Controller's Office April 30, 2018, "State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)," school districts claimed \$1,203 in 2016-17, \$1,090 in 2015-16, and \$1,182 in 2014-15 for activities related to the Academic Performance Index.”²⁰

Finance did not comment on the Draft Proposed Decision.

B. State Controller's Office

The Controller concurs with Finance's request to adopt a new test claim decision “to supersede the prior decision on the Academic Performance Index mandate program based upon the repeal of the authorizing statute.”²¹ The Controller did not comment on the Draft Proposed Decision.

C. School Districts

No comments have been filed by any of the eligible claimant school districts or any of the school district associations that represent them.

IV. Discussion

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the states liability.

The first hearing in the mandate redetermination process is to determine, pursuant to the Government Code and the Commission's regulations, only whether the requester has made an adequate showing that the state's liability has been modified based on a subsequent change in law, as defined. Therefore, the analysis will be limited to whether “the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”²² If answered in the affirmative, a thorough mandates analysis to determine whether and to what extent the state's liability has been modified, considering the applicable law, the arguments put forth by the parties and interested parties, and the facts in the record, will then be prepared for the second hearing on this matter.

²⁰ Exhibit A, Request for Mandate Redetermination, page 5.

²¹ Exhibit D, Controller's Comments on the Request for Mandate Redetermination, page 1.

²² California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21). This regulation describes the standard for the first hearing as follows:

The first hearing shall be limited to the issue of whether the requester has made an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to article XIII B, section 6(a) of the California Constitution. The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

A. Statutes 2013, Chapter 47 Constitutes a Subsequent Change in Law, Within the Meaning of Government Code Section 17570.

Government Code section 17570(b) states that the Commission may adopt a new test claim decision to supersede a previously adopted test claim decision only upon a showing that, pursuant to article XIII B section 6, the state's liability has been modified based on a subsequent change in law. A subsequent change in law is defined in Government Code section 17570(a)(2) as:

A change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.²³

Finance, in its request, alleges that a subsequent change in law requires a finding that there are no longer any costs mandated by the state, in that Statutes 2013, chapter 47 repealed Education Code section 52056, the statutory provision that makes up the mandate.²⁴

Statutes 2013, chapter 47, section 102, effective July 1, 2013, repealed "Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code."²⁵ This repeal includes Education Code section 52056(c), which mandated school district governing boards to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Education Code section 52056(c) was the only test claim statute approved in the Commission's July 31, 2009 Statement of Decision,²⁶ and was the only authority found to impose reimbursable activities in the Parameters and Guidelines.²⁷ Therefore, as a result of the repeal of Education Code section 52056(c) by Statutes 2013, chapter 47, school districts are no longer incurring costs mandated by the state pursuant to Government Code section 17514 to discuss the results of the annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.

Based on the foregoing, the Commission finds that Statutes 2013, chapter 47, constitutes a subsequent change in law, as defined.

²³ Government Code section 17570(a)(2).

²⁴ Exhibit A, Request for Mandate Redetermination, pages 4-5.

²⁵ Exhibit A, Request for Mandate Redetermination, page 76 (Statutes 2013, chapter 47, section 102 (AB 97)).

²⁶ Exhibit B, Test Claim Statement of Decision.

²⁷ Exhibit C, Parameters and Guidelines, pages 1-3.

B. The Requester Has Made an Adequate Showing that the State’s Liability May Be Modified Based on a Subsequent Change in Law.

At this hearing, the Commission is required only to determine whether “the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”²⁸ If the Commission determines that the request has a substantial possibility of prevailing at the second hearing, the Government Code provides that the Commission shall notice a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.²⁹

Here, as discussed above, the requester has identified the subsequent change in law, Statutes 2013, chapter 47, which repealed Education Code section 52056(c), the only code section approved by the Commission to impose a reimbursable state-mandated activity.

Therefore, Finance has made an adequate showing that the state’s liability may be modified based on Statutes 2013, chapter 47, such that there is a substantial possibility that the request for a new test claim decision will prevail at the second hearing on this matter.

V. Conclusion

Based on the foregoing, the Commission finds that the requester has made an adequate showing that the state’s liability for the *Academic Performance Index*, 01-TC-22, mandate may be modified based on a subsequent change in law and that Finance has a substantial probability of prevailing at the second hearing. The Commission hereby directs Commission staff to notice the second hearing for November 22, 2019 to determine whether to adopt a new test claim decision to supersede the Commission’s previously adopted Test Claim Decision on *Academic Performance Index*, 01-TC-22.

²⁸ California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

²⁹ Government Code, section 17570(d)(4) (Stats. 2010, ch. 719 (SB 856)).



RE: **Decision**

First Hearing: Adequate Showing

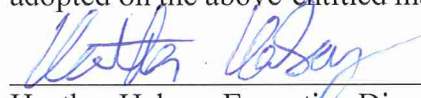
Academic Performance Index (01-TC-22), 18-MR-01

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by
Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

On September 27, 2019, the foregoing Decision of the Commission on State Mandates was
adopted on the above-entitled matter.



Heather Halsey, Executive Director

Dated: September 27, 2019

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 27, 2019, I served the:

- **First Hearing Decision adopted September 27, 2019**

First Hearing: Adequate Showing

Academic Performance Index (01-TC-22), 18-MR-01

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 27, 2019 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 18-MR-01

Matter: Academic Performance Index (01-TC-22)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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September 27, 2019

Ms. Amber Alexander
Department of Finance
915 L Street, 7th Floor
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Second Hearing Draft Proposed Decision, Schedule for Comments, and Notice of Hearing

Second Hearing: New Test Claim Decision

Academic Performance Index (01-TC-22), 18-MR-01

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

Dear Ms. Alexander:

On September 27, 2019, the Commission on State Mandates (Commission) adopted the Decision on the adequate showing issue for the above-named matter and directed staff to notice a second hearing to determine whether to adopt a new test claim decision to supersede the previously adopted Test Claim Decision. (Cal. Code Regs., tit. 2, § 1190.5(a).) The Draft Proposed Decision for the second hearing is enclosed for your review and comment. (Cal. Code Regs., tit. 2, § 1190.5(b).)

Written Comments on Second Hearing Draft Proposed Decision

Written comments may be filed on the Draft Proposed Decision by **October 18, 2019**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

¹ 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.

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

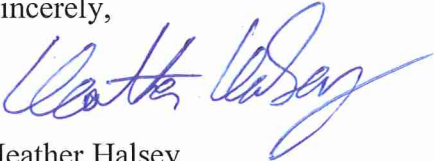
Hearing

The second hearing on the Request for Mandate Redetermination is set for **Friday, November 22, 2019**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The Proposed Decision for the second hearing will be issued on or about November 8, 2019.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list. Staff will no longer send reminder emails because the Commission does not have the resources to contact each party and interested party. Therefore, the last communication from Commission staff will be the Proposed Decision which will be issued approximately two weeks prior to the hearing and it is incumbent upon the participants to let Commission staff know if they wish to testify or bring witnesses.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,



Heather Halsey
Executive Director

ITEM ____
MANDATE REDETERMINATION
SECOND HEARING: NEW TEST CLAIM DECISION
DRAFT PROPOSED DECISION

Education Code Section 52056(c)

Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1)

Statutes 2000, Chapter 695 (SB 1552)

Academic Performance Index (01-TC-22)

As Alleged to be Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Department of Finance, Requester

EXECUTIVE SUMMARY

Overview

On September 27, 2019, the Commission held the first hearing and adopted its Decision finding that the Department of Finance (Finance) made an adequate showing that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Academic Performance Index*, 01-TC-22 mandate may be modified based on a subsequent change in law, such that Finance has a substantial probability of prevailing at the second hearing.

Specifically, the Commission found that Statutes 2013, chapter 47, section 102, expressly repealed Education Code section 52056(c), the test claim statute that imposed the mandate.¹

Therefore, the issue before the Commission at this second hearing is whether the state's liability has been modified based on a subsequent change in law, the repeal of the test claim statute, and, if so, whether to adopt a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability.²

Staff recommends that the Commission approve the request for a new test claim decision for *Academic Performance Index*, 01-TC-22, and finds that the program, beginning July 1, 2017, no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 based on the repeal of the test claim statute by Statutes 2013, chapter 47.

¹ Exhibit E, Decision, First Hearing.

² California Code of Regulations, title 2, section 1190.5(b)(1).

Procedural History

On September 27, 2019, at the first hearing on this Request for Mandate Redetermination, the Commission adopted its Decision finding that Finance made an adequate showing that the state's liability for this program may be modified based on a subsequent change in law and that Finance has a substantial probability of prevailing at this second hearing, and directing staff to proceed to the second hearing.³

On September 27, 2019, Commission staff issued the Draft Proposed Decision for the second hearing and the Draft Expedited Amendment to Parameters and Guidelines.⁴

Commission Responsibilities

Government Code section 17570 provides a process whereby a previously determined mandate finding can be redetermined by the Commission, based on a subsequent change in law. The redetermination process provides for a two hearing process. With regard to second hearing the Commission's regulations state:

If the Commission proceeds to the second hearing, it shall consider whether the state's liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision.⁵

Therefore, the issue before the Commission at this second hearing is whether the state's liability has been modified based on a subsequent change in law, as defined in section 17570, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision, reflecting the state's modified liability.

Staff Analysis

Statutes 2013, Chapter 47, a Subsequent Change in Law, Has Eliminated the State's Academic Performance Index Program.

On July 31, 2009, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Education Code section 52056(c), as added by Statutes 1999, 1st Extraordinary Session, Chapter 3 and amended by Statutes 2000, Chapter 695, imposes a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.⁶ The Commission approved the Test Claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI

³ Exhibit E, Decision, First Hearing.

⁴ Exhibit F, Draft Proposed Decision, Second Hearing; Exhibit G, Draft Expedited Amendment to Parameters and Guidelines.

⁵ California Code of Regulations, title 2, section 1190.5(b)(1) (Register 2014, No. 21).

⁶ Exhibit B, Test Claim Statement of Decision, page 41.

school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).⁷

On May 27, 2010, the Commission adopted the Parameters and Guidelines also approving the following reasonably necessary activities pursuant to Government Code section 17557 and former section 1183.1 of the Commission's regulations: obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion.⁸

Staff finds the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for *Academic Performance Index*, 01-TC-22, program has been modified based on a subsequent change in law. Specifically, Statutes 2013, chapter 47, section 102, expressly repealed the statute that imposed the mandate, Education Code section 52056. The approved activity in *Academic Performance Index*, 01-TC-22, for the school district governing board to discuss the results of the annual ranking following the annual publication of the API and SPI school rankings, was imposed entirely and only by Education Code section 52056(c).

Local agencies and school districts are only entitled to reimbursement under article XIII B, section 6 when the costs incurred are mandated, or "ordered" or "commanded," by the state.⁹ Activities undertaken at the option or discretion of local government, without legal compulsion or compulsion as a practical matter, do not trigger a state-mandated program within the meaning of article XIII B, section 6.¹⁰

Thus, with the repeal of Education Code section 52056, there is no longer a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and school districts are no longer incurring costs mandated by the state pursuant to Government Code section 17514 to comply with the requirement in subdivision (c) to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. With the mandate repealed, the reasonably necessary activities approved in the Parameters and Guidelines to obtain the annual API data from the State's website and prepare a staff report, including a PowerPoint presentation, for the governing board's discussion, are also no longer necessary to comply with the mandate.

Finance urges the Commission to end the state's liability for this program on July 1, 2018.¹¹ However, Government Code section 17570(f) expressly states that "[a] request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to

⁷ Exhibit B, Test Claim Statement of Decision, page 41.

⁸ Exhibit C, Parameters and Guidelines, pages 2-3; Exhibit X, Final Staff Analysis and Proposed Parameters and Guidelines (Item 7), pages 6-7.

⁹ *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 174; Government Code section 17514.

¹⁰ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 731 (Kern High School Dist.); *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1365-1366 (POBRA).

¹¹ Exhibit A, Request for Mandate Redetermination, page 5.

establish eligibility for reimbursement or loss of reimbursement for that fiscal year.”¹² This Request for Mandate Redetermination was filed March 8, 2019 (fiscal year 2018-2019), establishing a loss of reimbursement beginning July 1, 2017.¹³

Thus, in accordance with Government Code section 17570(f), *Academic Performance Index*, 01-TC-22, no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning July 1, 2017.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision as its new Test Claim Decision, ending reimbursement for the mandated program beginning July 1, 2017.

Staff further recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed new Test Claim Decision following the hearing.

¹² See also, California Code of Regulations, title 2, section 1190.1(f).

¹³ Exhibit A, Request for Mandate Redetermination, page 1.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:
SECOND HEARING: NEW TEST CLAIM
DECISION ON:

Education Code Section 52056(c)
Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1) and Statutes 2000,
Chapter 695 (SB 1552)

As Alleged to be Modified by:

Statutes 2013, Chapter 47 (AB 97)

Filed on March 8, 2019

By the Department of Finance, Requester

Case No.: 18-MR-01

Academic Performance Index (01-TC-22)

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

(Adopted November 22, 2019)

DECISION

The Commission on State Mandates (Commission) heard and decided this Mandate Redetermination during a regularly scheduled hearing on November 22, 2019. [Witness list will be included in the adopted Decision.]

Government Code section 17570 and section 1190.1 et seq. of the Commission's regulations establish the mandate redetermination process. In addition, the law applicable to the Commission's determination of a reimbursable state-mandated program are article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181.1 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision as its new Test Claim Decision to supersede the previously adopted Test Claim Decision at the hearing by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Mark Hariri, Representative of the State Treasurer	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Carmen Ramirez, City Council Member	
Jaqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	

Summary of the Findings

The Commission finds the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for *Academic Performance Index*, 01-TC-22, has been modified based on a subsequent change in law. Specifically, Statutes 2013, chapter 47, section 102 expressly repealed Education Code section 52056, the statute that imposed the mandate. Thus, with repeal of the test claim statute, Education Code section 52056(c) no longer imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and school districts are no longer incurring costs mandated by the state pursuant to Government Code section 17514 to comply with Education Code section 52056(c). With the mandate repealed, the reasonably necessary activities approved in the Parameters and Guidelines are no longer necessary to comply with the mandate.

Pursuant to Government Code section 17570, the Commission approves the request for a new test claim decision to supersede the previously adopted Decision based on a subsequent change in law and concludes that the mandated program found in *Academic Performance Index*, 01-TC-22, no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning July 1, 2017.

COMMISSION FINDINGS

I. Chronology

03/08/2019	The Department of Finance (Finance) filed the Request for Mandate Redetermination.
05/08/2019	The State Controller's Office (Controller) filed comments on the Mandate Redetermination.
09/27/2019	The Commission adopted the Decision, First Hearing and directed Commission staff to notice the second hearing.
09/27/2019	Commission staff issued the Draft Proposed Decision, Second Hearing and the Draft Expedited Amendment to Parameters and Guidelines. ¹⁴

II. Background

On July 31, 2009, the Commission adopted the Test Claim Statement of Decision in *Academic Performance Index*, 01-TC-22, finding that Education Code section 52056(c), as added and amended by the test claim statutes imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

¹⁴ Exhibit F, Draft Proposed Decision, Second Hearing; Exhibit G, Draft Expedited Amendment to Parameters and Guidelines.

Education Code section 52056(c) was part of the Public Schools Accountability Act of 1999 (PSAA),¹⁵ which established a new statewide school accountability system.¹⁶ To measure the level of achievement under the new accountability system, PSAA established the Academic Performance Index (API) as a method for measuring the performance of schools, especially the academic performance of pupils, and for demonstrating comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.¹⁷ The Test Claim Statement of Decision explains the API as follows:

A school's API is a number that ranges from 200 to 1000 and is calculated from the results for each school's students on statewide tests. The state has set 800 as the API target for all schools to meet. Schools that fall short of 800 are required to meet annual growth targets until that goal is achieved. API targets vary for each school.¹⁸

The PSAA, in Education Code sections 52056-52058, also established the High Achieving/Improving Schools Program, an incentive program that monitored schools' progress, and provided monetary and non-monetary rewards pursuant to a Governor's Performance Award Program for schools that meet or exceed performance targets or demonstrate high achievement. As part of the program, the Superintendent of Public Instruction (SPI) was required to annually rank all public schools by the value of the API in decile categories by grade level, and by the value of the API when compared to schools with similar characteristics (such as pupil ethnicity, pupil socioeconomic status, etc.), and to report the target annual growth rates of schools and the actual growth rates attained.¹⁹ The SPI was also required to publish the rankings on the Internet.²⁰ The school district governing boards were then required to "discuss the results of the annual ranking" at a regularly scheduled meeting, pursuant to section 52056(c).

The Commission found that only subdivision (c) of section 52056 imposed a reimbursable state-mandated activity for the governing board to discuss the results of its annual ranking at the next

¹⁵ Former Education Code sections 52050 -52058.

¹⁶ As enacted, the Public Schools Accountability Act of 1999 consisted of three component parts: (1) the Academic Performance Index (API) (§ 52052), a method of measuring pupil performance; (2) the Intermediate Intervention/Underperforming Schools Program (II/USP) (§§ 52053 – 52055), an intervention and sanctions program to assist low-performing schools; and (3) the Governor's High Achieving/Improving Schools Program, an incentive program that rewards high-performing schools pursuant to a Governor's Performance Award Program (§§ 52056 – 52058).

¹⁷ Former Education Code section 52052.

¹⁸ Exhibit B, Test Claim Statement of Decision, page 3 (citing to California Department of Education "Parent and Guardian Guide to California's 2008-09 Accountability Progress Reporting System.")

¹⁹ Former Education Code section 52056(a).

²⁰ Former Education Code section 52056(a).

regularly scheduled meeting following the annual publication of the API and the SPI's school rankings.²¹ All other statutes and regulations pled in the Test Claim were denied.²²

On May 27, 2010, the Commission adopted the Parameters and Guidelines approving reimbursement, beginning July 1, 2000, for the reimbursable activity approved in the Test Claim Statement of Decision. The Commission also approved reimbursement, pursuant to former section 1183.1 of the Commission regulations, for the following activities found to be the "most reasonable methods of complying with the mandate:" obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion.²³ Thus, Section IV. of the Parameters and Guidelines identifies the reimbursable activities as follows:

For each eligible claimant, the following activity is reimbursable:

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.

Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.²⁴

The Alleged Subsequent Change in Law

Statutes 2013, chapter 47, was a budget bill that replaced existing revenue limits and categorical funding provided to schools with the Local Control Funding Formula (LCFF), effective July 1, 2013. As part of the bill, section 102 repealed Article 4 of Chapter 6.1 of Part 28 of

²¹ Exhibit B, Test Claim Statement of Decision, page 41.

²² Exhibit B, Test Claim Statement of Decision, page 41.

²³ Exhibit X, Final Staff Analysis and Proposed Parameters and Guidelines (Item 7), May 27, 2010, pages 6-7.

²⁴ Exhibit C, Parameters and Guidelines, pages 2-3, emphasis in original.

Division 4 of Title 2 of the Education Code, commencing with section 52056, thereby repealing the High Achieving/Improving Schools Program.

On September 27, 2019, at the first hearing, the Commission heard and adopted the Decision finding that the requester identified a subsequent change in law, as defined, and made an adequate showing that the request, considered in light of all evidence in the record, had a substantial possibility of prevailing at this second hearing.²⁵

III. Positions of the Parties, Interested Parties, and Interested Persons

A. Department of Finance, Requester

Finance asserts that Statutes 2013, chapter 47 “repealed the requirement that school district governing boards must discuss their annual ranking following the annual publication of the API school rankings.”²⁶

Finance concludes that “the reimbursable activities identified in the Academic Performance Index Statement of Decision (01-TC-22) cease to be eligible for reimbursements effective July 1, 2018. Therefore, based on the change in law, the state’s liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution should be zero.”²⁷

In addition, Finance states that “According to the State Controller's Office April 30, 2018, "State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)," school districts claimed \$1,203 in 2016-17, \$1,090 in 2015-16, and \$1,182 in 2014-15 for activities related to the Academic Performance Index.”²⁸

B. State Controller’s Office

The Controller concurs with Finance’s request to adopt a new test claim decision “to supersede the prior decision on the Academic Performance Index mandate program based upon the repeal of the authorizing statute.”²⁹

²⁵ Exhibit E, Decision, First Hearing.

²⁶ Exhibit A, Request for Mandate Redetermination, page 4. Finance also states that “[g]iven the repeal of the authorizing statute, any required activities pursuant to the California Code of Regulations related to the API are unsupported by statute and should no longer be a basis for mandated activities.” (Exhibit A, Request for Mandate Redetermination, page 4.) The Commission denied all regulations pled in the Test Claim, and approved only Education Code section 52056(c), as added and amended by Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1), and Statutes 2000, Chapter 695 (SB 1552). (Exhibit B, Test Claim Statement of Decision, page 41.)

²⁷ Exhibit A, Request for Mandate Redetermination, page 5.

²⁸ Exhibit A, Request for Mandate Redetermination, page 5.

²⁹ Exhibit D, Controller’s Comments on the Request for Mandate Redetermination, page 1.

C. School Districts

No comments have been filed by any of the eligible claimant school districts or any of the school district associations that represent them.

IV. Discussion

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the state's liability. Government Code section 17570 provides for a two-step hearing process. At the first hearing, the requester must make "an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state's liability pursuant to Article XIII B, section 6(a) of the California Constitution."³⁰

California Code of Regulations, title 2, section 1190.5(b)(1) provides that "[i]f the Commission proceeds to the second hearing, it shall consider whether the state's liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified based on the subsequent change in law alleged by the requester, thus requiring adoption of a new test claim decision to supersede the previously adopted test claim decision."³¹

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."³² Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] ..."³³

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.³⁴
2. The mandated activity constitutes a "program" that either:
 - a. Carries out the governmental function of providing a service to the public; or

³⁰ California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

³¹ California Code of Regulations, title 2, section 1190.5(b)(1) (Register 2014, No. 21).

³² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

³³ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

³⁴ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

- b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.³⁵
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.³⁶
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.³⁷

The Commission is vested with the 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.³⁸ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.³⁹ In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”⁴⁰

Therefore, the issue before the Commission at this second hearing is whether the state’s liability has been modified based on a subsequent change in law and, if so, whether to adopt a new test claim decision to supersede the previously adopted test claim decision, reflecting the state’s modified liability. If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission is required to adopt new parameters and guidelines or amend existing parameters and guidelines.⁴¹

A. Statutes 2013, Chapter 47, a Subsequent Change in Law within the Meaning of Government Code Section 17570, Eliminates the State’s Liability for the *Academic Performance Index*, 01-TC-22 Program beginning July 1, 2017.

At the first hearing on this matter, the Commission found that Statutes 2013, chapter 47, which repealed the test claim statute in *Academic Performance Index*, 01-TC-22, constitutes a

³⁵ *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

³⁶ *San Diego Unified School Dist.* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

³⁷ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

³⁸ *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

³⁹ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

⁴⁰ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

⁴¹ Government Code section 17570 (Stats. 2010, ch. 719 (SB 856)).

subsequent change in law,⁴² and now finds that this subsequent change in law has modified the state's liability for the program within the meaning of Government Code section 17570.

In the Test Claim Statement of Decision for *Academic Performance Index*, 01-TC-22, the Commission found that Education Code section 52056(c), imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.⁴³ All other test claim statutes and regulations were denied.⁴⁴

The Parameters and Guidelines approved reimbursement for the activity mandated by Education Code section 52056(c) and the following activities found to be "the most reasonable methods of complying with the mandate:" obtain the annual API data from the State's website and prepare a staff report, including a PowerPoint presentation, for the governing board's discussion. Section IV. of the Parameters and Guidelines identifies the reimbursable activities as follows:

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)⁴⁵

Statutes 2013, chapter 47, section 102, effective July 1, 2013, expressly repealed the test claim statute, Education Code section 52056, which imposed the mandate in subdivision (c) for the school district governing boards to discuss the results of the annual ranking following the annual publication of the API and SPI school rankings.

Local agencies and school districts are only entitled to reimbursement under article XIII B, section 6 when the costs incurred are mandated, or "ordered" or "commanded," by the state.⁴⁶ Activities undertaken at the option or discretion of local government, without legal compulsion or compulsion as a practical matter, do not trigger a state-mandated program within the meaning of article XIII B, section 6.⁴⁷

⁴² Exhibit E, Decision, First Hearing.

⁴³ Exhibit B, Test Claim Statement of Decision, page 41.

⁴⁴ Exhibit B, Test Claim Statement of Decision, page 41.

⁴⁵ Exhibit C, Parameters and Guidelines, pages 2-3, emphasis in original.

⁴⁶ *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 174; Government Code section 17514.

⁴⁷ *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 731 (Kern High School Dist.); *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1365-1366 (POBRA).

Thus, with the repeal of the test claim statute, Education Code section 52056(c) no longer imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and school districts are no longer incurring costs mandated by the state pursuant to Government Code section 17514 to comply with the requirement to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. With the mandate repealed, the reasonably necessary activities approved in the Parameters and Guidelines to obtain the annual API data from the State's website and prepare a staff report, including a PowerPoint presentation, for the governing board's discussion, are no longer necessary to comply with the mandate.

Accordingly, with the repeal of Education Code section 52056(c) by Statutes 2013, chapter 47, the state's liability with respect to the *Academic Performance Index* program has been modified based on a subsequent change in law ending the mandate.

Finance urges the Commission to end the state's liability for *Academic Performance Index*, 01-TC-22 program on July 1, 2018.⁴⁸ However, the period of reimbursement affected by a mandate redetermination is established by law and is based on the filing date of a request for mandate redetermination. Government Code section 17570(f) states that "[a] request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year."⁴⁹ Here the Request for Mandate Redetermination was filed March 8, 2019 (fiscal year 2018-2019), establishing a loss of reimbursement beginning July 1, 2017.⁵⁰

Thus, in accordance with Government Code section 17570(f), the Commission finds that the *Academic Performance Index*, 01-TC-22, program no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning July 1, 2017.

V. Conclusion

Based on the foregoing, the Commission approves the request for a new test claim decision and concludes that the *Academic Performance Index*, 01-TC-22, mandate has ended based on a subsequent change in law and does not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning July 1, 2017.

⁴⁸ Exhibit A, Request for Mandate Redetermination, page 5.

⁴⁹ See also, California Code of Regulations, title 2, section 1190.1(f).

⁵⁰ Exhibit A, Request for Mandate Redetermination.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 27, 2019, I served the:

- **Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued September 27, 2019**
- **Second Hearing Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued September 27, 2019**

Second Hearing: New Test Claim Decision

Academic Performance Index (01-TC-22), 18-MR-01

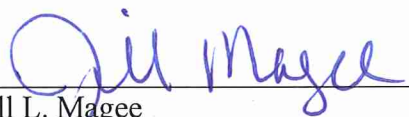
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 27, 2019 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 18-MR-01

Matter: Academic Performance Index (01-TC-22)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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September 27, 2019

Ms. Amber Alexander
Department of Finance
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Ms. Natalie Sidarous
Local Government Programs and
Services Division
State Controller's Office
3301 C Street, Suite 740
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

**Re: Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines,
Schedule for Comments, and Notice of Hearing**

Academic Performance Index, 01-TC-22 (18-MR-01)

Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as modified by
Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

Dear Ms. Alexander and Ms. Sidarous:

On September 27, 2019, the Commission on State Mandates (Commission) adopted the Decision on the adequate showing issue for the above-named matter and directed staff to notice a second hearing to determine whether to adopt a new test claim decision to supersede the previously adopted Test Claim Decision. The Second Hearing Draft Proposed Decision has been issued under separate cover. Since there have been no substantive comments on this matter from any party or interested party, no interest from local government, and it appears to be a complete repeal, the executive director is expediting this matter by going directly to the issuance of the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines. The Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines, which will be taken up only if a new test claim decision is adopted to supersede the previously adopted Test Claim Decision, is enclosed for your review and comment. (Cal. Code Regs., tit. 2, § 1183.9.)

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

J:\MANDATES\2001\tc\01-tc-22 (Academic Per Index)\18-MR-01\Correspondence\Draft Expedited PD and PGA
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Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the amendment to the parameters and guidelines process by preparing Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines to assist the claimant. The proposed Amendment ends reimbursement for the program based on a subsequent change in law that eliminates the State's liability for the program.

Written Comments on Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines

Proposed modifications and comments may be filed on the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines by **October 18, 2019**. (Cal. Code Regs., tit. 2, § 1183.9(b).) Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

The Proposed Decision and Amendment to the Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, November 22, 2019**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California, and will only be taken up if the Commission first approves the Request for Mandate Redetermination.

The proposed decisions for the second hearing and for the Amendment to Parameters and Guidelines will be issued on or about November 8, 2019.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list. Staff will no longer send reminder emails because the Commission does not have the resources to contact each party and interested party. Therefore, the last communication from Commission staff will be the Proposed Decision and Amendment to Parameters and Guidelines which will be issued approximately two weeks prior to the hearing

¹ 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.

and it is incumbent upon the participants to let Commission staff know if they wish to testify or bring witnesses.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,



Heather Halsey
Executive Director

ITEM _____

**DRAFT EXPEDITED PROPOSED DECISION AND AMENDMENT TO
PARAMETERS AND GUIDELINES**

Education Code Section 52056(c)

Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1)

Statutes 2000, Chapter 695 (SB 1552)

Academic Performance Index (01-TC-22)

As Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Department of Finance, Requester

EXECUTIVE SUMMARY

I. Summary of the Mandate

This Proposed Decision and Amendment to Parameters and Guidelines is consistent with the Commission on State Mandates' (Commission's) new Test Claim Decision, adopted November 22, 2019, finding that the state's liability pursuant to article XIII B, section 6 and Government Code Section 17514 has been modified based on the subsequent change in law.¹

On November 22, 2019, the Commission approved the Request for Mandate Redetermination and adopted the new Test Claim Decision pursuant to Government Code section 17570, concluding that Statutes 2013, chapter 47, constitute a subsequent change in law that modifies the state's liability for this program. Specifically, the Commission found that Statutes 2013, chapter 47, effective July 1, 2013, expressly repealed the Education Code section 52056(c), the test claim statute that imposed the mandate. The approved activities in *Academic Performance Index*, 01-TC-22 were imposed entirely and only by this statute.

Government Code section 17570(f) expressly states that "[a] request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year."² The Request for Mandate Redetermination was filed March 8, 2019 (fiscal year 2018-2019), establishing a loss of reimbursement beginning July 1, 2017.

¹ If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Government Code Sections 17557, 17557.1, and 17557.2. See Government Code section 17570(i).

² See also, California Code of Regulations, title 2, section 1190.1(f).

Accordingly, the Commission concluded that the *Academic Performance Index*, 01-TC-22 program no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and the following activities are no longer eligible for reimbursement, pursuant to Government Code section 17570(f), beginning July 1, 2017:

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.

Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)³

I. Procedural History

On September 27, 2019, the Commission adopted the first hearing Decision⁴ on this Mandate Redetermination, finding that an adequate showing that the state's liability for this program may be modified based on a subsequent change in law had been made, and directed staff to proceed to the second hearing. On September 27, 2019, Commission staff issued the Draft Proposed Decision for the second hearing and the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.⁵ On November 22, 2019, the Commission adopted the Proposed Decision for the second hearing as its new Test Claim Decision.

II. Discussion

The Proposed Decision and Amendment to Parameters and Guidelines ends reimbursement beginning July 1, 2017, for all reimbursable activities approved for the *Academic Performance Index*, 01-TC-22 program.

III. Staff Recommendation

Staff recommends that the Commission adopt this Proposed Decision and Amendment to Parameters and Guidelines, ending reimbursement for the activities approved for *Academic Performance Index*, 01-TC-22 program beginning July 1, 2017, in accordance to article XIII B, section 6(a) of California Constitution and Government Code section 17514.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical changes to the Proposed Decision and Amendment to Parameters and Guidelines following the hearing.

³ Exhibit B, Draft Proposed Decision, Second Hearing.

⁴ Exhibit A, Decision, First Hearing.

⁵ Exhibit B, Draft Proposed Decision, Second Hearing; Exhibit C, Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Section 52056(c)

Statutes 1999, 1st Extraordinary Session,
Chapter 3 (SBX1-1) and Statutes 2000,
Chapter 695 (SB 1552)

As Modified by: Statutes 2013, Chapter 47
(AB 97)

Filed on March 8, 2019

By the Department of Finance, Requester

Case No.: 01-TC-22 (18-MR-01)

Academic Performance Index

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

(Adopted November 22, 2019)

DECISION

The Commission on State Mandates (Commission) heard and decided this Proposed Decision and Amendment to Parameters and Guidelines during a regularly scheduled hearing on November 22, 2019. [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 section 17500 et seq., title 2, California Code of Regulations 1190.1 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision and Amendment to Parameters and Guidelines by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Mark Hariri, Representative of the State Treasurer	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Carmen Ramirez, City Council Member	
Jaqueline Wong-Hernandez, Representative of the State Controller, Vice Chairperson	

I. Summary of the Mandate

This Proposed Decision and Amendment to Parameters and Guidelines is consistent with the Commission's new Test Claim Decision, adopted November 22, 2019, finding that the state's liability pursuant to article XIII B, section 6 of the California Constitution and Government Code

Section 17514 for the *Academic Performance Index*, 01-TC-22 program was modified based upon a subsequent change in law.⁶ Specifically, Statutes 2013, chapter 47, effective July 1, 2013, expressly repealed the Education Code section 52056(c), the test claim statute that imposed the mandate.

Therefore, the following activities do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, and are no longer eligible for reimbursement, pursuant to Government Code section 17570(f), beginning July 1, 2017:

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)⁷

II. Procedural History

On September 27, 2019, the Commission adopted the first hearing Decision⁸ on this Mandate Redetermination, finding that an adequate showing that the state's liability for this program may be modified based on a subsequent change in law had been made, and directed staff to proceed to the second hearing. On September 27, 2019, Commission staff issued the Draft Proposed Decision for the second hearing and the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.⁹ On November 22, 2019, the Commission adopted the Proposed Decision for the second hearing as its new Test Claim Decision.

III. Discussion

The Proposed Decision and Amendment to Parameters and Guidelines ends reimbursement beginning July 1, 2017, for all reimbursable activities approved for the *Academic Performance Index*, 01-TC-22 program.

The Commission further finds the Proposed Decision and Amendment to Parameters and Guidelines is supported by the findings adopted by the Commission in its new Test Claim Decision for the *Academic Performance Index*, 01-TC-22 program on November 22, 2019.

⁶ Pursuant to Government Code section 17570(i), "[i]f the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Government Code Sections 17557, 17557.1, and 17557.2."

⁷ Exhibit B, Draft Proposed Decision, Second Hearing.

⁸ Exhibit A, Decision, First Hearing.

⁹ Exhibit B, Draft Proposed Decision, Second Hearing; Exhibit C, Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines.

IV. Conclusion

Based on the foregoing, the Commission hereby adopts this Proposed Decision and Amendment to Parameters and Guidelines.

Amended: November 22, 2019

Adopted: 5/27/10

AMENDMENT TO PARAMETERS AND GUIDELINES

Education Code Section 52056, ~~Subdivision~~ (c)
Statutes 1999, 1st Extraordinary Session, Chapter 3
Statutes 2000, Chapter 695

Academic Performance Index

01-TC-22

As Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Reimbursement for this Program Ends July 1, 2017

I. SUMMARY OF THE MANDATE

Education Code section 52056, subdivision (c), as added and amended by the test claim statutes requires a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and Superintendent of Public Instruction (SPI) school rankings.

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim statutes impose a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP) pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

Statutes 2013, chapter 47, section 102 (AB 97) repealed Article 4 of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, commencing with section 52056, which includes section 52056(c) that imposed the mandate.

On March 8, 2019, the Department of Finance (Finance) filed the Request for Redetermination of the *Academic Performance Index*, 01-TC-22 Test Claim. On November 22, 2019, the Commission approved Finance's request and adopted a New Test Claim Decision, finding that Statutes 2013, chapter 47, constitutes a subsequent change in law that eliminates the state's liability for reimbursement for this program, beginning July 1, 2017.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17570(f) provides that "[a] request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year." The Request for Mandate Redetermination was filed on March 8, 2019, establishing a loss of reimbursement beginning July 1, 2017. Government code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The San Juan Unified School District filed the test claim on June 28, 2002, establishing eligibility for reimbursement for the 200-2001 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2000.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c) between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

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 (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. 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.

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.

For each eligible claimant, the following activity is reimbursable:

- For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must

be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to

be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

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

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

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹⁰ 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. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

¹⁰ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The ~~Statement of Decisions on the Test Claim, Mandate Redetermination, Parameters and Guidelines and Amendments thereto~~ are legally binding on all parties and provides the legal and factual basis for these parameters and guidelines. The support for the legal and factual findings is found in the administrative record ~~for the test claim~~. The administrative record, ~~including the Statement of Decision~~, is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 27, 2019, I served the:

- **Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued September 27, 2019**
- **Second Hearing Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued September 27, 2019**

Second Hearing: New Test Claim Decision

Academic Performance Index (01-TC-22), 18-MR-01

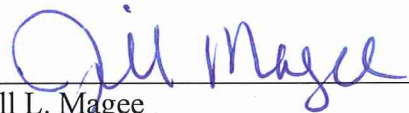
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 27, 2019 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 18-MR-01

Matter: Academic Performance Index (01-TC-22)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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RECEIVED
October 18, 2019
**Commission on
State Mandates**

Exhibit D

BETTY T. YEE
California State Controller

October 18, 2019

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

SUBJECT: Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines, Schedule for Comments, and Notice of Hearing

Academic Performance Index 01-TC-22, (18-MR-01)
Education Code Sections 52056(c); Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as modified by Statutes 2013, Chapter 47 (AB 97)
Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office reviewed the Draft Expedited Parameters and Guidelines for the Academic Performance Index program and recommend no changes.

If you have any questions, please contact Tiffany Hoang of the Local Reimbursements Section in the Local Government Programs and Services Division, at THoang@sco.ca.gov or (916) 323-1127.

Sincerely,

DEBRA MORTON, Manager
Local Reimbursements Section

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 18, 2019, I served the:

- **Controller's Comments on the Draft Expedited Proposed Decision and Amendment to Parameters and Guidelines filed October 18, 2019**

Second Hearing: New Test Claim Decision

Academic Performance Index (01-TC-22), 18-MR-01

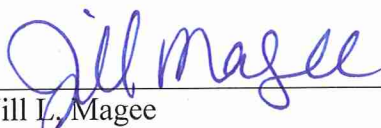
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,

Chapter 3 (SBX1-1); Statutes 2000, Chapter 695 (SB 1552); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 18, 2019 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 18-MR-01

Matter: Academic Performance Index (01-TC-22)

Requester: Department of Finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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