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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

Tustin Unified School District and the
San Diego Unified School District,
Claimants.

CSM-4505
Education Code Section 48902,
Subdivision (c)
Chapter 1117, Statutes of 1989

Law Enforcement Agency Notifications

DECISION

The attached Parameters and Guidelines of the Commission on State Mandates is hereby adopted by the Commission on State Mandates as its decision in the above entitled matter.

The Decision shall become effective on February 27, 1997, IT IS SO ORDERED,
March 3, 1997.



Paula Higashi, Interim Executive Director
COMMISSION ON STATE MANDATES

Adopted: February 27, 1997
File Number: CSM-4505
Staff: JMado-Eveland
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Proposed Parameters and Guidelines

Education Code Section 48902, Subdivision (c)
Chapter 1117, Statutes of 1989

Law Enforcement Agency Notifications

I. Summary of the Mandate Source

The provisions of Education Code section 48902, subdivision (c), as added by Chapter 1117, Statutes of 1989 require school authorities to notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10.

Penal Code section 626.9, known as the Gun-Free School Zone Act, makes it a crime, with certain exceptions, for a person to possess or to discharge a firearm in a school zone. Penal Code section 626.10 makes it a public offense, with certain exceptions, for a person to bring or possess any dirk, dagger, ice pick, knife unguarded razor blade, taser, stun gun, BB gun, pellet gun or spot marker gun upon school grounds.

II. Commission on State Mandates Decision

At its October 31, 1996 hearing, the Commission on State Mandates determined that the provisions of Education Code section 48902, subdivision (c), as added by Chapter 1117, Statutes of 1989, impose a reimbursable state mandated program. The school districts are required to have school authorities notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10.

III. Eligible Claimants

Any "school district", as defined in Government Code section 175 19, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement.

IV. Period of Reimbursement

A test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year as defined in Government Code

section 17519. Chapter 1117, Statutes of 1989, was approved by the Governor on September 29, 1989 and became operative on January 1, 1990.

The test claim for the subject mandate was filed by the Tustin Unified School District and the San Diego Unified School District on December 15, 1995. Therefore, costs incurred for Chapter 1117, Statutes of 1989, on or after July 1, 1994, for implementation of Education Code section 48902(c) are eligible for reimbursement.

Pursuant to Government Code section 17561, actual costs for one fiscal year shall be included in each claim, and estimated costs for the subsequent year may be included on the same claim, if applicable.

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

V. Reimbursable Costs

A. Scope of Mandate

School districts shall be reimbursed for the costs incurred for the principal or the principal's designee to report to appropriate law enforcement authorities in the county or city in which the school is located the following: any acts of a student that may involve the possession or sale of narcotics or of a controlled substance, or which may violate Penal Code sections 626.9 or 626.10.

B. Reimbursable Activities

For each eligible school district, the direct and indirect costs of labor, supplies and services incurred for the following mandate components are reimbursable:

1. Preparing and Filing a Report

Preparation of a report to the appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance, or which may violate Penal Code sections 626.9 or 626.10, and filing the report with the appropriate law enforcement authorities.

2. Maintaining a Record of Reports Filed

Maintaining copies of the reports filed with the appropriate law enforcement agency.

VI. Claim Preparation and Submission

Each claim for reimbursement pursuant to this mandate must be timely filed and provide documentation in support of the reimbursement claimed for this mandate.

A. Reporting By Components

Claimed costs must be allocated according to the two components of reimbursable activity described in Section V. B.

B. Supporting Documentation

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

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

2. Materials and Supplies

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

3. Contracted Services

Give the name(s) of the contractor(s) who performed the service(s). Describe the activities performed by each named contractor, and give the number of actual hours spent on the activities. Show the inclusive dates when services were performed and itemize all costs for those services.

4. Allowable Overhead Cost

- a. School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.
- b. County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the State Department of Education.

C. Cost Accounting Statistics

The State Controller is directed to include in its claiming instructions each year the requirement that claimants report to the State Controller the number of reports filed with the appropriate law enforcement agencies for the purpose of establishing a database for potential future reimbursement based on prospective rates.

VII. Supporting Data

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of claimed costs, from the date of initial payment of the claim. Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is

filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the State Controller to initiate an audit shall commence to run from the date of initial payment of the claim.

VIII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimant experiences as a direct result of the subject statute must be deducted from the costs claimed. In addition, reimbursements for the subject state mandates received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

IX. State Controller's Office Required Certification

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

Commission on State Mandates

Mailing list

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CSM/SB# and Claim Title CSM-4505 Claim of Tustin USD & San Diego USD

Government Code Sec. Ed Code Section 48902 & 48906

Chapters 205195, 169/90, 1117189, 1217184, 498/83

Originated: 03-Apr-96

Issue Law Enforcement Agency Notifications

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 48902,
Subdivision (c), as added by
Chapter 1117, Statutes of 1989.

Tustin Unified School District and the
San Diego Unified School District,
Claimants.

No. CSM-4505-2

*Law Enforcement Agency
Notifications*

ADOPTED STATEMENT OF DECISION

This claim was heard by the Commission on State Mandates (Commission) on September 27, 1996, in Sacramento, California, during a regularly scheduled hearing. Mr. Keith Petersen appeared on behalf of the San Diego Unified School District, Mr. Brad Lantz, Tustin Unified School District, Dr. Carol Berg, Education Mandated Cost Network, and Ms. Caryn Becker, Department of Finance.

Evidence both oral and documentary having been introduced, the matter submitted, and vote taken, the Commission finds:

ISSUE

Do the provisions of Education Code section 48902, subdivision (c), as added by Chapter 1117, Statutes of 1989, impose a new program or higher level of service in an existing program upon school districts within the meaning of section 6 of article XIII B of the California Constitution and section 17514 of the Government Code?

BACKGROUND AND FINDINGS OF FACT

The original test claim was filed with the Commission on December 15, 1995, by the San Diego Unified School District and the Tustin Unified School District. The test claim alleged that Education Code section 48902, as added and amended by Chapter 498, Statutes of 1983; Chapter 1117, Statutes of 1989, Chapter 1697, Statutes of 1990,

“(e) The willful failure to make any report required by this section is an infraction punishable by a fine to be paid by the principal or principal’s designee who is responsible for the failure of not more than five hundred dollars (\$500).” [No reimbursable mandate alleged by claimants .]

Claimants allege that Education Code section 48902, subdivision (c), as added by Chapter 1117, Statutes of 1989, requires school authorities to notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10. The Commission observed that this was a new requirement.

The Commission observed that the inclusion of the phrase “[n]otwithstanding subdivision (b)” at the beginning of subdivision (c) makes it clear that this reporting requirement is not waived based on performance of subdivision (b).

Accordingly, the Commission determined that Education Code section 48902, subdivision (c), imposes a reimbursable state mandated program upon school districts by requiring school districts to notify the appropriate law enforcement agency of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code sections 626.9 and 626.10.

CONCLUSION

Based on the foregoing, the Commission approves the test claim. The Commission concludes that the following requirement contained in Education Code section 48902, subdivision (c), imposes a reimbursable state mandated program upon school districts within the meaning of section 6 of article XIII B of the California Constitution and section 175 14 of the Government Code: Notification of appropriate law enforcement authorities by the school principal or principal’s designee of a student’s acts that may involve the possession or sale of narcotics or other controlled substance or a violation of sections 626.9 or 626.10 of the Penal Code.

The Commission’s determination is subject to the following conditions:

The determination of a reimbursable state mandated program does not mean that all increased costs claimed will be reimbursed. Reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller’s Office.