

Differential Pay and Reemployment (99-TC-02)

Education Code Sections 44977 and 44978.1
Statutes 1998, Chapter 30

Test Claim Filed: August 23, 1999
Reimbursement Period: 1998-1999 through 2004-2005

Initial Reimbursement Claims Filed: December 2, 2004
Eligible Claimants: School Districts¹⁷

Statewide Cost Estimate: \$192,033
Adopted: March 30, 2005

The statewide cost estimate includes seven fiscal years for a total of \$192,033. This averages to \$27,433 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1998-1999	2	\$25,960
1999-2000	3	\$33,094
2000-2001	2	\$17,153
2001-2002	3	\$22,863
2002-2003	3	\$27,041
2003-2004	3	\$32,490
2004-2005 (estimated)	N/A	\$33,432
Total	16	\$192,033

Background and Summary of the Mandate

On July 31, 2003, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Differential Pay and Reemployment* program. The Commission found that Education Code sections 44977 and 44978.1 constitute a new program or higher level of service and impose a state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- When calculating differential pay, the sick leave, including accumulated sick leave, and the five-month period of differential pay shall run consecutively. (One-time administrative activity for shifting the calculation of differential pay from running concurrently to consecutively with accumulated sick leave.) (Ed. Code, § 44977.)

¹⁷ 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.

- When a certificated employee is not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period described in Education Code section 44977 has been exhausted, place the employee, if not placed in another position, on a reemployment list for 24 months for probationary employees, or 39 months for permanent employees. (This activity includes the one-time activity of establishing a reemployment list for this purpose, and ongoing activities of maintaining the list.) (Ed. Code, § 44978.1.)
- When the employee is medically able, return the employee to a position for which he or she is credentialed and qualified. (This activity includes the administrative duties required to process the re-employment paperwork, but not reimbursement of salary and benefits for the employee once they return to work.) (Ed. Code, § 44978.1.)

The claimant, Palmdale School District, filed the test claim on August 23, 1999. The Commission adopted the Statement of Decision on July 31, 2003, and the parameters and guidelines on May 27, 2004. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by December 2, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. One-Time Activities

1. Change the process for calculating the five-month differential pay period from running concurrently to consecutively with accumulated sick leave. Reimbursement for this activity is solely for the administrative modification of existing policies, procedures, and forms, and modification of computer programs to compute differential pay.
2. Establish a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period.¹⁸ Reimbursement for this activity is solely for the administrative modification of existing policies, procedures, and forms, and modification of computer programs to establish and track reemployment lists.¹⁹

B. On-going Activities²⁰

1. Maintain a reemployment list for identified certificated employees who are not medically able to resume the duties of his or her position following the exhaustion of all sick leave and the five-month differential pay period. Reimbursement for this activity is limited to minimal staff time for periodically updating the reemployment lists.
2. Process the reemployment paperwork for a “medically able” certificated employee to return to an available position for which he or she is credentialed and qualified. Salary and benefits for the employee upon return to work are not reimbursable.

¹⁸ Education Code section 44978.1.

¹⁹ Education Code section 44977.

²⁰ Education Code section 44978.1.

Statewide Cost Estimate

Initial reimbursement claims were due to the SCO by December 2, 2004, and were provided to the Commission on February 17, 2005. Staff reviewed the claims data submitted by the claimants and compiled by the SCO. The claims data included 16 claims filed by five of the 1,086 districts. Only two of the five school districts filed reimbursement claims each year for fiscal years 1998-1999 through 2003-2004. The remaining three districts filed reimbursement claims for one or two of those fiscal years.

Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology will be reported to the Legislature.

Staff made the following assumptions:

Assumptions

- The actual amount claimed will increase if late or amended claims are filed. Only five of the 1,086 school districts filed reimbursement claims for this program. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims may be filed for this program until December 2, 2005.
- It is unlikely that more claims will be filed. The cost to perform the reimbursable activities for *Differential Pay and Reemployment* are minimal and most school districts are unable to meet the \$1,000 minimum filing threshold.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1998-1999 through 2003-2004 Projected Costs

- The proposed statewide cost estimate for fiscal years 1998-1999 through 2003-2004 was developed based on the 16 unaudited, actual reimbursement claims.

2004-2005 Projected Costs

- Staff projected the total for FY 2004-2005 by multiplying the FY 2003-2004 claims total by the implicit price deflator for 2003-2004 (2.9%), as forecast by the Department of Finance.