

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Sections 60850, 60851, Statutes
1999x, Chapter 1 (SB 2) and Statutes 1999,
Chapter 135 (AB 2539)

California Code of Regulations, Title 5, Sections
1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210,
1211, 1211.5, 1212, 1215, 1217, 1220, and 1225,
Register 01, No. 25, effective July 20, 2001 and
Register 03, No. 18, effective May 1, 2003¹

As Modified by: Statutes 2015, Chapter 572 (SB
172) and Statutes 2017, Chapter 641 (AB 830)

Filed on June 28, 2018

By the Department of Finance, Requester

Case No.: 00-TC-06 (17-MR-01)

High School Exit Examination

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

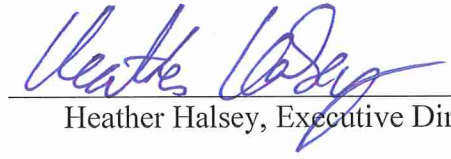
(Adopted September 27, 2019)

(Served September 30, 2019)

¹ The captions for the Test Claim Decision and Parameters and Guidelines for *High School Exit Examination*, 00-TC-06 included Education Code sections 60853 and 60855 and Sections “1200-1225” of the Title 5 regulations, all of which implement the California High School Exit Examination. However, sections 60853 and 60855 were denied by the Commission as not imposing any state-mandated duties on school districts and thus should not have been included in the caption for the Parameters and Guidelines. (Test Claim Statement of Decision, pages 12, 15, 32.) In addition, the Parameters and Guidelines identify only the following regulations as imposing reimbursable state-mandated activities: California Code of Regulations, title 5, sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, and 1220. (Test Claim Statement of Decision, pages 43-47, 48; Exhibit C, Parameters and Guidelines, pages 3-7.) The Parameters and Guidelines, however, mistakenly omit a citation to section 1225 of the Title 5 regulations. As determined in the Test Claim Decision, section 1225 of the Title 5 regulations mandated the district superintendent to certify the accuracy of information regarding the number of exams for each test cycle to CDE within a specified time. (Test Claim Statement of Decision, pages 36, 48.) The Commission approved the activity mandated by section 1225 as a reimbursable state-mandated activity, and the California Department of Education (CDE) did not later amend or move that activity to another regulation. (Test Claim Statement of Decision, page 48.) Although that activity is correctly included in the Parameters and Guidelines, the activity is followed by an incorrect citation to section 1207. Therefore, the caption to this Mandate Redetermination includes all regulations mandating the activities approved by the Commission for reimbursement.

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached Decision and Amendment to Parameters and Guidelines on September 27, 2019.



Heather Halsey, Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Education Code Sections 60850, 60851, Statutes
1999x, Chapter 1 (SB 2) and Statutes 1999,
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California Code of Regulations, Title 5, Sections
1200, 1203, 1205, 1206, 1207, 1208, 1209,
1210, 1211, 1211.5, 1212, 1215, 1217, 1220, and
1225, Register 01, No. 25, effective
July 20, 2001 and Register 03, No. 18, effective
May 1, 2003¹

As Modified by: Statutes 2015, Chapter 572 (SB
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(Adopted September 27, 2019)

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¹ The captions for the Test Claim Decision and Parameters and Guidelines for *High School Exit Examination*, 00-TC-06 included Education Code sections 60853 and 60855 and Sections “1200-1225” of the Title 5 regulations, all of which implement the California High School Exit Examination. However, sections 60853 and 60855 were denied by the Commission as not imposing any state-mandated duties on school districts and thus should not have been included in the caption for the Parameters and Guidelines. (Test Claim Statement of Decision, pages 12, 15, 32.) In addition, the Parameters and Guidelines identify only the following regulations as imposing reimbursable state-mandated activities: California Code of Regulations, title 5, sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, and 1220. (Test Claim Statement of Decision, pages 43-47, 48; Exhibit C, Parameters and Guidelines, pages 3-7.) The Parameters and Guidelines, however, mistakenly omit a citation to section 1225 of the Title 5 regulations. As determined in the Test Claim Decision, section 1225 of the Title 5 regulations mandated the district superintendent to certify the accuracy of information regarding the number of exams for each test cycle to CDE within a specified time. (Test Claim Statement of Decision, pages 36, 48.) The Commission approved the activity mandated by section 1225 as a reimbursable state-mandated activity, and the California Department of Education (CDE) did not later amend or move that activity to another regulation. (Test Claim Statement of Decision, page 48.) Although that activity is correctly included in the Parameters and Guidelines, the activity is followed by an incorrect citation to section 1207. Therefore, the caption to this Mandate Redetermination includes all regulations mandating the activities approved by the Commission for reimbursement.

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 September 27, 2019. Lina Grant appeared on behalf of the Department of Finance (Finance).

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 et seq., and related case law.

The Commission adopted the Proposed Decision and Amendment to Parameters and Guidelines by a vote of 7-0, 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

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 September 27, 2019, finding that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution for the *High School Exit Examination*, 00-TC-06 program was modified based upon a subsequent change in law.² Specifically, Statutes 2015, chapter 572, effective January 1, 2016, suspended administration of the high school exit exam (HSEE, or CAHSEE) for the 2015-2016, 2016-2017, and 2017-2018 school years, and also suspended the requirement that each pupil completing grade 12 in said years successfully pass the HSEE in order to receive a diploma of graduation or to graduate from high school. Statutes 2017, chapter 641, effective January 1, 2018, then expressly repealed the statutes that impose the mandate. Although the implementing regulations were not repealed at the time the Department of Finance (Finance) filed the Request for Mandate Redetermination and so were not pled, it is established law that ". . . no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute."³ Thus, the regulations must be interpreted consistent with the statutes

² 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 sections 17557, 17557.1, and 17557.2."

³ Government Code, section 11342.2.

from which their authority and reference is derived. Therefore, the implementing regulations lack the force of law effective January 1, 2018. Additionally, after the Request for Mandate Redetermination was filed, California Code of Regulations, title 5, sections 1200-1225, which encompasses the test claim regulations, 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, 1220, and 1225, as added by Register 01, No. 25 and Register 03, No. 18, were repealed effective February 19, 2019, in accordance with the repeal of the test claim statutes.⁴

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, 2016:

- A. Adequate notice:** Notifying parents of *transfer* students who enroll after the first semester or quarter of the regular school term that, commencing with the 2003-04 school year, and each school year thereafter, each pupil completing 12th grade will be required to successfully pass the HSEE. The notification shall include, at a minimum, the date of the HSEE, the requirements for passing the HSEE, the consequences of not passing the HSEE, and that passing the HSEE is a condition of graduation (Ed. Code, § 60850, subds. (e)(1) & (f)(1)). Reimbursement is provided for notices delivered by the student or by U.S. Mail.
- B. Documentation of adequate notice:** Maintaining documentation that the parent or guardian of each pupil received written notification of the HSEE. (Cal. Code Regs., tit. 5, § 1208.) Documentation may include a written copy of the notice or a record of mailing the notice.
- C. Determining English language skills:** Determining whether English-learning pupils⁵ possess sufficient English language skills at the time of the HSEE to be assessed⁶ with the HSEE (Cal. Code Regs., tit. 5, § 1217.)
- D. HSEE administration:** Administration of the HSEE on SPI designated dates to all pupils in grade 10 beginning in the 2001-2002 school year, and subsequent administrations for students who do not pass until each section of the HSEE has been passed, and administration of the HSEE on SPI designated dates to pupils in grade 9 only in the 2000-2001 school year who wish to take the HSEE (Ed. Code, § 60851, subd. (a).).

A teacher's time administering the HSEE during the school day is not reimbursable for any of the following activities. Administration is limited to the following activities specified in the regulations:

⁴ California Code of Regulations, title 5, sections 1200-1225 were repealed effective February 19, 2019, pursuant to California Code of Regulations, title 1, section 100. (Register 2019, No. 8.)

⁵ As defined in Education Code section 435, subdivision (a).

⁶ Criteria are identified in Education Code section 313.

1. Training a test examiner either by a test site or district coordinator as provided in the test publisher's manual (Cal. Code Regs., tit. 5, §§ 1200, subd. (g) and 1210, subd. (c)(3)).
2. Allowing pupils to have additional time to complete the HSEE within the test security limits provided in section 1211, but only if additional time is not specified in the pupil's Individual Education Program (IEP) (§ 1215, subd. (a)(1)).
3. Accurately identifying eligible pupils who take the HSEE by school personnel at the test site through the use of photo-identification, positive recognition by the test examiner, or some equivalent means of identification. (Cal. Code Regs., tit. 5, § 1203.)
4. Maintaining a record of all pupils who participate in each test cycle of the HSEE, including the date each section was offered, the name and grade level of each pupil who took each section, and whether each pupil passed or did not pass the section or sections of the HSEE taken. (Cal. Code Regs., tit. 5, § 1205.)
5. Maintaining in each pupil's permanent record and entering in it prior to the subsequent test cycle the following: the date the pupil took each section of the HSEE and whether or not the pupil passed each section of the HSEE. (Cal. Code Regs., tit. 5, § 1206.)
6. Designation by the district superintendent, on or before July 1 of each year, of a district employee as the HSEE district coordinator, and notifying the publisher of the HSEE of the identity and contact information of that individual. (Cal. Code Regs., tit. 5, § 1209.)
7. For the district coordinator and superintendent, within seven days of completion of the district testing, to certify to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher. (Cal. Code Regs., tit. 5, § 1209.)
8. Designation annually by the district superintendent a HSEE test site coordinator for each test site (as defined) from among the employees of the school district who is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE. (Cal. Code Regs., tit. 5, § 1210.)
9. The HSEE district coordinator's duties listed in section 1209 and referenced below.

District Coordinator duties are: (1) responding to inquiries of the publisher, (2) determining district and school HSEE test material needs, (3) overseeing acquisition and distribution of the HSEE, (4) maintaining security over the HSEE using the procedures in section 1211, (5) overseeing administration of the HSEE in accordance with the manuals or other instructions provided by the test publisher for administering and returning the test, (6) overseeing collection and return of test material and test data to the publisher, (7) assisting the publisher in resolving discrepancies in the test information and materials, (8) ensuring all

exams and materials are received from school test sites no later than the close of the school day on the school day following administration of the HSEE, (9) ensuring all exams and materials received from school test sites have been placed in a secure district location by the end of the day following administration of those tests, (10) ensuring that all exams and materials are inventoried, packaged, and labeled in accordance with instructions from the publisher and ensuring the materials are ready for pick-up by the publisher no more than five working days following administration of either section in the district, (11) ensuring that the HSEE and test materials are retained in a secure, locked location in the unopened boxes in which they were received from the publisher from the time they are received in the district until the time of delivery to the test sites; (12) within seven days of completion of the district testing, certifying with the Superintendent to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher.

10. The HSEE test site coordinator's duties listed in section 1210 and referenced below. This individual is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE.

Test site coordinator's duties are: (1) determining site examination and test material needs; (2) arranging for test administration at the site; (3) training the test examiner(s) as provided in the test publisher's manual; (4) completing the Test Security Agreement and Test Security Affidavit prior to the receipt of test materials; (5) overseeing test security requirements, including collecting and filing all Test Security Affidavit forms from the test examiners and other site personnel involved with testing; (6) maintaining security over the examination and test data as required by section 1211; (7) overseeing the acquisition of examinations from the school district and the distribution of examinations to the test examiner(s); (8) overseeing the administration of the HSEE to eligible pupils at the test site; (9) overseeing the collection and return of all testing materials to the HSEE district coordinator no later than the close of the school day on the school day following administration of the high school exit examination; (10) assisting the HSEE district coordinator and the test publisher in the resolution of any discrepancies between the number of examinations received from the HSEE district coordinator and the number of examinations collected for return to the HSEE district coordinator; (11) overseeing the collection of all pupil data as required to comply with sections 1205, 1206 and 1207 of the title 5 regulations; (12) within three (3) working days of completion of site testing, certifying with the principal to the HSEE district coordinator that the test site has maintained the security and integrity of the examination, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner and as otherwise required by the publisher. The principal's activities may or may not be reimbursable, depending on whether the principal is acting as an HSEE district or test-site coordinator or test examiner.

11. Delivery of HSEE booklets to the school test site no more than two working days before the test is to be administered. (Cal. Code Regs., tit. 5, § 1212.) **This activity was repealed on May 19, 2004, therefore this activity is not reimbursable after May 18, 2004.**

E. Test security/cheating: Doing the following to maintain security:

1. For HSEE test site coordinators to ensure that strict supervision is maintained over each pupil being administered the HSEE, both while in the testing room and during any breaks (§ 1210, subd. (c)(7)(B)).
2. Limiting access to the HSEE to pupils taking it and employees responsible for its administration (§ 1211, subd. (a)).
3. Having all HSEE district and test site coordinators sign the HSEE Test Security Agreement set forth in subdivision (b) of section 1211.5 of the title 5 regulations. (Cal. Code Regs., tit. 5, § 1210, subd. (c)(5).)
4. Abiding by the Test Security Agreement by limiting access to persons in the district with a responsible, professional interest in the test's security. The Agreement also requires the coordinator to keep on file the names of persons having access to exam and test materials, and who are required to sign the HSEE Test Security Affidavit, and requires coordinators to keep the tests and test materials in a secure, locked location, limiting access to those responsible for test security, except on actual testing dates. (Cal. Code Regs., tit. 5, § 1210 (c)(5), § 1211, subd. (a), § 1211.5 (b)(4).)
5. HSEE test site coordinators deliver the exams and test materials only to those actually administering the exam on the date of testing and only on execution of the HSEE Test Security Affidavit (Cal. Code Regs., tit. 5, § 1210, subd. (c)(7)(A)).
6. For persons with access to the HSEE (including test site coordinators and [sic] testexaminers) to acknowledge the limited purpose of their access to the test by signing the HSEE Test Security Affidavit set forth in subdivision (g). (Cal. Code Regs., tit. 5, § 1211.5, subd. (c).)
7. HSEE district and test site coordinators control of inventory and use of appropriate inventory control forms to monitor and track test inventory. (Cal. Code Regs., tit. 5, § 1211 subd. (b).)
8. Being responsible for the security of the test materials delivered to the district until the materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher. (Cal. Code Regs., tit. 5, § 1211, subd. (c).)
9. Providing secure transportation within the district for test materials once they have been delivered to the district. (Cal. Code Regs., tit. 5, § 1211, subd. (d).)
10. Not scoring the test for any pupil found to have cheated or assisted others in cheating, or who has compromised the security of the HSEE, and notifying each

eligible pupil before administration of the HSEE of these consequences of cheating. (Cal. Code Regs., tit. 5, § 1220.)

- F. Reporting data to the SPI:** Providing HSEE data to the SPI or independent evaluators or the publisher is reimbursable. Specifically, providing the following information on each pupil tested: (1) date of birth, (2) grade level, (3) gender, (4) language fluency and home language, (5) special program participation, (6) participation in free or reduced priced meals, (7) enrolled in a school that qualifies for assistance under Title 1 of the Improving America's School Act of 1994, (8) testing accommodations, (9) handicapping condition or disability, (10) ethnicity, (11) district mobility, (12) parent education, (13) post-high school plans. (§ 1207); and reporting to the CDE the number of examinations for each test cycle within 10 working days of completion of each test cycle in the school district, and for the district superintendent to certify the accuracy of this information submitted to CDE (§ 1207).

The regulation (§1207) was amended in May 2004 and August 2005 to add the following data that must be submitted to the state (which are not reimbursable under these parameters and guidelines): (1) pupil's full name; (2) date of English proficiency reclassification; (3) if R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three (3) times since reclassification; (4) use of modifications during the exam [accommodations are reimbursed]; (5) participation in California Alternate Performance Assessment (CAPA); (6) school and district CBEDS enrollment; (7) district and county of residence for students with disabilities; (8) California School Information Services (CSIS) Student Number, once assigned.⁷

II. Procedural History

On July 26, 2019, the Commission adopted the Decision at the first hearing on the Request for Mandate Redetermination, finding an adequate showing had been made, and directed staff to proceed to the second hearing.⁸ On July 26, 2016, Commission staff issued the Draft Proposed Decision for the second hearing and the Draft Expedited Amendment to Parameters and Guidelines.⁹ On August 15, 2019, the Controller filed comments on the Draft Expedited Amendment to Parameters and Guidelines recommending no changes.¹⁰ On August 19, 2019, Commission staff issued the Draft Proposed Decision and Amendment to Parameters and Guidelines.¹¹ On September 27, 2019, the Commission adopted the Proposed Decision for the second hearing as its new Test Claim Decision.

⁷ Exhibit C, Parameters and Guidelines, adopted April 26, 2006.

⁸ Exhibit D, Decision, First Hearing.

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

¹⁰ Exhibit F, Controller's Comments on the Draft Expedited Amendment to Parameters and Guidelines.

¹¹ Exhibit E, Draft Proposed Decision and Amendment to Parameters and Guidelines.

III. Discussion

The Proposed Decision and Amendment to Parameters and Guidelines ends reimbursement beginning July 1, 2016, for the reimbursable activities that relate to the HSEE.

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 *High School Exit Examination*, 00-TC-06 program on September 27, 2019.

IV. Conclusion

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

Amended: September 27, 2019

Adopted: April 26, 2006

AMENDMENT TO PARAMETERS AND GUIDELINES

Education Code Sections 60850 and 60851

Statutes 1999x, Chapter 1 (SB 2) and Statutes 1999, Chapter 135 (AB 2539)

California Code of Regulations, Title 5, Sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, 1220, and 1225, Register 01, No. 25, effective July 20, 2001 and Register 03, No. 18, effective May 1, 2003¹²

High School Exit Examination (00-TC-06)

¹² The captions for the Test Claim Decision and Parameters and Guidelines for *High School Exit Examination*, 00-TC-06 included Education Code sections 60853 and 60855 and Sections “1200-1225” of the Title 5 regulations, all of which implement the California High School Exit Examination. However, sections 60853 and 60855 were denied by the Commission as not imposing any state-mandated duties on school districts and thus should not have been included in the caption for the Parameters and Guidelines. (Test Claim Statement of Decision, pages 12, 15, 32.) In addition, the Parameters and Guidelines identify only the following regulations as imposing reimbursable state-mandated activities: California Code of Regulations, title 5, sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, and 1220. (Test Claim Statement of Decision, pages 43-47, 48; Exhibit C, Parameters and Guidelines, pages 3-7.) The Parameters and Guidelines, however, mistakenly omit a citation to section 1225 of the Title 5 regulations. As determined in the Test Claim Decision, section 1225 of the Title 5 regulations mandated the district superintendent to certify the accuracy of information regarding the number of exams for each test cycle to the California Department of Education (CDE) within a specified time. (Test Claim Statement of Decision, pages 36, 48.) The Commission approved the activity mandated by section 1225 as a reimbursable state-mandated activity, and CDE did not later amend or move that activity to another regulation. (Test Claim Statement of Decision, page 48.) Although that activity is correctly included in the Parameters and Guidelines, the activity is followed by an incorrect citation to section 1207. Therefore, the caption to this Mandate Redetermination includes all regulations mandating the activities approved by the Commission for reimbursement.

As Modified by:

Statutes 2015, Chapter 572 (SB 172) and Statutes 2017, Chapter 641 (AB 830)

17-MR-01

Reimbursement for this Program Ends July 1, 2016

I. SUMMARY OF THE MANDATE

On March 25, 2004, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *High School Exit Examination* (00-TC-06) program. The Commission found that Education Code sections 60850, 60851, 60853, and 60855 as added in 1999 along with California Code of Regulations, Title 5, sections 1200-1225 that became effective in 2001 and 2003 constitute a new program or higher level of service and impose a 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 regulations were amended in May 2004 and August 2005 to add additional activities which were not included in the test claim decision and are not reimbursable under these parameters and guidelines. The Commission approved this test claim for the following reimbursable activities:

Adequate notice: notifying parents of *transfer* students who enroll after the first semester or quarter of the regular school term that, commencing with the 2003-04 school year, and each school year thereafter, each pupil completing 12th grade will be required to successfully pass the High School Exit Exam (HSEE).

Documentation of adequate notice: maintaining documentation that the parent or guardian of each pupil received written notification of the HSEE.

Determining English language skills: determining whether English-learning pupils possess sufficient English language skills at the time of the HSEE to be assessed with the HSEE.

HSEE administration: administration of the HSEE, on designated dates to specified pupils, excluding a teacher's time administering the HSEE.

Test security/cheating: maintaining test security.

Reporting data to the Superintendent of Public Instruction (SPI): providing specific HSEE data on each pupil to the SPI or independent evaluators or the publisher.

The Commission denied any remaining alleged costs or activities, as identified on Attachment A, because they do not impose a new program or higher level of service, and do not impose costs mandated by the state.

Effective January 1, 2016, Statutes 2015, chapter 572, added sections 60851.5 and 60851.6 to the Education Code. Section 60851.5 suspended the administration of the HSEE, and the requirement that grade 12 pupils pass it in order to graduate, for the 2015-16, 2016-17, and 2017-18 school years. Section 60851.6 required the granting of "a diploma of graduation from high school to any pupil who completed grade 12 in the 2003–04 school year or a subsequent school year and has met all applicable graduation requirements other than the passage of the high school exit examination."

Effective January 1, 2018, Statutes 2017, chapter 641, repealed Chapter 9 of Part 33 of Division 4 of Title 2 of the Education Code, commencing with section 60850 and including sections 60851, 60853, and 60855, all pertaining to the HSEE.

Sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, 1220, and 1225 of title 5 of the California Code of Regulations were repealed effective February 19, 2019.¹³

On June 28, 2018, the Department of Finance (Finance) filed the Request for Redetermination of the *High School Exit Examination*, 00-TC-06 Test Claim. On September 27, 2019, the Commission adopted a new Test Claim decision, finding that Statutes 2015, chapter 572, and Statutes 2017, chapter 641, constitute a subsequent change in law that eliminates the state's liability for reimbursement under the previously adopted Test Claim Decision, beginning July 1, 2016.

II. ELIGIBLE CLAIMANTS

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a direct result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. 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 June 28, 2018 and therefore reimbursement ends beginning July 1, 2016.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(2), 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.

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.

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

¹³ California Code of Regulations, title 5, sections 1200-1225 were repealed effective February 19, 2019, pursuant to California Code of Regulations, title 1, section 100. (Register 2019, No. 8.)

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, 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 the 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 activities are reimbursable:

- A. Adequate notice:** Notifying parents of *transfer* students who enroll after the first semester or quarter of the regular school term that, commencing with the 2003-04 school year, and each school year thereafter, each pupil completing 12th grade will be required to successfully pass the HSEE. The notification shall include, at a minimum, the date of the HSEE, the requirements for passing the HSEE, the consequences of not passing the HSEE, and that passing the HSEE is a condition of graduation (Ed. Code, § 60850, subs. (e)(1) & (f)(1)). Reimbursement is provided for notices delivered by the student or by U.S. Mail.
- B. Documentation of adequate notice:** Maintaining documentation that the parent or guardian of each pupil received written notification of the HSEE. (Cal. Code Regs., tit. 5, § 1208.) Documentation may include a written copy of the notice or a record of mailing the notice.
- C. Determining English language skills:** Determining whether English-learning pupils¹⁴ possess sufficient English language skills at the time of the HSEE to be assessed¹⁵ with the HSEE (Cal. Code Regs., tit. 5, § 1217.)
- D. HSEE administration:** Administration of the HSEE on SPI designated dates to all pupils in grade 10 beginning in the 2001-2002 school year, and subsequent administrations for students who do not pass until each section of the HSEE has been passed, and administration of the HSEE on SPI designated dates to pupils in grade 9 only in the 2000-2001 school year who wish to take the HSEE (Ed. Code, § 60851, subd. (a)).

A teacher's time administering the HSEE during the school day is not reimbursable for any of the following activities. Administration is limited to the following activities specified in the regulations:

¹⁴ As defined in Education Code section 435, subdivision (a).

¹⁵ Criteria are identified in Education Code section 313.

1. Training a test examiner either by a test site or district coordinator as provided in the test publisher's manual (Cal. Code Regs., tit. 5, §§ 1200, subd. (g) and 1210, subd. (c)(3)).
2. Allowing pupils to have additional time to complete the HSEE within the test security limits provided in section 1211, but only if additional time is not specified in the pupil's Individual Education Program (IEP) (§ 1215, subd. (a)(1)).
3. Accurately identifying eligible pupils who take the HSEE by school personnel at the test site through the use of photo-identification, positive recognition by the test examiner, or some equivalent means of identification. (Cal. Code Regs., tit. 5, § 1203.)
4. Maintaining a record of all pupils who participate in each test cycle of the HSEE, including the date each section was offered, the name and grade level of each pupil who took each section, and whether each pupil passed or did not pass the section or sections of the HSEE taken. (Cal. Code Regs., tit. 5, § 1205.)
5. Maintaining in each pupil's permanent record and entering in it prior to the subsequent test cycle the following: the date the pupil took each section of the HSEE and whether or not the pupil passed each section of the HSEE. (Cal. Code Regs., tit. 5, § 1206.)
6. Designation by the district superintendent, on or before July 1 of each year, of a district employee as the HSEE district coordinator, and notifying the publisher of the HSEE of the identity and contact information of that individual. (Cal. Code Regs., tit. 5, § 1209.)
7. For the district coordinator and superintendent, within seven days of completion of the district testing, to certify to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher. (Cal. Code Regs., tit. 5, § 1209.)
8. Designation annually by the district superintendent a HSEE test site coordinator for each test site (as defined) from among the employees of the school district who is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE. (Cal. Code Regs., tit. 5, § 1210.)
9. The HSEE district coordinator's duties listed in section 1209 and referenced below.

District Coordinator duties are: (1) responding to inquiries of the publisher, (2) determining district and school HSEE test material needs, (3) overseeing acquisition and distribution of the HSEE, (4) maintaining security over the HSEE using the procedures in section 1211, (5) overseeing administration of the HSEE in accordance with the manuals or other instructions provided by the test publisher for administering and returning the test, (6) overseeing collection and return of test material and test data to the publisher, (7) assisting the publisher in resolving discrepancies in the test information and materials, (8) ensuring all

exams and materials are received from school test sites no later than the close of the school day on the school day following administration of the HSEE, (9) ensuring all exams and materials received from school test sites have been placed in a secure district location by the end of the day following administration of those tests, (10) ensuring that all exams and materials are inventoried, packaged, and labeled in accordance with instructions from the publisher and ensuring the materials are ready for pick-up by the publisher no more than five working days following administration of either section in the district, (11) ensuring that the HSEE and test materials are retained in a secure, locked location in the unopened boxes in which they were received from the publisher from the time they are received in the district until the time of delivery to the test sites; (12) within seven days of completion of the district testing, certifying with the Superintendent to CDE that the district has maintained the security and integrity of the exam, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner required by the publisher.

10. The HSEE test site coordinator's duties listed in section 1210 and referenced below. This individual is to be available to the HSEE district coordinator to resolve issues that arise as a result of administration of the HSEE.

Test site coordinator's duties are: (1) determining site examination and test material needs; (2) arranging for test administration at the site; (3) training the test examiner(s) as provided in the test publisher's manual; (4) completing the Test Security Agreement and Test Security Affidavit prior to the receipt of test materials; (5) overseeing test security requirements, including collecting and filing all Test Security Affidavit forms from the test examiners and other site personnel involved with testing; (6) maintaining security over the examination and test data as required by section 1211; (7) overseeing the acquisition of examinations from the school district and the distribution of examinations to the test examiner(s); (8) overseeing the administration of the HSEE to eligible pupils at the test site; (9) overseeing the collection and return of all testing materials to the HSEE district coordinator no later than the close of the school day on the school day following administration of the high school exit examination; (10) assisting the HSEE district coordinator and the test publisher in the resolution of any discrepancies between the number of examinations received from the HSEE district coordinator and the number of examinations collected for return to the HSEE district coordinator; (11) overseeing the collection of all pupil data as required to comply with sections 1205, 1206 and 1207 of the title 5 regulations; (12) within three (3) working days of completion of site testing, certifying with the principal to the HSEE district coordinator that the test site has maintained the security and integrity of the examination, collected all data and information as required, and returned all test materials, answer documents, and other materials included as part of the HSEE in the manner and as otherwise required by the publisher. The principal's activities may or may not be reimbursable, depending on whether the principal is acting as an HSEE district or test-site coordinator or test examiner.

11. Delivery of HSEE booklets to the school test site no more than two working days before the test is to be administered. (Cal. Code Regs., tit. 5, § 1212.) **This activity was repealed on May 19, 2004, therefore this activity is not reimbursable after May 18, 2004.**

E. Test security/cheating: Doing the following to maintain security:

1. For HSEE test site coordinators to ensure that strict supervision is maintained over each pupil being administered the HSEE, both while in the testing room and during any breaks (§ 1210, subd. (c)(7)(B)).
2. Limiting access to the HSEE to pupils taking it and employees responsible for its administration (§ 1211, subd. (a)).
3. Having all HSEE district and test site coordinators sign the HSEE Test Security Agreement set forth in subdivision (b) of section 1211.5 of the title 5 regulations. (Cal. Code Regs., tit. 5, § 1210, subd. (c)(5).)
4. Abiding by the Test Security Agreement by limiting access to persons in the district with a responsible, professional interest in the test's security. The Agreement also requires the coordinator to keep on file the names of persons having access to exam and test materials, and who are required to sign the HSEE Test Security Affidavit, and requires coordinators to keep the tests and test materials in a secure, locked location, limiting access to those responsible for test security, except on actual testing dates. (Cal. Code Regs., tit. 5, § 1210 (c)(5), § 1211, subd. (a), § 1211.5 (b)(4).)
5. HSEE test site coordinators deliver the exams and test materials only to those actually administering the exam on the date of testing and only on execution of the HSEE Test Security Affidavit (Cal. Code Regs., tit. 5, § 1210, subd. (c)(7)(A)).
6. For persons with access to the HSEE (including test site coordinators and testexaminers) to acknowledge the limited purpose of their access to the test by signing the HSEE Test Security Affidavit set forth in subdivision (g). (Cal. Code Regs., tit. 5, § 1211.5, subd. (c).)
7. HSEE district and test site coordinators control of inventory and use of appropriate inventory control forms to monitor and track test inventory. (Cal. Code Regs., tit. 5, § 1211 subd. (b).)
8. Being responsible for the security of the test materials delivered to the district until the materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the publisher. (Cal. Code Regs., tit. 5, § 1211, subd. (c).)
9. Providing secure transportation within the district for test materials once they have been delivered to the district. (Cal. Code Regs., tit. 5, § 1211, subd. (d).)
10. Not scoring the test for any pupil found to have cheated or assisted others in cheating, or who has compromised the security of the HSEE, and notifying each

eligible pupil before administration of the HSEE of these consequences of cheating. (Cal. Code Regs., tit. 5, § 1220.)

- F. Reporting data to the SPI:** Providing HSEE data to the SPI or independent evaluators or the publisher is reimbursable. Specifically, providing the following information on each pupil tested: (1) date of birth, (2) grade level, (3) gender, (4) language fluency and home language, (5) special program participation, (6) participation in free or reduced priced meals, (7) enrolled in a school that qualifies for assistance under Title 1 of the Improving America's School Act of 1994, (8) testing accommodations, (9) handicapping condition or disability, (10) ethnicity, (11) district mobility, (12) parent education, (13) post-high school plans (§ 1207); and reporting to the CDE the number of examinations for each test cycle within 10 working days of completion of each test cycle in the school district, and for the district superintendent to certify the accuracy of this information submitted to CDE (§ 1225).

The regulation (§1207) was amended in May 2004 and August 2005 to add the following data that must be submitted to the state (which are not reimbursable under these parameters and guidelines): (1) pupil's full name; (2) date of English proficiency reclassification; (3) if R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three (3) times since reclassification; (4) use of modifications during the exam [accommodations are reimbursed]; (5) participation in California Alternate Performance Assessment (CAPA); (6) school and district CBEDS enrollment; (7) district and county of residence for students with disabilities; (8) California School Information Services (CSIS) Student Number, once assigned.

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 reimbursable 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.

6. Training

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

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

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

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 chapter¹⁶ is subject to the initiation of an audit by the State 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 documentation 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate 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.

Reimbursement shall be offset by funding provided in the State Budget for the HSEE Program.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue claiming instructions for each mandate that requires state reimbursement no 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)(2), issuance of the claiming instructions shall constitute notice of the right of local agencies and schools districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

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

¹⁶ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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 Decisions on the Test Claim, Mandate Redetermination, Parameters and Guidelines, and Amendments thereto are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

ATTACHMENT A

The Commission found that the following activities are not reimbursable. (See Statement of Decision adopted on March 25, 2004.)

1. Duties of the Superintendent of Public Instruction (Ed. Code, § 60850, subds. (a), (b), (d), (e)(2), (e)(3), (e)(4), & (h)).
2. Field testing of the HSEE (Ed. Code, § 60850, subd. (c)).
3. Providing HSEE results to all pupils.
4. Administering the HSEE to adult students.
5. Restructuring academic offerings (Ed. Code, § 60853, subds. (b)(c)).
6. Using test proctors to administer the HSEE (Cal. Code Regs, tit.5, § 1200, subd. (i)).
7. Permissive accommodations (Cal. Code Regs., tit., 5, §§ 1216, subd. (d), 1218 & 1219).
8. Federally mandated accommodations (Cal. Code Regs, tit. 5, §§ 1215.5 & 1216; Ed. Code, § 60850, subd (g).)
9. A teacher's time in administering the examination.
10. Supplemental instruction (Ed. Code, §§ 60851, subd. (f) & 60853, subd. (a)).
11. Evaluations of the HSEE by the SPI (Ed. Code, § 60855).

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 30, 2019, I served the:

- **Decision and Amendment to Parameters and Guidelines adopted September 27, 2019**
- **Second Hearing Decision adopted September 27, 2019**

Second Hearing: New Test Claim Decision

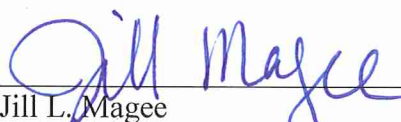
High School Exit Examination (00-TC-06), 17-MR-01

Education Code Sections 60850 and 60851; Statutes 1999x, Chapter 1, (SB 2) and Statutes 1999, Chapter 135 (AB 2539); California Code of Regulations, Title 5, Sections 1200, 1203, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1211.5, 1212, 1215, 1217, 1220 and 1225, Register 01, No. 25, effective July 20, 2001 and Register 03, No. 18, effective May 1, 2003; as modified by: Statutes 2015, Chapter 572 (SB 172) and Statutes 2017, Chapter 641 (AB 830)

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 30, 2019 at Sacramento, California.



Jill L. Magee

Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/13/19

Claim Number: 17-MR-01

Matter: High School Exit Examination (00-TC-06)

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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