

1 CALIFORNIA CODE OF REGULATIONS
2 TITLE 2. ADMINISTRATION
3 DIVISION 2. FINANCIAL OPERATIONS
4 CHAPTER 2.5. COMMISSION ON STATE MANDATES

5 Article 1. General

6 § 1181.1. Delegation of Certain Functions; Executive Director Appeals.

7 (a) Whenever it is stated in these rules that the "Commission" may or shall exercise or discharge
8 any power, duty, purpose, function, or jurisdiction, the Commission on State Mandates
9 specifically has reserved the same for its own exclusive action.

10 (b) Whenever it is stated that the "executive director" may or shall exercise or discharge any
11 power, duty, purpose, function, or jurisdiction, or it is not expressly stated that the Commission
12 itself shall so act, the executive director of the Commission has the authority to act thereon.

13 (c) A real party in interest to a matter may appeal to the Commission for review of the actions
14 and decisions of the executive director on that matter.

15 (1) The appellant shall ~~submit~~file the appeal in writing within 10 days of first being served
16 written notice of the executive director's action or decision.

17 (2) The appellant shall file and serve the appeal in accordance with section 1181.3 of these
18 regulations.

19 (3) The appeal shall explain the basis for the appeal, state the action being requested of the
20 Commission, and include all facts and materials the ~~applicant~~appellant believes are relevant to
21 the appeal.

22 (4) The executive director shall schedule the appeal for hearing and vote by the Commission as
23 soon as practicable following receipt of the appeal.

24 (5) Other parties may ~~submit~~file comments on an appeal in accordance with section 1181.3 of
25 these regulations.

26 (6) The Commission shall determine whether to uphold the executive director's decision by a
27 majority vote of the members present. The decision shall be final and not subject to
28 reconsideration.

29 (7) The executive director shall notify the appellant in writing within 10 days of the
30 Commission's decision.

31 (d) Nothing herein prohibits the executive director from delegating to subordinates as provided
32 in Government Code section 18572.

33 Note: Authority cited: Sections 17527(g), 17530 and 17531, Government Code. Reference:
34 Section 17530, Government Code; and *Redevelopment Agency v. Commission on State Mandates*
35 (1996) 43 Cal.App.4th 1188.

36 § 1181.2. Definitions.

37 Unless otherwise indicated, the following definitions and those found in Government Code
38 sections 17510 through 17524 apply to this chapter:

- 1 (a) "Affected state agency" means a state department or agency that is responsible, in whole or in
2 part, for implementation, enforcement, or administration of any statutes or executive orders that
3 are the subject of a matter.
- 4 (b) "Amendment" of a test claim means the addition of new allegations based on new statutes or
5 executive orders to an existing test claim. The addition or substitution of parties and supporting
6 declarations based on the original statutes or executive orders alleged in an existing test claim is
7 not an "amendment."
- 8 (c) "Claimant" means the local agency or school district filing a test claim or incorrect reduction
9 claim.
- 10 (d) "Commission staff" means the executive director, legal counsel, or other Commission
11 employee authorized by the Commission or the executive director to represent the Commission
12 on a specific claim or request, or to receive filings at the Commission office.
- 13 (e) "Completed" means that all general and specific requirements for a new filing ~~for a test claim,~~
14 ~~proposed parameters and guidelines, request to amend parameters and guidelines, request for~~
15 ~~reconsideration, request to review claiming instructions, incorrect reduction claim or request for~~
16 ~~mandate redetermination~~ have been satisfied by the claimant or requester.
- 17 (f) "Filing date" means the date received at the Commission's office during normal business
18 hours by any of the methods described in section 1181.3 of these regulations.
- 19 (g) "Incorrect reduction claim" means a claim alleging that the Office of State Controller
20 incorrectly reduced the reimbursement claim of a local agency or school district.
- 21 (h) "Informational hearing" means any hearing designed to gather and assess information to
22 assist the Commission in formulating policies, informing the public of Commission actions, or
23 obtaining public comment and opinion.
- 24 (i) "Interested party" means a local agency, school district, or state agency, with a beneficial
25 interest in the matter.
- 26 (j) "Interested person" means any individual, local agency, school district, state agency,
27 corporation, partnership, association, or other type of entity, who has an interest in a matter
28 before the Commission, but is not a party or interested party with respect to that matter.
- 29 (k) "New filing" means a test claim, incorrect reduction claim, request to amend parameters and
30 guidelines, joint request for reasonable reimbursement methodology and statewide estimate of
31 costs, request for review of claiming instructions, request for removal or inclusion of a program
32 in the State Mandates Apportionment System, request for review of the apportionment or base
33 year entitlement of a program in the State Mandates Apportionment System, ~~or~~ request for
34 mandate redetermination, or a legislatively determined mandate.
- 35 (l) "Party" includes a party's representative of record who is expressly authorized in writing to
36 act on the party's behalf. Party means the following for each matter as specified below:
- 37 (1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other
38 affected state agencies.
- 39 (2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State
40 Controller.

- 1 (3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the
2 Department of Finance, the Office of State Controller, affected state and local agencies, and
3 affected school districts.
- 4 (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" and "Party to a
5 Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology"
6 means the test claimant and the Department of Finance.
- 7 (5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office
8 of State Controller.
- 9 (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System" and
10 "Party to a Request for Review of the Apportionment or Base Year Entitlement of a Program in
11 the State Mandates Apportionment System" means the requester, the Department of Finance, and
12 the Office of State Controller.
- 13 (7) "Party to a Request for Mandate Redetermination" means the requester, the Department of
14 Finance, the Office of State Controller, affected state and local agencies, and affected school
15 districts.
- 16 (m) "Real Party in Interest" means any person or entity whose interest will be directly affected
17 by the resolution of the matter.
- 18 (n) "Rulemaking proceeding" means any hearing designed to adopt, amend, or repeal any rule,
19 regulation, or standard of general application that implements, interprets, or makes specific any
20 provision of Title 2, Division 4, Part 7, beginning with Government Code section 17500 or any
21 other statute enforced or administered by the Commission.
- 22 (o) "Statewide cost estimate" means the approximate sum of money that local agencies or school
23 districts may have incurred to implement a state-mandated program or any increased level of
24 service of an existing mandated program. A statewide cost estimate ~~submitted~~prepared by a test
25 claimant pursuant to Government Code section 17553(b)(1)(E) shall be an estimate of the first
26 full fiscal year of actual or estimated costs based on the statutes and executive orders alleged in a
27 test claim, ~~except as provided in Government Code section 17557.1(a).~~ In adopting a statewide
28 cost estimate adopted by the Commission pursuant to Government Code section 17553(a), which
29 shall be an estimate based on the Commission's determination of a test claim for the initial
30 period of reimbursement to be reported to the Legislature, the Commission may consider the
31 statewide cost estimate prepared by the test claimant, the initial reimbursement claim data, and
32 other relevant information regarding potential mandated local costs, as applicable.
- 33 (p) "Statewide estimate of costs" is based on a joint reasonable reimbursement methodology
34 proposed by a test claimant and the Department of Finance, pursuant to Government Code
35 section 17557.1, that is adopted by the Commission; and reported to the Legislature pursuant to
36 Government Code section 17557.2.
- 37 (q) "Subsequent change in law" pursuant to Government Code 17570 means a change in law that
38 requires a finding that an incurred cost is a cost mandated by the state, as defined by Government
39 Code section 17514, or is not a cost mandated by the state pursuant to Government Code section
40 17556, or a change in mandates law. Amendments to article XIII B, section 6 of the California
41 Constitution that were approved by the voters on November 2, 2004 and changes in the statutes
42 or executive orders that impose new state-mandated activities and require a finding pursuant to
43 Government Code section 17551(a) are not a "subsequent change in law."

1 (r) "Teleconference" means a conference of individuals in different locations, connected by
2 electronic means, through audio, video, or both.

3 (s) "Test claim" means the first claim filed with the Commission alleging that a particular statute
4 or executive order imposes costs mandated by the state pursuant to Government Code section
5 17521 and also includes a claim filed on a legislatively determined mandate pursuant to
6 Government Code section 17574(c). The test claim procedure functions similarly to a class
7 action and has been established to expeditiously resolve disputes affecting multiple agencies.

8 (t) "Written material" means any paper or electronic document relevant to a matter that is filed
9 with the Commission except that "written material" does not include a "new filing" as defined in
10 subdivision (k) of this section.

11 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
12 Sections 11123, 17516-17521, 17527(c), 17529, 17530, 17531, 17551, 17553, 17555, 17557,
13 17557.1, 17557.2, 17558, 17558.5, 17558.7, 17558.8, 17559, 17561, 17561.5, 17570, 17572,
14 17573, 17600 and 17612, Government Code; *Redevelopment Agency v. Commission on State*
15 *Mandates* (1996) 43 Cal.App.4th 1188; and *City of San Jose v. State of California* (1996) 45
16 Cal.App.4th 1802.

17 **§ 1181.3. Certification, Filing, and Service of Written Materials and New Filings.**

18 (a) Certification. All new filings and written materials filed with the Commission shall be signed
19 at the end of the document, under penalty of perjury, with the declaration that the filing is true
20 and correct to the best of the declarant's personal knowledge, information, or belief. The date of
21 signing, the declarant's title, address, telephone number, and email address, if applicable, shall
22 be included.

23 (b) Documents filed with the Commission shall not contain personal identifying information that
24 violates state or federal privacy laws, including, but not limited to California Civil Code section
25 1798 et seq.

26 ~~(c) Filing and Service. Unless otherwise provided in this chapter, new~~ New filings and written
27 materials may be filed ~~electronically or by hard copy~~ as described in this subdivision. ~~If filed by~~
28 ~~hard copy, the filer shall simultaneously serve all written material in accordance with subdivision~~
29 ~~(b) of this regulation. Filing is complete upon receipt by the Commission. Filings shall not~~
30 ~~contain personal identifying information that violates state or federal privacy laws, including, but~~
31 ~~not limited to the provisions of California Civil Code section 1798 et seq. New filings and~~
32 ~~written materials may be filed by any of the following methods:~~

33 (1) E-Filing. Except as provided in subdivision (c)(2) of this section, all new filings and written
34 materials shall be electronically filed (or e-filed) with the Commission. File the original by saving
35 by filing the signed original document in an unlocked PDF file and submitting it via the
36 Commission's e-filing system, available on the Commission's website. Documents e-filed with
37 the Commission must shall be in a legible and searchable format using a "true PDF" (i.e.,
38 documents digitally created in PDF, converted to PDF or printed to PDF) or optical character
39 recognition (OCR) function, as necessary, that allows Commission staff to electronically date
40 stamp the document to verify date of filing, and to append additional pages for posting on the
41 Commission's web-site with a proof of service for e-service by the Commission, in lieu of the
42 filer serving the document to the entire mailing list for the matter. E-filed documents should shall
43 be saved, converted, or printed to PDF and filed in their original, searchable form, but the

1 signature page shall be replaced with a scanned copy, rather than digitally signed. E-filed
2 documents shall not exceed 500 megabytes. Documents larger than 500 megabytes shall be filed
3 in multiple volumes and labeled as such (i.e., "Volume I, Volume II" etc.) and shall, in that case,
4 include a table of contents. Filing of color documents is strongly discouraged. However, if a
5 color image(s) is necessary for readability or comprehension, the color image(s) shall be filed in
6 a separate and final volume of exhibits. E-filed documents shall include electronic bookmarks to
7 each heading, subheading, and component (including but not limited to the table of contents,
8 declarations, exhibits, proof of service) of the document. Documents not available or obtainable
9 in electronic form may be scanned and OCR'd and filed in a separate volume, however it is
10 prohibited to file scanned documents that are available or obtainable electronically. E-filed
11 documents that must be scanned, shall be scanned in black and white (not gray scale or color).
12 The filer is responsible for maintaining the signed original for the duration of the process for the
13 matter, including any period of appeal (this may be an electronic document, depending on how
14 the filer creates and maintains its records). ~~Notwithstanding any other provision in these~~
15 ~~regulations, if~~ a new filing or written material is e-filed, no additional copies shall be submitted
16 ~~to~~ filed with the Commission staff. The following shall apply to new filings and written materials
17 e-filed with the Commission:

18 ~~(A) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail~~
19 ~~service for that matter.~~

20 ~~(AB)~~ An automated notice that the document was successfully sent is immediately available to
21 the ~~person who e-files~~ filer using the Commission's e-filing system and should be saved or
22 printed for the filer's records. Commission staff shall also reply by e-mail confirming actual
23 receipt of the legible, searchable document by the Commission within two business days of
24 receipt. In the absence of a confirmation e-mail from Commission staff, it is the responsibility of
25 the ~~person who e-files~~ filer to obtain confirmation that the Commission actually received the
26 filing.

27 ~~(BC)~~ By using e-filing, the ~~filing person~~ filer agrees, in the event of failure of e-filing, to re-file
28 the document, no later than the business day after the business day on which notice of the failure
29 of e-filing is received by the ~~filing party~~ filer. The filer may re-file by any means authorized by
30 these rules, in order to maintain the original filing date. "Failure of e-filing" occurs when the
31 ~~filing person~~ filer receives notification, in any manner, of non-receipt of an e-filed document or of
32 any other inability of Commission staff to access the document. ~~The filer and Commission staff~~
33 ~~may agree to any form for re-filing allowed by these regulations.~~

34 ~~(CD)~~ Documents e-filed with the Commission are served by Commission staff to persons who
35 have provided an e-mail address for the mailing list for the matter in accordance with section
36 1181.4 of these regulations. E-filed documents do not need to be served by the filer and proof of
37 service does not need to be provided by the filer for persons ~~that~~ who have provided an e-mail
38 address for the mailing list in accordance with section 1181.4. Nothing in this regulation excuses
39 a filer from serving hard copies of written material on persons who appear on the mailing list and
40 have not provided an e-mail address for the mailing list, or from providing a proof of service
41 with the e-filing to the Commission for the service of the document on those persons.

42 ~~(DE)~~ Upon confirmation of actual receipt of the e-filed document, Commission staff shall notify
43 all persons on the mailing list for the matter that written material may be viewed on the
44 Commission's website. For "new filings" as defined by section 1181.2(k) of these regulations,

1 Commission staff shall notify all persons on the mailing list prepared pursuant to section 1181.4
2 of these regulations, of the availability of those filings on the Commission's website when
3 Commission staff ~~sends~~issues its notice of complete filing to the ~~filing party~~filer.

4 ~~(EF)~~ The Commission may serve any document by e-mail service, or by making it available at a
5 particular URL, unless doing so would be contrary to state or federal law.

6 ~~(FG)~~ The executive director may issue any order consistent with these rules to govern e-mail
7 service for a particular matter.

8 ~~(2) By first class mail. Submit the unbound original and seven copies to the Commission.~~Hard
9 Copy Filing and Service in Cases of Undue Hardship or Significant Prejudice. If e-filing legible
10 and searchable PDF documents, as described in subdivision (c)(1) of this section, would cause
11 the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight
12 delivery or personal service only upon approval of a written request to the executive director.

13 (A) Filing. If the executive director authorizes filing by first class mail, overnight delivery, or
14 personal service, the filer shall file the unbound original document with the Commission.

15 ~~(3) By overnight delivery. Submit the unbound original and seven copies to the Commission.~~

16 ~~(4) By personal service. Hand the unbound original and seven copies to Commission staff.~~

17 (Be) Service. If written materials are filed in hard copy, the filing ~~must~~shall simultaneously be
18 served on everyone on the mailing list using the same method as was used for the filing. Unless
19 otherwise provided in this section, a proof of service shall be included with any written material
20 filed with ~~the Commission staff~~. Proof of personal service requires a declaration of the
21 messenger of the time and place that the written material was served. Service is not required for
22 new filings because mailing lists for matters are only prepared, pursuant to section 1181.4 of
23 these regulations, after a new filing is deemed complete. Completed new filings will be served
24 on the mailing list by Commission staff with the Notice of Complete Filing.

25 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.
26 Reference: Section 1798 et seq., Civil Code; Sections 17530, 17551, 17557(d), 17558.7, 17570,
27 17573(b), 17574(c) and 17573(g), Government Code.

28 **§ 1181.4. Mailing Lists and Numbering of Matters.**

29 (a) For all matters deemed complete, Commission staff shall prepare a mailing list of the names,
30 addresses, phone numbers and e-mail addresses of the parties, interested parties, and interested
31 persons who have requested inclusion on the mailing list. The mailing list will be uploaded to the
32 Commission's website and an e-mail notification of its availability will be sent to everyone on
33 the list who has provided an e-mail address. A hard copy will be provided by Commission staff
34 to persons on the mailing list who have not provided an e-mail address and to any person who
35 requests a hard copy.

36 (b) By providing an e-mail address for the mailing list for a matter, a person consents to e-mail
37 service of documents for that matter.

38 (c) For the following new filings received by the Commission, the executive director shall issue
39 sequential matter numbers, by fiscal year, as follows:

40 (1) Test Claim (TC)

- 1 (2) Incorrect Reduction Claim (I)
- 2 (3) Request to Amend Parameters and Guidelines (PGA)
- 3 (4) Joint Request for Reasonable Reimbursement Methodology and Statewide Estimate of Costs
- 4 (RRM)
- 5 (5) Request for Review of Claiming Instructions (RCI)
- 6 (6) Request for Removal, ~~or Inclusion,~~ or Review of the Apportionment or Base Year
- 7 Entitlement of a Program in State Mandates Apportionment System (SMAS)
- 8 (7) Joint Request for Legislatively Determined Mandate (LDM)
- 9 (8) Request for Mandate Redetermination (MR)

10 Note: Authority cited: Sections 17527(g), 17553(a), 17570(d) and 11104.5, Government Code.
 11 Reference: Sections 17530, 17551, 17557, 17557.1, 17571, 17557.2, 17570, 17573(b), 17573(g),
 12 17574(c) and 17615.1, Government Code.

13 **§ 1181.8. Commission Meeting Quorum and Voting Requirements.**

- 14 (a) A majority of the existing membership of the Commission shall constitute a quorum.
- 15 (b) All actions of the Commission, with the exception of requests to reconsider a prior final
- 16 decision as provided in section 1187.15, shall require the affirmative vote of at least a majority of
- 17 the existing membership of the Commission.

18 (c) In the case of a tie vote, the Commission may:

19 (1) Re-hear the ~~claim item~~ when the membership of the Commission changes or when an
 20 abstaining member completes review of the administrative record; or

21 (2) For a “matter” as defined by 1187.1:

22 (~~2A~~) Assign the ~~claim matter~~ to a hearing panel or to a hearing officer, pursuant to section 1187.2
 23 et seq., for hearing and preparation of a proposed decision for consideration by the Commission.
 24 If the Commission assigns the ~~claim matter~~ to a hearing panel, the selection of the hearing panel
 25 shall be by lot, or other means of random and impartial selection. A majority of the votes cast by
 26 the members assigned to a hearing panel is required for the approval of a preliminary decision on
 27 matters and applications for a finding of significant financial distress; or

28 (~~3B~~) Direct staff to prepare another proposed decision, based on an interpretation of the law and
 29 evidence in the record, for consideration by the Commission.

30 (~~d~~) ~~A majority of the votes cast by those members assigned to a hearing panel is required for the~~
 31 ~~approval of a preliminary decision on claims and applications for a finding of significant~~
 32 ~~financial distress.~~

33 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
 34 17525, 17527(c) and 17532, Government Code; and Section 17000.6, Welfare and Institutions
 35 Code.

36 **§ 1181.9. Commission Meeting Notice, Agenda, and Consent Calendar.**

37 (a) Time and distribution. Notices and agendas of meetings shall be given to all members, to all
 38 parties and interested parties to proceedings on the agenda, and to all persons who request them

1 in writing. The notice and agenda shall be ~~provided~~issued no less than 10 days prior to the
2 scheduled meeting.

3 (b) Agenda. The meeting agenda shall be prepared by the executive director and shall include
4 any item proposed by any member, or the executive director.

5 (c) The agenda may include an item designated "the consent calendar."

6 (1) The consent calendar shall include those matters for which there is no known opposition by
7 any of the parties or interested parties.

8 (2) At the request of any member, party or interested party, any matter shall be removed from the
9 consent calendar and may be considered at the same meeting as a separate item of business.

10 (3) The chairperson may also remove any matter from a duly noticed meeting agenda and place it
11 on the consent calendar, provided there is no objection from the parties, interested parties, any
12 Commission member, or person present and wishing to comment on the matter.

13 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
14 11125, 11125.1, 17527(b), 17527(c) and 17530, Government Code.

15 **Article 3. Test Claims**

16 **§ 1183.1. Test Claim Filing.**

17 (a) In order to obtain a mandate determination, a local agency or school district shall file a test
18 claim with the Commission. A local agency or school district may file a test claim as follows:

19 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
20 controller, may file on behalf of a county.

21 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
22 resolution from the city council, may file on behalf of a city.

23 (3) A district superintendent may file on behalf of a school district.

24 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
25 the governing body by ordinance or resolution, may file on behalf of a community college
26 district.

27 (5) A general manager or other officer with authority delegated by the governing body by
28 ordinance or resolution may file on behalf of a special district.

29 (b) Claimants may agree to ~~submit~~file a test claim as a joint effort, as provided in section
30 1183.1(g) of these regulations. Otherwise, the first claim filed on a statute or executive order by
31 a similarly situated claimant is the test claim and no duplicate test claims will be accepted by the
32 Commission. Other similarly situated affected agencies may participate in the process by
33 submitting filing comments in writing on any agenda item as provided in section 1181.10 of these
34 regulations, and may attend any Commission hearing on the test claim and provide written or
35 oral comments to the Commission. Affected agencies that are not similarly situated, meaning
36 that test claim statutes affect them differently, may file a test claim on the same statutes as the
37 first claim, but must demonstrate how and why they are affected differently.

1 (c) Except as provided in Government Code sections 17573 and 17574, any test claim or
2 amendment filed with the Commission must be filed not later than 12 months (365 days)
3 following the effective date of a statute or executive order, or within 12 months (365 days) of
4 first incurring increased costs as a result of a statute or executive order, whichever is later.

5 (d) All test claims, or amendments thereto, shall be filed on a form developed by the executive
6 director and shall contain all of the elements and supplemental documents required by statute,
7 regulation and the form. When an omnibus bill is pled, claimant shall file only the relevant pages
8 of the statute, including the Legislative Counsel's Digest and the specific statutory changes at
9 issue.

10 (e) A test claim, or amendment thereto, and accompanying documents shall be certified, filed,
11 and served in accordance with section 1181.3 of these regulations. All representations of fact
12 shall be supported by documentary or testimonial evidence, ~~submitted~~ in accordance with section
13 1187.5 of these regulations.

14 (f) Within 10 days of receipt of a test claim, or amendment thereto, Commission staff shall notify
15 the claimant if the test claim is complete or incomplete. Test claims will be considered
16 incomplete if any of the elements required in subdivisions (c) and (d) of this section are illegible
17 or are not included. If a complete test claim is not received within 30 calendar days from the date
18 the incomplete test claim was returned, the executive director may disallow the original test
19 claim filing date. A new test claim may be accepted on the same statute or executive order
20 alleged to impose a reimbursable state-mandated program.

21 (g) Test claims may be prepared as a joint effort between two or more claimants and filed with
22 the Commission if the claimants attest to all of the following in the test claim filing:

23 (1) The claimants allege state-mandated costs result from the same statute or executive order;

24 (2) The claimants agree on all issues of the test claim; and

25 (3) The claimants have designated one person to act as the sole representative for all claimants.

26 (h) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for
27 any reason may be dismissed by the executive director with a written notice stating the reason for
28 dismissal.

29 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
30 17521, 17530, 17551, 17553, 17557(e), 17573, 17574, 24000, 24300.5, 26881, 26900, 26970,
31 26972, 34852, 35034, 35035, 37209, 40805.5 and 56723, Government Code.

32 **§ 1183.2. Review of Test Claim.**

33 (a) Within 10 days of receipt of a completed test claim, or amendment thereto, Commission staff
34 shall make a copy of the test claim or amendment available to those named on the mailing list
35 prepared in accordance with section 1181.4 of these regulations and shall post it on the
36 Commission's web-site.

37 (b) Written comments concerning the test claim shall be certified, filed, and served within 30
38 days from the date the test claim or amendment is issued for comment and in accordance with
39 section 1181.3 of these regulations.

40 (c) Content and Form. Written comments on the test claim shall contain the following
41 documentary evidence, if applicable:

1 (1) If representations of fact are made, they shall be supported by documentary or testimonial
2 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

3 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
4 orders, and a copy of administrative decisions and court decisions that may impact the alleged
5 mandate, unless the authorities are also cited in the test claim. The specific statutes and chapters,
6 articles, sections, regulatory registers, and page numbers ~~must~~ shall be identified. Published court
7 decisions arising from state mandate determinations by the Board of Control and the
8 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and
9 Government Code sections 17500 et seq., are exempt from the requirements of this subdivision.

10 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
11 17530 and 17553(a), Government Code.

12 **§ 1183.3. Claimant's Rebuttal.**

13 (a) Written rebuttals to written comments concerning a test claim may be filed, and shall be
14 certified, filed, and served in accordance with section 1181.3 of these regulations within 30 days
15 of service of the written comments.

16 (b) Content and Form.

17 (1) If representations of fact are made, they shall be supported by documentary or testimonial
18 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

19 (2) Include a copy of relevant portions of state constitutional provisions, federal statutes, and
20 executive orders, and a copy of administrative decisions and court decisions that are cited in the
21 rebuttal, unless the authorities are also cited in the test claim or any opposition thereto. Published
22 court decisions arising from state mandate determinations by the Board of Control and the
23 Commission on State Mandates, article XIII B, section 6 of the California Constitution, and
24 Government Code sections 17500 et seq., are exempt from the requirement to include ~~submit~~ a
25 copy. The specific statutes and chapters, articles, sections, regulatory registers, and page
26 numbers of the authorities shall be identified in the written rebuttal.

27 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
28 17530 and 17553(a), Government Code.

29 **§ 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.**

30 Within 30 days of the filing date of a test claim deemed complete, a claimant may file a motion
31 with the executive director to consolidate part or all of any test claim with another test claim, or
32 to sever any part of any test claim, if necessary to ensure the complete, fair, or timely
33 consideration of any test claim.

34 (a) Any motion to consolidate or to sever shall be certified, filed, and served in accordance with
35 section 1181.3 of these regulations. If written representations of fact are made, they shall be
36 supported by documentary or testimonial evidence, ~~submitted~~ in accordance with section 1187.5
37 of these regulations.

38 (b) Within 30 days after receipt of a motion to consolidate or sever, the executive director may
39 consolidate or sever any test claim.

40 Note: Authority cited: Section 17527(g) and 17553(a), Government Code. Reference: Sections
41 17530, 17553 and 17554, Government Code.

1 **§ 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.**

2 (a) Before the hearing on the test claim, Commission staff shall prepare a proposed decision for
3 the test claim, which shall include but not be limited to a review of the written comments filed.
4 The proposed decision shall describe and analyze the test claim to assist the Commission in
5 determining whether the alleged statutes or executive orders contain a reimbursable state-
6 mandated program under article XIII B, section 6 of the California Constitution.

7 (b) At least eight weeks before the hearing, or at a time required by the executive director or
8 stipulated to by the parties, Commission staff shall prepare a draft proposed decision and
9 distribute it to the parties, interested parties, and those on the mailing list described in section
10 1181.3 of these regulations, and shall post it on the Commission's website.

11 (c) Anyone may file written comments concerning the draft proposed decision. If representations
12 of fact are made, they shall be supported by documentary or testimonial evidence, ~~submitted~~ in
13 accordance with section 1187.5 of these regulations. Written comments shall be certified, filed,
14 and served in accordance with section 1181.3 of these regulations, by the date determined and
15 ~~publicized~~ noticed by the executive director. A three-week period for comments shall be given,
16 subject to the executive director's authority to expedite all matters pursuant to Government Code
17 section 17530. All written comments timely filed shall be reviewed by Commission staff and
18 may be incorporated into the proposed decision for the test claim.

19 (d) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
20 other evidence filed after the three-week comment period described in subdivision (c) of this
21 section. The Commission need not rely on, and staff need not respond to, late comments,
22 exhibits, or other evidence ~~filed~~ submitted in response to a draft proposed decision after the
23 comment period expires.

24 Note: Authority cited: Sections 17527(g) and 17553, Government Code. Reference: Sections
25 17514, 17530, 17551 and 17553, Government Code.

26 **§ 1183.7. Content of Parameters and Guidelines.**

27 The parameters and guidelines shall describe the claimable reimbursable costs and contain the
28 following information:

29 (a) Summary of the Mandate. A summary of the mandate identifying the statutes or executive
30 orders that contain the mandate and the increased level of service and activities found to be
31 required under those statutes or executive orders.

32 (b) Eligible Claimants. A description of the local governmental entities eligible to file for
33 reimbursement.

34 (c) Period of Reimbursement. A description of the period of reimbursement specifying the
35 beginning and ending (if applicable) of the reimbursement period.

36 (d) Reimbursable Activities. A description of the specific costs and types of costs that are
37 reimbursable, including one-time costs and on-going costs, and reasonably necessary activities
38 required to comply with the mandate. "Reasonably necessary activities" are those activities
39 necessary to comply with the statutes, regulations and other executive orders found to impose a
40 state-mandated program. Activities required by statutes, regulations and other executive orders
41 that were not pled in the test claim may only be used to define reasonably necessary activities to

1 the extent that compliance with the approved state-mandated activities would not otherwise be
2 possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All
3 representations of fact to support any proposed reasonably necessary activities shall be supported
4 by documentary evidence ~~submitted~~ in accordance with section 1187.5 of these regulations.

5 (e) Claim Preparation. Instruction on claim preparation, including instructions for direct and
6 indirect cost reporting for actual costs incurred, or application of a reasonable reimbursement
7 methodology.

8 (f) Record Retention. Notice of the Office of the State Controller's authority to audit claims and
9 the amount of time supporting documents must be retained during the period subject to audit.

10 (g) Any Offsetting Revenues and Reimbursements that reduce the cost of any reimbursable
11 activity, including the identification of:

12 (1) Dedicated state and federal funds appropriated for this program.

13 (2) Non-local agency funds dedicated for this program.

14 (3) Local agency's general purpose funds for this program.

15 (4) Fee authority to offset part of the costs of this program.

16 (h) Any Offsetting Savings. Identification of any offsetting savings provided by the test claim
17 statute or executive order, or other statute or executive order, which decreases the cost of any
18 reimbursable activity and permits or requires the discontinuance or reduction in the level of
19 service of the program.

20 (i) Claiming Instructions. Notice of the Office of the State Controller's duty to issue claiming
21 instructions, which constitutes notice of the right of local agencies and school districts to file
22 reimbursement claims, based upon the decision and parameters and guidelines adopted by the
23 Commission.

24 (j) Remedies Before the Commission. Instructions for filing requests to review claiming
25 instructions and requests to amend parameters and guidelines with the Commission.

26 (k) Legal and Factual Basis. Notice that the legal and factual basis for the parameters and
27 guidelines are found in the administrative record for the test claim, which is on file with the
28 Commission.

29 Note: Authority cited: Sections 17517.5, 17527(g) and 17553(a), Government Code. Reference:
30 Sections 17518.5, 17530, 17553, 17556(e), 17557 and 17558, Government Code.

31 **§ 1183.8. Submission Filing and Review of Proposed Parameters and Guidelines;**
32 **Submission Filing of Comments.**

33 (a) Within 30 days of adoption of the decision on a test claim, or the early termination or
34 expiration of a reasonable reimbursement methodology, the successful test claimant shall ~~submit,~~
35 ~~to file with~~ the Commission, proposed parameters and guidelines, pursuant to Government Code
36 section 17557(a). Proposed parameters and guidelines shall be certified, filed, and served in
37 accordance with section 1181.3 of these regulations. If representations of fact are made, they
38 shall be supported by documentary or testimonial evidence, ~~submitted~~ in accordance with section
39 1187.5 of these regulations.

1 (b) If any of the elements described in section 1183.7 are missing or are not adequately
2 addressed, Commission staff shall, within 10 days of receipt, deem the proposed parameters and
3 guidelines incomplete and shall return the proposal to the claimants with a description of the
4 subjects that are to be redrafted or supplemented.

5 (c) Within 10 days of receipt of completed proposed parameters and guidelines, Commission
6 staff shall ~~send~~issue a copy to those who are on the mailing list described in section 1181.4 of
7 these regulations, and shall post it on the Commission's website.

8 (d) Commission staff shall notify all recipients that they shall have the opportunity to ~~review and~~
9 ~~provide~~file written comments concerning the proposed parameters and guidelines within 15 days
10 of service.

11 (e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
12 these regulations. If representations of fact are made, they shall be supported by documentary or
13 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

14 (f) Within 15 days of service of the comments, parties, interested parties, and interested persons
15 may ~~submit~~file written rebuttals ~~to~~with the Commission. Rebuttals shall be certified, filed, and
16 served in accordance with section 1181.3 of these regulations. If representations of fact are
17 made, they shall be supported by documentary or testimonial evidence, ~~submitted~~ in accordance
18 with section 1187.5 of these regulations.

19 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
20 17530, 17553(a), 17557 and 17557.2, Government Code.

21 **§ 1183.9. Expedited Process for Proposed Parameters and Guidelines.**

22 (a) After adoption of a decision on a test claim, but before claimant ~~files~~submits proposed
23 parameters and guidelines, Commission staff may expedite the parameters and guidelines
24 process by preparing and issuing draft expedited parameters and guidelines to assist the claimant.
25 The draft expedited parameters and guidelines shall be served to everyone on the mailing list
26 described in section 1181.4 of these regulations, and shall be posted on the Commission's
27 website.

28 In lieu of filing an original proposal pursuant to Government Code section 17557(a), the
29 successful test claimant may file comments on the draft expedited parameters and guidelines
30 with the Commission which may include proposed modifications. Such comments shall be
31 certified, filed, and served in accordance with section 1181.3 of these regulations. If
32 representations of fact are made, they shall be supported by documentary or testimonial
33 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

34 (b) Parties, interested parties, and interested persons may file comments on the draft expedited
35 parameters and guidelines within 21 days of service of Commission staff's draft proposal. Such
36 comments shall be certified, filed, and served in accordance with section 1181.3 of these
37 regulations. If representations of fact are made, they shall be supported by documentary or
38 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

39 (c) Within 15 days of service of the comments ~~submitted~~filed pursuant to subdivision (b) of this
40 section, parties, interested parties, and interested persons may file and serve rebuttals. Such
41 rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these

1 regulations. If representations of fact are made, they shall be supported by documentary or
2 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

3 (d) If no comments are filed on the draft expedited parameters and guidelines that raise
4 substantive issues regarding any of the elements described in section 1183.7, a draft proposed
5 decision in accordance with section 1183.13(a) of these regulations need not be prepared and the
6 executive director may schedule the proposed decision and parameters and guidelines for
7 adoption at the next regularly scheduled hearing in accordance with section 1183.13(d) of these
8 regulations.

9 Note: Authority cited: Sections 17517.5, 17527(g), 17530 and 17553(a), Government Code.
10 Reference: Sections 17553(a), 17556(e) and 17557, Government Code.

11 **§ 1183.10. Reasonable Reimbursement Methodology.**

12 (a) Government Code section 17518.5 defines a "reasonable reimbursement methodology" as a
13 formula for reimbursing local agencies and school districts for costs mandated by the state, as
14 defined in Section 17514.

15 (b) For purposes of developing a reasonable reimbursement methodology pursuant to
16 Government Code sections 17557 or 17557.1, the following definitions apply:

17 (1) "Costs to implement the mandate in a cost-efficient manner" include only those costs for the
18 activities that were determined to be reimbursable by the Commission in the decision on the test
19 claim, and the costs ~~for of the most reasonable~~ reasonably necessary activities to methods of
20 complying with the mandate pursuant to section ~~1183.12(d)~~ 1183.7(d); of these regulations.

21 (2) When surveying or otherwise gathering cost data to develop a formula, "representative
22 sample of claimants" does not include eligible claimants that do not respond to surveys or
23 otherwise participate in submitting cost data.

24 (c) An interested party may ~~submit~~ file cost information or other cost projections that can be the
25 basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable
26 reimbursement methodology ~~submitted~~ proposed pursuant to Government Code section 17557.1.
27 Such information shall be certified, filed and served in accordance with section 1181.3 of these
28 regulations. All representations of fact shall be supported by documentary or testimonial
29 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

30 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
31 17518.5, 17557 and 17557.1, Government Code.

32 **§ 1183.11. Alternative Process: Joint Reasonable Reimbursement Methodology and**
33 **Statewide Estimate of Costs.**

34 (a) Notwithstanding Government Code section 17557, within 30 days of the adoption of a
35 decision on a test claim, the successful test claimant and the Department of Finance may notify
36 the executive director in writing of their intent to follow the process described in Government
37 Code sections 17557.1-17557.2 to develop a reasonable reimbursement methodology and
38 statewide estimate of costs.

39 (b) The written notification shall provide all information and filing dates, as specified in
40 Government Code section 17557.1(a), and shall be certified, filed, and served in accordance with
41 section 1181.3 of these regulations.

1 (c) At the request of the test claimant and the Department of Finance, the executive director may
2 provide for up to four extensions of the 180-day period ~~to file for submittal~~ of the draft reasonable
3 reimbursement methodology and proposed statewide estimate of costs for the initial claiming
4 period and budget year. Any request must be based on good cause as described in section 1187.9
5 and also include an update of all information and filing dates provided in the original written
6 notification ~~filed submitted~~ pursuant to Government Code section 17557.1(a). If no ~~submittal of a~~
7 draft has been filed and no request for an extension has been made by the filing date specified in
8 the notice of intent to develop a reasonable reimbursement methodology, or if all extensions
9 have been exhausted, the executive director shall issue a letter notifying the test claimant of the
10 duty to ~~file submit~~ proposed parameters and guidelines within 30 days under Government Code
11 section 17557(a).

12 (d) The test claimant and Department of Finance shall certify, file, and serve any filings made
13 pursuant to Government Code section 17557.1 in accordance with section 1181.3 of these
14 regulations. If representations of fact are made, they shall be supported by documentary or
15 testimonial evidence in accordance with section 1187.5 of these regulations.

16 (e) Commission staff shall notify all recipients that they shall have the opportunity to ~~review and~~
17 ~~provide file~~ written comments concerning the draft reasonable reimbursement methodology and
18 proposed statewide estimate of costs within 15 days of service.

19 (f) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
20 these regulations. If representations of fact are made, they shall be supported by documentary or
21 testimonial evidence in accordance with section 1187.5 of these regulations.

22 (g) Within seven days of service of the written comments, the test claimant and Department of
23 Finance may ~~submit file~~ written rebuttals which shall be certified, filed, and served in accordance
24 with section 1181.3 of these regulations. If representations of fact are made, they shall be
25 supported by documentary or testimonial evidence in accordance with section 1187.5 of these
26 regulations.

27 (h) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
28 a staff recommendation on whether the Commission should approve the draft reasonable
29 reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to
30 Government Code section 17557.2.

31 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
32 17557, 17557.1 and 17557.2, Government Code.

33 **§ 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and**
34 **Guidelines.**

35 (a) If the claimant indicates in the proposed parameters and guidelines or comments that a
36 reasonable reimbursement methodology, as defined in Government Code section 17518.5,
37 should be considered for inclusion in the parameters and guidelines, or if the Department of
38 Finance, Office of the State Controller, any affected state agency, or eligible claimant proposes
39 consideration of a reasonable reimbursement methodology, Commission staff may schedule an
40 informal conference in accordance with section 1187.4 of these regulations to discuss the
41 methodology and plan for ~~proposingsubmittal of~~ a reasonable reimbursement methodology.

1 (b) A proposed reasonable reimbursement methodology, as described in Government Code
2 section 17518.5, shall include any documentation or assumption relied upon to develop the
3 proposed methodology.

4 (c) Commission staff shall notify all recipients that they shall have the opportunity to ~~review and~~
5 ~~provide~~ file written comments concerning the proposed reasonable reimbursement methodology
6 within 15 days of service.

7 (d) Proposed reasonable reimbursement methodologies and comments regarding those proposals
8 shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If
9 representations of fact are made, they shall be supported by documentary or testimonial
10 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

11 (e) Within 15 days of service of the written comments prepared by other parties and interested
12 parties, the party that proposed the reasonable reimbursement methodology may ~~submit~~ file a
13 written rebuttal ~~to~~ with the Commission, and shall certify, file, and serve the rebuttal in
14 accordance with section 1181.3 of these regulations. If representations of fact are made, they
15 shall be supported by documentary or testimonial evidence, ~~submitted~~ in accordance with section
16 1187.5 of these regulations.

17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
18 17518.5, 17557, 17557.1 and 17557.2, Government Code.

19 **§ 1183.13. Adoption of Parameters and Guidelines.**

20 (a) Except as provided in section 1183.9(d) of these regulations, After ~~after~~ review of the test
21 claim decision, claimant's proposed parameters and guidelines or draft expedited parameters and
22 guidelines, and written comments, and rebuttals, Commission staff shall prepare a draft proposed
23 decision and parameters and guidelines. Commission staff's recommendation may include a
24 reasonable reimbursement methodology developed pursuant to Government Code section
25 17518.5 and proposed pursuant to section 1183.12 of these regulations.

26 (b) Written comments on the draft proposed decision and parameters and guidelines shall be
27 certified, filed, and served in accordance with section 1181.3 of these regulations, by the date
28 noticed by the executive director. A three-week period for comments shall be given, subject to
29 the executive director's authority to expedite all matters pursuant to Government Code section
30 17530. If representations of fact are made, they shall be supported by documentary or testimonial
31 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations. All written
32 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
33 proposed decision and parameters and guidelines.

34 (c) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
35 other evidence filed after the three-week comment period described in subdivision (b) of this
36 section. The Commission need not rely on, and staff need not respond to, late comments,
37 exhibits, or other evidence filed ~~submitted~~ in response to a draft proposed decision and
38 parameters and guidelines after the comment period expires.

39 (d) The Commission shall conduct a hearing in accordance with article 7 of these regulations
40 before adoption of the proposed decision and parameters and guidelines.

41 (e) Within 10 days ~~of~~ after the adoption of the decision and parameters and guidelines, the
42 executive director shall ~~send copies~~ issue it to the Office of the State Controller and to everyone

1 on the mailing list described in section 1181.4 of these regulations, and shall post a copy on the
2 Commission's website.

3 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
4 17518.5, 17530, 17553(a) and 17557, Government Code.

5 **§ 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement**
6 **Methodology.**

7 (a) The test claimant and the Department of Finance may file a joint request, in accordance with
8 Government Code section 17557.2(e), for early termination of a joint reasonable reimbursement
9 methodology adopted pursuant to Government Code sections 17557.1 and 17557.2, ~~with the~~
10 ~~Commission by submitting a request made pursuant to Government Code section 17557.2(e)~~
11 which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

12 (b) Commission staff shall notify all recipients that they shall have the opportunity to ~~review and~~
13 ~~provide~~ file written comments on the joint request for early termination of a reasonable
14 reimbursement methodology within 15 days of service.

15 (c) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
16 these regulations. If representations of fact are made, they shall be supported by documentary or
17 testimonial evidence in accordance with section 1187.5 of these regulations.

18 (d) Within seven days of service of the written comments, the test claimant and Department of
19 Finance may ~~submit~~ file written rebuttals which shall be certified, filed, and served in accordance
20 with section 1181.3 of these regulations. If representations of fact are made, they shall be
21 supported by documentary or testimonial evidence in accordance with section 1187.5 of these
22 regulations.

23 (e) At least 10 days prior to the next hearing, Commission staff shall review comments and issue
24 a recommendation on whether the Commission should approve the joint request for early
25 termination of a reasonable reimbursement methodology pursuant to Government Code section
26 17557.2(e).

27 (f) If the Commission approves a joint request for early termination, the Commission shall notify
28 the test claimant of the duty to ~~submit~~ file proposed parameters and guidelines to the Commission
29 pursuant to Government Code section 17557(a), and section 1183.13 of these regulations or
30 request that Commission staff prepare expedited parameters and guidelines pursuant to section
31 1183.9 of these regulations to replace the joint reasonable reimbursement methodology.

32 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
33 17557.2, Government Code.

34 **§ 1183.16. Expiration of a Joint Reasonable Reimbursement Methodology.**

35 (a) At least one year before the expiration of a joint reasonable reimbursement methodology
36 adopted pursuant to Government Code sections 17557.1 and 17557.2, Commission staff shall
37 issue a notice ~~notify~~ to the test claimant and the Department of Finance, which shall also be
38 served to everyone on the mailing list described in section 1181.4 of these regulations and posted
39 on the Commission's website, that ~~they~~ the test claimant and Department of Finance may do one
40 of the following within 60 days:

- 1 (1) Jointly propose amendments to the reasonable reimbursement methodology by
2 ~~filingsubmitting~~: (A) the draft reasonable reimbursement methodology, (B) a description of the
3 steps the test claimant and the Department of Finance undertook to determine the level of
4 support by local agencies or school districts for the draft reasonable reimbursement
5 methodology, (C) an agreement that the reasonable reimbursement methodology developed and
6 approved under Government Code section 17557.2 shall be in effect for a period of five years
7 unless a different term is approved by the Commission, and (D) an estimate of the mandate's
8 annual cost for the subsequent budget year.
- 9 (2) Jointly propose that the reasonable reimbursement methodology remain in effect.
- 10 (3) Allow the joint reasonable reimbursement methodology to expire and notify the Commission
11 that the test claimant will ~~submit~~file proposed parameters and guidelines to the Commission
12 pursuant to Government Code section 17557(a) and section 1183.-8 of these regulations or
13 request that Commission staff prepare expedited parameters and guidelines pursuant to section
14 1183.9 of these regulations to replace the joint reasonable reimbursement methodology.
- 15 (b) Copies of the proposals filed~~notice provided~~ under subdivision (a) shall be filed and served in
16 accordance with section 1181.3 of these regulations.
- 17 (c) The test claimant and the Department of Finance may jointly propose amendments to the
18 joint reasonable reimbursement methodology or the continuation of a joint reasonable
19 reimbursement methodology by ~~submitting~~filing a request made pursuant to Government Code
20 section 17557.2(f), which shall be certified, filed, and served in accordance with section 1181.3
21 of these regulations. If representations of fact are made, they shall be supported by documentary
22 or testimonial evidence in accordance with section 1187.5 of these regulations.
- 23 (d) Commission staff shall notify everyone on the mailing list described in section 1181.4 of
24 these regulations~~all recipients~~ that they shall have the opportunity to ~~review and provide~~file
25 written comments on the jointly proposed amendments or request for continuation of the joint
26 reasonable reimbursement methodology within 30 days of service, and shall post a copy of the
27 notice on the Commission's website.
- 28 (e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
29 these regulations. If representations of fact are made, they shall be supported by documentary or
30 testimonial evidence in accordance with section 1187.5 of these regulations.
- 31 (f) Within 15 days of service of the written comments ~~filed~~prepared by other parties and
32 interested parties, the test claimant and Department of Finance may ~~submit~~file written rebuttals
33 which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.
34 If representations of fact are made, they shall be supported by documentary or testimonial
35 evidence in accordance with section 1187.5 of these regulations.
- 36 (g) At least 10 days prior to the next hearing, Commission staff shall review the comments and
37 issue a ~~staff~~ recommendation on whether the Commission should approve the jointly proposed
38 amendments or the continuation of a joint reasonable reimbursement methodology pursuant to
39 Government Code section 17557.2(g).
- 40 (h) Within 10 days of the adoption of the jointly proposed amendments or ~~the~~ continuation of a
41 joint reasonable reimbursement methodology, the executive director shall issue the decisions~~and~~
42 copies to the Office of the State Controller; and to ~~parties and interested parties who are~~

1 everyone on the mailing list described in section 1181.4 of these regulations, and shall post it on
2 the Commission's website.

3 (i) If the test claimant or the Department of Finance ~~fail~~fails to respond within 60 days to the
4 notice described in subdivision (a) of this section, Commission staff shall prepare and issue draft
5 expedited parameters and guidelines, pursuant to Government Code section 17557(a) and section
6 1183.9 of these regulations, within 30 days of the parties' failure to respond.

7 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
8 17557, 17557.1 and 17557.2, Government Code.

9 **§ 1183.17. Amendments to Parameters and Guidelines.**

10 (a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines
11 shall include the proposed language for the specific sections of the existing parameters and
12 guidelines that are to be changed, and include a narrative explaining why the amendment is
13 required.

14 A request to amend parameters and guidelines may be filed to make any of the following
15 changes to the parameters and guidelines:

16 (1) Delete any reimbursable activity that is repealed by statute or executive order after the
17 adoption of the original or last amended parameters and guidelines.

18 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do
19 not require a new legal finding that there are "no costs mandated by the state" under Government
20 Code section 17556(e).

21 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable
22 activities in accordance with Government Code section 17518.5. Any request to include a
23 reasonable reimbursement methodology based on, in whole or in part, costs that have been
24 included in claims submitted to the Controller, shall include a statement to this effect on the
25 cover or first page of the request.

26 (4) Clarify reimbursable activities consistent with the original decisions on the test claim and
27 parameters and guidelines.

28 (5) Add new reimbursable activities that are reasonably necessary for the performance of the
29 original state-mandated program pursuant to section 1183.1(d) of these regulations.

30 (6) Define what is not reimbursable consistent with the original decisions on the test claim and
31 parameters and guidelines.

32 (7) Consolidate the parameters and guidelines for two or more programs.

33 (8) Amend the "boilerplate" language.

34 (b) For purposes of this section, "boilerplate" language is defined as the language in the
35 parameters and guidelines that is not unique to the state-mandated program that is the subject of
36 the parameters and guidelines.

37 (c) The addition or substitution of requesters and supporting declarations based on the original
38 facts alleged in an existing parameters and guidelines amendment request is not an
39 "amendment." However, new proposals for amendments must be filed~~submitted~~ as a new
40 parameters and guidelines amendment request.

- 1 (d) A claimant or state agency requesting an amendment to existing parameters and guidelines
2 shall certify, file, and serve the request in accordance with section 1181.3 of these regulations. If
3 representations of fact are made, they shall be supported by documentary or testimonial
4 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.
- 5 (e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff
6 shall ~~send~~issue a copy to those who are on the mailing list described in section 1181.4 of these
7 regulations, and shall post the request on the Commission's website.
- 8 (f) Commission staff shall notify those who are on the mailing list described in section 1181.4 of
9 these regulations ~~all recipients~~ that they shall have the opportunity to ~~review and provide~~file
10 written comments concerning the proposed amendment of the parameters and guidelines within
11 21 days of service, and shall post a copy of the notice on the Commission's website.
- 12 (g) Written comments on the request to amend the parameters and guidelines shall be certified,
13 filed, and served in accordance with section 1181.3 of these regulations. If representations of fact
14 are made, they shall be supported by documentary or testimonial evidence, ~~submitted~~ in
15 accordance with section 1187.5 of these regulations.
- 16 (h) Written rebuttals to the comments may be filed within 21 days of service of the comments.
17 Written rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these
18 regulations. If representations of fact are made, they shall be supported by documentary or
19 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.
- 20 (i) After review of the proposed amendment to the parameters and guidelines, written comments,
21 and rebuttals ~~submitted~~filed, Commission staff shall prepare and issue for comment a draft
22 proposed decision ~~and recommend~~recommending whether the requester's proposed amendment
23 to the parameters and guidelines should be adopted.
- 24 (j) Written comments on the draft proposed decision and recommendation on the proposed
25 amendment to the parameters and guidelines shall be certified, filed, and served with the
26 Commission in accordance with section 1181.3 of these regulations, by the date noticed by the
27 executive director. A three-week period for comments shall be given, subject to the executive
28 director's authority to expedite all matters pursuant to Government Code section 17530. If
29 representations of fact are made, they shall be supported by documentary or testimonial
30 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations. All written
31 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
32 proposed decision and recommendation on the proposed amendment to the parameters and
33 guidelines.
- 34 (k) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
35 other evidence filed after the three-week comment period described in subdivision (j) of this
36 section. The Commission need not rely on, and staff need not respond to, late comments,
37 exhibits, or other evidence filed~~submitted~~ in response to a draft proposed decision after the
38 comment period expires.
- 39 (l) An amendment shall be made only after the Commission has conducted a hearing in
40 accordance with article 7 of these regulations.

41 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
42 17518.5, 17530, 17553 and 17557, Government Code.

1 **§ 1183.18. Timelines.**

2 (a) In computing any period of time prescribed by these regulations and applicable statutes,
3 including the filing date as defined in section 1181.2 of these regulations, the following rules
4 shall apply:

5 (1) The day of the act, event, or default from which the designated period of time begins to run
6 shall not be included. The last day of the period so computed shall be included, unless it is a
7 Saturday, Sunday, or state holiday.

8 (2) Days representing extensions of time and postponements of hearings granted to the parties
9 shall be tolled and may not be counted toward the date on which a statewide cost estimate must
10 be adopted by the Commission.

11 (3) Days following a test claimant's submission of incomplete information to the Commission,
12 from the date on which Commission staff returns the incomplete information to the claimant up
13 to the date on which the Commission receives complete information from the test claimant, shall
14 be tolled and may not be counted toward the date on which a statewide cost estimate must be
15 adopted by the Commission.

16 (4) If a party or interested party to a test claim notifies Commission staff that a reasonable
17 reimbursement methodology may be developed for inclusion in pending parameters and
18 guidelines, the days following the date of the notification up to the date on which a reasonable
19 reimbursement methodology is developed, shall be tolled and may not be counted toward the
20 date on which a statewide cost estimate must be adopted by the Commission. The days tolled
21 shall not exceed 60 days from the date of the notification.

22 (5) If the test claimant and the Department of Finance notify the Commission staff in writing of
23 their intent to develop a reasonable reimbursement methodology and statewide estimate of costs
24 for the initial claiming period and budget year for reimbursement pursuant to Government Code
25 section 17557.1, the days following the date of the notification up to the date on which a draft
26 reasonable reimbursement methodology and proposed statewide estimate of costs are developed
27 and ~~submitted to~~ filed with the Commission, shall be tolled and may not be counted toward the
28 date ~~on~~ by which a statewide cost estimate must be adopted by the Commission. The days tolled
29 shall not exceed 180 days from the date of the notification.

30 (6) Three days shall be added to any prescribed period in which a party or interested party is
31 required or permitted to do an act after service of a document upon that party or interested party
32 by mail. The three days added for mail service shall be tolled and may not be counted toward the
33 date on which a statewide cost estimate must be adopted.

34 (7) Solely for the purpose of determining when a statewide cost estimate shall be adopted, test
35 claims that are amended, severed, or consolidated shall be deemed ~~filed/received~~ on the effective
36 date of the last amendment, severance, or consolidation, unless otherwise stipulated by the
37 parties and approved by the executive director.

38 (8) Days between the effective date of the parameters and guidelines and the date the initial
39 reimbursement claims are due to the Office of the State Controller shall be tolled and may not be
40 counted toward the date on which a statewide cost estimate must be adopted by the Commission.

41 (b) The following timelines shall be used by Commission staff as a reference for the timely
42 processing of test claims, adoption of statewide cost estimates or statewide estimates of costs:

1 (1) Timeline for a Test Claim, Parameters and Guidelines, and Statewide Cost Estimate (12
2 Months)

3 *PARTY/ACTIVITIES*

DAY NUMBER

4 TEST CLAIM

5 CLAIMANT files test claim with the COMMISSION~~commission~~. 0
6 COMMISSION staff begins counting days on the first day after receipt. 1
7 COMMISSION staff reviews test claim to determine if complete by 10
8 COMMISSION staff ~~sends~~issues test claim to state agencies and
9 those on the mailing list for ~~review~~comment. by 10
10 COMMISSION staff convenes informal conference with parties, if
11 necessary. by 30
12 STATE AGENCIES, PARTIES, INTERESTED PARTIES,
13 AND INTERESTED PERSONS may file comments on test claim. by 40
14 CLAIMANT ~~submits~~may file rebuttal. by 70
15 COMMISSION staff prepares the draft proposed decision on the
16 test claim and ~~serves on parties~~issues to those on the mailing list. by 100
17 PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS
18 submitmay file comments on draft proposed decision on the test claim. by 130
19 COMMISSION staff completes analysis and issues proposed decision
20 to those on the mailing list. by 160
21 COMMISSION hears test claim and adopts decision. by 180
22 COMMISSION staff issues decision to those on the mailing list
23 and serves on parties. by 190
24 COMMISSION staff notifies Legislature of decision by 210

25 PARAMETERS AND GUIDELINES

26 CLAIMANT ~~submits~~files proposed Parameters and Guidelines. by 210
27 STATE AGENCIES, AND PARTIES, INTERESTED PARTIES,
28 AND INTERESTED PERSONS may file comments. by 235
29 CLAIMANT may file rebuttal~~rebutts comments~~. by 250
30 COMMISSION staff issues draft proposed decision and parameters
31 and guidelines to those on the mailing list~~and serves on parties~~. by 265
32 PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS
33 submitmay file comments on draft proposed decision and
34 parameters and guidelines. by 275
35 COMMISSION staff issues proposed decision and
36 parameters and guidelines to those on the mailing list~~and serves on parties~~. by 279
37 COMMISSION conducts hearing and adopts ~~proposed~~ decision and
38 parameters and guidelines. by 293
39 COMMISSION staff issues decision and parameters and guidelines
40 to those on the mailing list and serves on parties. by 303

41 STATEWIDE COST ESTIMATE

42 COMMISSION staff prepares and issues the draft statewide cost estimate
43 to those on the mailing list. by 335

1 ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS
2 may comment on draft statewide cost estimate. by 345
3 COMMISSION staff prepares and issues the proposed
4 statewide cost estimate to those on the mailing list. by 350
5 COMMISSION conducts hearing and adopts statewide cost estimate. by 365
6 COMMISSION staff issues statewide cost estimate to those
7 on the mailing list. by 375
8 COMMISSION staff reports Statewide Cost Estimate to the Legislature. by 395

9 (2) Timeline for a Test Claim, Reasonable Reimbursement Methodology, and Statewide
10 Estimate of Costs

11 PARTY/ACTIVITIES DAY NUMBER
12 TEST CLAIM WITH JOINT REASONABLE REIMBURSEMENT METHODOLOGY (RRM)
13 AND STATEWIDE ESTIMATE OF COSTS (SEC)

14 CLAIMANT files test claim with the Commission. 0
15 COMMISSION staff begins counting days on the first day after receipt. 1
16 COMMISSION staff reviews test claim to determine if complete. by 10
17 COMMISSION staff ~~sends~~ issues test claim to state agencies and
18 those on the mailing list for comment review. by 10
19 COMMISSION staff convenes informal conference with parties,
20 if necessary. by 30
21 STATE AGENCIES, PARTIES, INTERESTED PARTIES, AND
22 INTERESTED PERSONS may file comments on test claim. by 40
23 CLAIMANT ~~submits~~ may file rebuttal. by 70
24 COMMISSION staff prepares and issues the draft proposed decision
25 on the test claim to those on the mailing list ~~and serves on parties.~~ by 100
26 PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS
27 submit may file comments on the draft proposed decision on the test claim. by 130
28 COMMISSION staff completes analysis and issues proposed
29 decision to those on the mailing list. by 160
30 COMMISSION hears test claim and adopts decision. by 180
31 COMMISSION staff issues decision to those on the mailing list ~~and serves on parties.~~
32 by 190
33 COMMISSION staff notifies Legislature of decision. by 210

34 JOINT REASONABLE REIMBURSEMENT METHODOLOGY (RRM)
35 AND STATEWIDE ESTIMATE OF COSTS (SEC)

36 CLAIMANT AND DEPARTMENT OF FINANCE
37 (DOF) notify Commission in writing of their
38 intent to follow the process in 17557.1 to develop a joint RRM
39 and SEC (within 30 days after adoption of test claim decision). by 210
40 CLAIMANT AND DOF ~~submit~~ file plan no later than 6 months after the
41 date of letter of intent and sixty (60) days before hearing. by 400
42 COMMISSION staff notifies ~~parties~~ those on the mailing list
43 of comment period. by 410

1 PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS
2 ~~submit~~may file comments on the draft RRM and SEC. by 425
3 CLAIMANT AND DOF ~~submit~~may file ~~written~~ rebuttal. by 432
4 COMMISSION staff issues ~~submitted~~filed comments and staff
5 recommendation. by 450
6 COMMISSION conducts hearing, approves the draft RRM, and adopts the
7 proposed SEC for the initial claiming period and budget year. by 460
8 COMMISSION staff ~~submits~~issues RRM to the CONTROLLER and
9 to those on the mailing list. by 470
10 COMMISSION staff reports SEC to the Legislature. by 490

11 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
12 17527, 17532, 17553, 17555, 17557(e), 17557.1 and 17557.2, Government Code.

13 **Article 4. Review of Office of State Controller's Claiming Instructions**

14 **§ 1184.1. Review of Office of State Controller's Claiming Instructions.**

- 15 (a) Upon request of a local agency or school district, the Commission shall review claiming
16 instructions issued by the Office of State Controller.
- 17 (b) A request to review claiming instructions shall include the following:
- 18 (1) A copy of the disputed claiming instructions.
- 19 (2) If available, correspondence or other documentation that verifies the local agency or school
20 district sought to resolve the dispute through the Office of State Controller.
- 21 (3) A narrative that details the suggested changes and the reasons why the local agency or school
22 district finds the claiming instructions need to be modified.
- 23 (4) The name, address, telephone number, and e-mail address of the agency contact person.
- 24 (c) An original request to review claiming instructions shall be certified, filed, and served in
25 accordance with section 1181.3 of these regulations. If representations of fact are made, they
26 shall be supported by documentary or testimonial evidence, ~~submitted~~ in accordance with section
27 1187.5 of these regulations.
- 28 (d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall
29 notify the local agency or school district that ~~submitted~~filed the request if the ~~submittal~~filing is
30 complete or incomplete. A request to review the claiming instructions shall be considered
31 incomplete if any of the elements required in subdivision (b) or (c) of this section are illegible or
32 not included. Incomplete requests shall be returned to the local agency or school district. If a
33 complete request is not received by the Commission within 30 days from the date the incomplete
34 request was returned, the Commission shall deem the request to be withdrawn.
- 35 (e) Within 10 days of receipt of a complete request to review claiming instructions, Commission
36 staff shall ~~send~~issue a copy to all persons who are on the mailing list described in section 1181.4
37 of these regulations. Commission staff shall provide notice that written comments concerning the
38 request to review claiming instructions may be ~~filed~~submitted within 30 days of service of the
39 notice of complete filing. A copy of the notice shall also be posted on the Commission's website.

- 1 (f) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
2 these regulations. If representations of fact are made, they shall be supported by documentary or
3 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.
- 4 (g) Within 30 days of service of the written comments, the requester may ~~submit~~file a written
5 rebuttal to the Commission which shall be certified, filed, and served in accordance with section
6 1181.3 of these regulations. If representations of fact are made, they shall be supported by
7 documentary or testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these
8 regulations.
- 9 (h) Before hearing a request to review claiming instructions, Commission staff shall prepare a
10 draft proposed decision that shall include a review of the request and any comments filed, and a
11 staff recommendation on whether the request should be approved or denied.
- 12 (i) The requester and any state agency or interested party may file written comments on the draft
13 proposed decision. Written comments shall be certified, filed, and served in accordance with
14 section 1181.3 of these regulations, by the date determined and ~~publicized~~noticed by the
15 executive director. If representations of fact are made, they shall be supported by documentary or
16 testimonial evidence ~~submitted~~ in accordance with section 1187.5 of these regulations. A three-
17 week period for comments shall be given, subject to the executive director's authority to
18 expedite all matters pursuant to Government Code section 17530. All written comments timely
19 filed shall be reviewed by Commission staff and may be incorporated into the proposed decision
20 on the request to review and modify the claiming instructions.
- 21 (j) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
22 other evidence filed after the three-week comment period described in subdivision (i) of this
23 section. The Commission need not rely on, and staff need not respond to, late comments,
24 exhibits, or other evidence ~~submitted~~filed in response to a draft proposed decision after the
25 comment period expires.
- 26 (k) The Commission shall conduct a hearing in accordance with article 7 of these regulations on
27 the request to review claiming instructions.
- 28 (l) If the Commission determines that the claiming instructions need to be modified, the
29 Commission shall direct the Office of State Controller to modify the claiming instructions to
30 conform to the parameters and guidelines.
- 31 (m) An approved change to the claiming instructions shall be subject to the following schedule:
- 32 (1) A request for review filed before the deadline for initial claims as specified in the claiming
33 instructions shall apply to all years eligible for reimbursement as defined in the original
34 parameters and guidelines.
- 35 (2) A request for review filed after the initial claiming deadline must be ~~submitted~~filed on or
36 before the annual reimbursement claim filing deadline set out in Government Code section
37 17560 following a fiscal year ~~in order~~ to establish eligibility for reimbursement for that fiscal
38 year.
- 39 (n) A request to review claiming instructions may be withdrawn by written application to the
40 executive director any time before a decision is adopted or by oral application at the time of
41 hearing. The requesters shall file and serve the written application in accordance with section
42 1181.3 of these regulations. Commission staff shall post a copy of the notice on the

1 Commission's website for 60 days prior to dismissal of the request to review claiming
2 instructions. If no other local agency or school district takes over the request to review claiming
3 instructions by substitution of parties within 60 days of service and posting of the application to
4 withdraw, the executive director shall issue a letter to everyone on the mailing list described in
5 section 1181.4 of these regulations dismissing the request to review claiming instructions and
6 shall post the letter on the Commission's website.

7 Note: Authority cited: Sections 17527(g) and 17527(h), Government Code. Reference: Sections
8 17530, 17560 and 17571, Government Code.

9 **Article 5. Incorrect Reduction Claims**

10 **§ 1185.1. Incorrect Reduction Claim Filing.**

11 (a) To obtain a determination that the Office of State Controller incorrectly reduced a
12 reimbursement claim, a claimant shall file an "incorrect reduction claim" with the Commission
13 as follows:

14 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of
15 controller, may file on behalf of a county.

16 (2) A city manager, director of finance, or other officer with a delegation by ordinance or
17 resolution from the city council, may file on behalf of a city.

18 (3) A district superintendent may file on behalf of a school district.

19 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by
20 the governing body by ordinance or resolution, may file on behalf of a community college
21 district.

22 (5) A general manager or other officer with authority delegated by the governing body by
23 ordinance or resolution may file on behalf of a special district.

24 (b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,
25 it must notify the Commission of its intent to do so at the time it files its incorrect reduction
26 claim and meet the requirements of section 1185.3 of these regulations.

27 (c) All incorrect reduction claims and amendments thereto shall be filed with the Commission no
28 later than three years following the date a claimant first receives from the Office of State
29 Controller a final state audit report, letter, or other written notice of adjustment to a
30 reimbursement claim, which complies with Government Code section 17558.5(c) by specifying
31 the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to
32 reduce the overall reimbursement to the claimant, and the reason for the adjustment. The filing
33 shall be returned to the claimant for lack of jurisdiction if this requirement is not met.

34 (d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement
35 claim filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

36 (e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by
37 the Commission.

38 (f) All incorrect reduction claims, or amendments thereto, shall contain at least the following
39 elements and documents:

- 1 (1) A copy of the Office of State Controller's claiming instructions that were in effect during the
2 fiscal years of the reimbursement claims.
- 3 (2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall
4 include a comprehensive description of the reduced or disallowed areas of costs.
- 5 (3) All representations of fact shall be supported by testimonial or documentary evidence;
6 ~~submitted~~ in accordance with section 1187.5 of these regulations.
- 7 (4) A copy of any final state audit report, letter, or other written notice of adjustment from the
8 Office of State Controller that explains the claim components adjusted, amounts reduced, and the
9 reasons for the reduction or disallowance.
- 10 (5) A copy of the subject reimbursement claims the claimant submitted to the Office of State
11 Controller.
- 12 (g) An incorrect reduction claim, or amendment thereto, shall be certified, filed, and served in
13 accordance with section 1181.3 of these regulations.
- 14 (h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and
15 accompanying documents with the Commission in accordance with section 1181.3 of these
16 regulations.
- 17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
18 17530, 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

19 **§ 1185.2. Review of Incorrect Reduction Claims.**

- 20 (a) Within 10 days of receipt of an incorrect reduction claim, Commission staff shall notify the
21 claimant if the incorrect reduction claim is complete or incomplete. Incorrect reduction claims
22 will be considered incomplete if any of the elements in section 1185.1(a) and (b) and (d) through
23 (h) are illegible or not included or if the requirements of those subdivisions are not met.
24 Incomplete incorrect reduction claims shall be returned to the claimant. If a complete incorrect
25 reduction claim is not received by the Commission within 30 days from the date the incomplete
26 claim was returned to the claimant, the executive director shall deem the filing to be withdrawn.
- 27 (b) Any incorrect reduction claim, or portion of an incorrect reduction claim, that the
28 Commission lacks jurisdiction to hear for any reason, including that the incorrect reduction claim
29 was not filed within the period of limitation required by section 1185.1(c) of these regulations,
30 may be dismissed by the executive director with a written notice stating the reason for dismissal.
- 31 (c) Within 10 days of receipt of a complete incorrect reduction claim, Commission staff shall
32 provide a copy of the claim to the Office of State Controller.
- 33 (d) Commission staff shall notify the Office of State Controller that written comments and
34 supporting documentation in connection with an incorrect reduction claim shall be filed no more
35 than 90 days from the date the copy of the claim is provided to the Office of State Controller.
36 Written comments and supporting documentation shall be certified, filed, and served in
37 accordance with section 1181.3 of these regulations. If representations of fact are made, they
38 shall be supported by documentary or testimonial evidence-~~submitted~~
39 1187.5 of these regulations.
- 40 (e) The claimant and interested parties may submit~~file~~ written rebuttals to the Office of State
41 Controller's comments within 30 days of service of the Office of State Controller's comments.

1 Written rebuttals and supporting documentation shall be certified, filed, and served in accordance
2 with section 1181.3 of these regulations. If representations of fact are made, they shall be
3 supported by documentary or testimonial evidence—~~submitted~~ in accordance with section 1187.5
4 of these regulations.

5 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
6 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

7 **§ 1185.3. Consolidation of Claims Initiated by an Individual Claimant.**

8 (a) On behalf of a class of claimants, an individual claimant may initiate the consolidation of
9 claims alleging an incorrect reduction as described in Government Code section 17558.7, if all of
10 the following apply:

11 (1) The method, act, or practice that the claimant alleges led to the reduction has led to similar
12 reductions of other parties' claims, and all of the claims involve common questions of law or
13 fact.

14 (2) The common questions of law or fact among the claims predominate over any matter
15 affecting only an individual claim.

16 (3) The consolidation of similar claims by individual claimants would result in consistent
17 decision making by the Commission.

18 (4) The claimant filing the consolidated claim would fairly and adequately protect the interests of
19 the other claimants.

20 (b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the
21 Commission of its intent at the time of filing on a form provided by the Commission. The
22 consolidated incorrect reduction claim shall be filed in accordance with section 1185.1 of these
23 regulations and contain a narrative that explains the elements in subdivision (a) of this section.
24 All representations of fact shall be supported by documentary or testimonial evidence—~~submitted~~
25 in accordance with section 1187.5 of these regulations.

26 (c) Within 10 days of receipt of a consolidated incorrect reduction claim, Commission staff shall
27 notify the claimant if the consolidated incorrect reduction claim is complete or incomplete. A
28 consolidated incorrect reduction claim is incomplete if the claim has not been filed in accordance
29 with subdivision (b) of this section, or is illegible. Incomplete consolidated incorrect reduction
30 claims shall be returned to the claimant. If a complete consolidated incorrect reduction claim is
31 not received by the Commission within 30 days from the date the incomplete claim was returned
32 to the claimant, the executive director shall deem the filing to be withdrawn.

33 (d) Any consolidated incorrect reduction claim, or portion of a consolidated incorrect reduction
34 claim, that the Commission lacks jurisdiction to hear for any reason may be dismissed by the
35 executive director in accordance with section 1185.2(b) of these regulations.

36 (e) If the consolidated incorrect reduction claim is complete, Commission staff shall request the
37 Office of the State Controller to provide the Commission, within 30 days, a list of claimants for
38 whom the Controller has reduced similar claims under the same mandate, and the date each
39 claimant was notified of an adjustment.

40 (f) Upon receipt of the list from the Office of the State Controller, the Commission shall notify
41 the list of other claimants experiencing similar reductions by the Controller under the same

1 mandate and other interested parties of the original claimant's intent to consolidate an incorrect
2 reduction claim.

3 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.7(g), Government Code.
4 Reference: Sections 17558.5(c) and 17558.7, Government Code.

5 **§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

6 (a) Within 30 days of receipt of the Commission's notice regarding the original claimant's notice
7 of intent to consolidate an incorrect reduction claim, any other eligible claimant may, on a form
8 provided by the Commission, file a notice of intent to join the consolidated incorrect reduction
9 claim.

10 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with
11 section 1185.1(c) and contain at least the following elements and documents:

12 (1) A copy of the final state audit report, letter, or other written notice of adjustment from the
13 Office of State Controller that explains the claim components adjusted, amounts reduced, and the
14 reasons for the reduction.

15 (2) A copy of the subject reimbursement claims submitted to the Office of State Controller.

16 (3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification
17 by the joining claimant authorizing the original claimant to act as its representative in the
18 consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing
19 is true and complete to the best of the declarant's personal knowledge, information, or belief. The
20 date signed, the declarant's title, address, telephone number, and e-mail address shall be
21 included. All representations of fact shall be supported by testimonial or documentary evidence
22 ~~and shall be submitted~~ in accordance with section 1187.5 of these regulations.

23 (4) The joining claimant shall file one original notice of intent to join and accompanying
24 documents with the Commission in accordance with section 1181.3 of these regulations.

25 (c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect reduction claim,
26 Commission staff shall notify the joining claimant if the notice of intent to join is complete or
27 incomplete. Notices of intent to join a consolidated incorrect reduction claim will be considered
28 incomplete if any of the elements required in subdivision (b) of this section are illegible or not
29 included. Incomplete notices of intent shall be returned to the joining claimant. If a complete
30 notice of intent to join a consolidated incorrect reduction claim is not received by the
31 Commission within 30 days from the date the incomplete notice of intent was returned to the
32 joining claimant, the Commission shall deem the filing to be withdrawn.

33 (d) Any notice of intent to join the consolidated incorrect reduction claim, or portion thereof, that
34 the Commission lacks jurisdiction to hear for any reason, including that the notice was not filed
35 within the period of limitation required by section 1185.1(c) of these regulations, may be
36 dismissed by the executive director with a written notice stating the reason for dismissal.

37 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.7(g), Government
38 Code. Reference: Sections 17558.5(c) and 17558.7, Government Code.

1 **§ 1185.5. Opting Out of a Consolidated Incorrect Reduction Claim.**

2 Pursuant to Government Code section 17558.7(f), each claimant that files a notice of intent to
3 join a consolidated incorrect reduction claim may opt out and not be bound by any determination
4 made on the consolidated claim.

5 (a) To opt out of a consolidated incorrect reduction claim, claimants shall file a written notice
6 with the Commission within 15 days of service of the Office of State Controller's comments. A
7 copy of the notice must be served in accordance with section 1181.3 of these regulations.

8 (b) No later than one year after opting out, or within the period of limitation under section
9 1185.1(c) of these regulations, whichever is later, a claimant that opts out of a consolidated claim
10 shall file an individual incorrect reduction claim in accordance with section 1185.1 of these
11 regulations in order to preserve its right to challenge a reduction made by the Controller on that
12 same mandate.

13 (c) If a claimant opts out of a consolidated incorrect reduction claim and an individual incorrect
14 reduction claim for that entity is already on file with the Commission, the individual filing is
15 automatically reinstated.

16 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.7(g), Government Code.
17 Reference: Sections 17558.5 and 17558.7, Government Code.

18 **§ 1185.6. Executive Director's Authority to Consolidate or Sever Incorrect Reduction**
19 **Claims.**

20 The executive director may consolidate or sever part or all of any incorrect reduction claim with
21 another incorrect reduction claim, if necessary to ensure the complete, fair, or timely
22 consideration of any incorrect reduction claim.

23 (a) At least 30 days before the action is taken, the executive director shall simultaneously serve
24 on all persons on the mailing list described in section 1181.4 of these regulations a notice of any
25 proposed action to consolidate or sever and shall post the notice on the Commission's website.

26 (b) During the 30-day notice period, a claimant may ~~serve and~~ file a written request that an
27 individual incorrect reduction claim be severed from a proposed consolidation, which shall be
28 filed and served, in accordance with section 1181.3 of these regulations. Timely requests to sever
29 shall be approved by the executive director.

30 (c) Late requests for severing an individual incorrect reduction claim shall be denied.

31 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.8(b), Government Code.
32 Reference: Sections 17530, 17554 and 17558.8, Government Code.

33 **§ 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed**
34 **Decision.**

35 (a) The Commission shall conduct a hearing in accordance with article 7 of these regulations
36 before adopting a decision on an individual or consolidated incorrect reduction claim.

37 (b) Before hearing an individual or consolidated incorrect reduction claim, Commission staff
38 shall prepare a proposed decision for the incorrect reduction claim that shall include a review of
39 the incorrect reduction claim, comments and rebuttals filed on the claim and, to the extent that it
40 is relevant to the claim, a review of the test claim decision and decision and parameters and

1 guidelines. The proposed decision shall also include a staff recommendation on whether the
2 claimant's reimbursement claim was incorrectly reduced.

3 (c) At least eight weeks before the hearing or at a time required by the executive director or
4 stipulated to by the claimant and the Office of State Controller, Commission staff shall
5 ~~issued~~distribute the draft proposed decision to all those on the mailing list described in section
6 1181.4 of these regulations.

7 (d) A three-week period for comments shall be given, subject to the executive director's
8 authority to expedite all matters pursuant to Government Code section 17530. Written comments
9 may be filed and shall be certified, filed, and served in accordance with section 1181.3 of these
10 regulations, by the date determined and ~~publicized~~noticed by the executive director. If
11 representations of fact are made, they shall be supported by documentary or testimonial
12 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations. All written
13 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
14 proposed decision for the incorrect reduction claim.

15 (e) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
16 other evidence filed after the three-week comment period described in subdivision (d) of this
17 section. The Commission need not rely on, and staff need not respond to, late comments,
18 exhibits, or other evidence filed~~submitted~~ in response to a draft proposed decision after the
19 comment period expires.

20 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
21 17530 and 17551(d), Government Code.

22 **§ 1185.8. Withdrawal of Incorrect Reduction Claims.**

23 (a) An incorrect reduction claim, except for a claim by the original claimant in a consolidated
24 incorrect reduction claim, may be withdrawn by written application any time before a decision is
25 adopted or by oral application at the time of hearing. If an application is made, the executive
26 director shall issue a letter to the claimant and the State Controller dismissing the claim.

27 (b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction
28 claim, may be withdrawn by written application any time before a decision is adopted or by oral
29 application at the time of hearing. The original claimant shall certify, file, and serve the written
30 application in accordance with section 1181.3 of these regulations and Commission staff shall
31 post a copy of the notice on the Commission's website for 60 days prior to dismissal of the
32 incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60
33 days of providing notice of its intent to take over the claim, perfect the filing by ~~submitting~~filing
34 the written narrative as required by section 1185.1 of these regulations. If none of the joint
35 claimants takes over the claim by substitution of parties within 60 days of service and posting of
36 the application to withdraw, the executive director shall issue a letter to everyone on the mailing
37 list described in section 1181.4 of these regulations dismissing the claim and providing the joint
38 claimants with an opportunity to perfect their individual claims within 60 days of service by
39 ~~submitting~~filing the written narrative as required by section 1185.1 of these regulations. The
40 letter shall be posted on the Commission's website.

41 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
42 17551(d), Government Code.

1 **§ 1185.9. Reinstatement of Costs.**

2 If the Commission determines that a reimbursement claim was incorrectly reduced, the
3 Commission shall ~~send~~issue the decision to the Office of State Controller and request that the
4 Office of State Controller reinstate the costs that were incorrectly reduced.

5 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Section
6 17551(d), Government Code.

7 **Article 6. State Mandates Apportionment System**

8 **§ 1186.2. Request for Inclusion.**

9 (a) Any local agency, school district, the Department of Finance or the State Controller's Office
10 may request that the Commission review a mandated cost program for possible inclusion in the
11 State Mandates Apportionment System in accordance with Government Code section 17615.1.

12 (b) In order to obtain a review and determination regarding inclusion in the system, a local
13 agency, school district or state agency must certify, file, and serve a "Request for Inclusion" in
14 accordance with section 1181.3 of these regulations.

15 (c) The request for inclusion must contain at least the following:

16 (1) The chapter number of the law ~~which~~that established the mandated cost program(s).

17 (2) A detailed narrative describing the mandated cost program with an explanation of the reasons
18 why the mandated cost program should be included in the State Mandates Apportionment
19 System.

20 (3) Any other pertinent information ~~which~~that will substantiate the request or ~~which~~that would
21 have a bearing on the decision of the Commission in this matter.

22 (d) The Commission shall consider the recommendation ~~submitted from~~of the Controller for
23 each new mandate ~~proposed~~submitted for inclusion in the State Mandates Apportionment
24 System in accordance with Government Code section 17615.4(c).

25 (e) Requests for inclusion will be considered incomplete if any of the ~~preceding~~ elements or
26 documents required in subdivision (c) of this section are illegible or not included. Incomplete
27 requests for inclusion shall be returned to the requester for completion.

28 (f) Requests for inclusion filings and any state agency recommendations shall be subject to the
29 requirements of article 7 of these regulations beginning at section 1187.1. If representations of
30 fact are made, they shall be supported by documentary or testimonial evidence, ~~submitted~~ in
31 accordance with section 1187.5 of these regulations.

32 Note: Authority cited: Sections 17527(g), 17615 and 17615.1, Government Code. Reference:
33 Sections 17615, 17615.1 and 17615.4, Government Code.

34 **§ 1186.4. Request for Removal.**

35 (a) Any local agency, school district, or state agency may request that the Commission review a
36 mandated program included in the State Mandates Apportionment System that has been modified
37 or amended by the Legislature or an executive order for possible removal of the program from
38 the system in accordance with Section 17615.7 of the Government Code.

1 (b) In order to obtain a review and determination regarding removal of a program from the
2 system, a local agency, school district, or state agency must certify, file, and serve a "Request for
3 Removal" in accordance with section 1181.3 of these regulations.

4 (c) The request for removal must contain at least the following elements:

5 (1) The chapter number or executive order of the law ~~which~~that established the mandated cost
6 program.

7 (2) The chapter number of the law or the executive order which significantly modified or
8 amended the costs of the program or a detailed description of the circumstances or events which
9 have caused the changes.

10 (3) A detailed narrative describing the mandated cost program with an explanation of the reasons
11 ~~why~~ the mandated program should no longer be included in the State Mandates Apportionment
12 System.

13 (4) Any other information ~~which~~that will substantiate the request or ~~which~~that would have a
14 bearing on the decision of the Commission in this matter.

15 (d) Requests for ~~Removal~~removal will be considered incomplete if any of the ~~preceding~~ elements
16 or documents required in subdivision (c) of this section are illegible or not included. Incomplete
17 ~~Requests for Removal~~requests for removal shall be returned to the requester for completion.

18 (e) Request for removal filings and any state agency recommendations shall be subject to the
19 requirements of article 7 of these regulations beginning at section 1187. If representations of fact
20 are made, they shall be supported by documentary or testimonial evidence, ~~submitted~~ in
21 accordance with section 1187.5 of these regulations.

22 Note: Authority cited: Sections 17527(g) and 17615.7, Government Code. Reference: Section
23 17615.7, Government Code.

24 **§ 1186.6. Request for Reviewing of an Apportionment or Base Year Entitlement.**

25 (a) Upon request of a local agency, school district or state agency the Commission shall review
26 the apportionment or base year entitlement pursuant to Government Code section 17615.8(a).

27 (b) In order to obtain a review of an apportionment or base year entitlement a "Request for
28 Review" shall be filed with the Commission.

29 (c) The request for review shall contain at least the following elements:

30 (1) Identification of the mandated program that is alleged to require review.

31 (2) A detailed narrative describing the need to modify the apportionment or base year
32 entitlement.

33 (3) A statement to the effect that the other mandated programs included in the local agency or
34 school district's apportionment are not overfunded in an amount sufficient to offset any
35 underfunding.

36 (4) Cost information that outlines the amount of the funding for the total apportionment and the
37 calculations necessary to show that the program needing modification either under or over
38 reimburse the local agency or school district's actual costs by 20 percent or by \$1,000, whichever
39 is less.

1 (d) Requests for review will be considered incomplete if any of the elements required in
2 subdivision (c) of this section are illegible or not included. Incomplete requests for review shall
3 be returned to the requester for completion. If a complete request is not received by the
4 Commission within 30 days from the date the incomplete request was returned, the Commission
5 shall deem the request to be withdrawn.

6 Note: Authority cited: Sections 17527(g) and 17615.8(a), Government Code. Reference: Section
7 17615.8, Government Code.

8 **§ 1186.7. Adjustment to Apportionment.**

9 (a) The Commission, after reviewing an apportionment or base year entitlement and conducting
10 at least one hearing in accordance with article 7 of these regulations, shall adopt a finding that
11 the apportionment or base year entitlement will or will not be adjusted.

12 (b) If the Commission determines that a local agency or school district's apportionment falls
13 short of reimbursing ~~for~~ all mandates upon which the apportionment or base year entitlement is
14 based by 20 percent or by \$1,000, whichever is less, then the Commission shall direct the
15 Controller to adjust the apportionment accordingly.

16 (c) If the Commission determines that a local agency or school district's apportionment
17 adequately reflects the costs incurred by the local agency or school district for all mandates upon
18 which that apportionment is based, the Commission may, in its discretion, direct the Controller
19 to withhold the costs of the Commission's review from the next apportionment to the local
20 agency or school district. A direction to withhold costs from the next apportionment will be
21 made only when the Commission determines that the request to review an apportionment was
22 frivolous and without merit.

23 Note: Authority cited: Sections 17527(g) and 17615.8(a), Government Code. Reference: Section
24 17615.8, Government Code.

25 **Article 7. Quasi-Judicial Hearing Procedures and Decisions**

26 **§ 1187.1. Scheduling and Noticing the Hearing.**

27 (a) A "matter," subject to hearings and decisions under article 7 of these regulations, shall
28 include test claims, proposed parameters and guidelines, requests to amend parameters and
29 guidelines, incorrect reduction claims, requests to approve a joint reasonable reimbursement
30 methodology and statewide estimate of costs, joint requests for early termination of a joint
31 reasonable reimbursement methodology, requests for inclusion or removal from the State
32 Mandates Apportionment System, requests for review of apportionment or base year entitlement
33 for programs included in the State Mandates Apportionment System, requests for review of the
34 Office of State Controller's claiming instructions, and requests for mandate redetermination.

35 (b) A matter is set for hearing when Commission staff issues its draft proposed decision. A
36 written notice of the date, time, and place of hearing shall be ~~issued~~provided to everyone on the
37 mailing list as described in section 1181.4 of these regulations and shall be posted on the
38 Commission's web-site.

39 Note: Authority cited: Sections 17527(g), 17553(a), 17558.7(g) and 17558.8(b), Government
40 Code. Reference: Sections 17551, 17553(a), 17557, 17571, 17615.1, 17615.4, 17615.7, 17615.8
41 and 17615.9, Government Code.

1 **§ 1187.2. Assignment to Hearing Panels/Hearing Officers.**

2 (a) After an informational hearing, in accordance with Article 8 of these regulations, the
3 Commission's chairperson may assign a matter before the Commission to a hearing panel
4 consisting of one or more members or to a hearing officer for hearing and preparation of a
5 proposed decision that may be adopted as the decision in the case.

6 (b) Assignments by the Commission chairperson of members on hearing panels shall be rotated
7 among the members with the composition of the members so assigned being varied and changed
8 to assure that there shall never be a fixed and continued composition of members.

9 (c) A matter shall be heard and decided by the Commission itself at the request of any two
10 members of the Commission.

11 Note: Authority cited: Sections 17527(c), 17527(g), 17532, and 17553(a), Government Code.
12 Reference: Sections 17532 and 17551, Government Code.

13 **§ 1187.3. Objection to Hearing Panel, Hearing Officer, or Commission Member.**

14 (a) Any party may ask that a matter be heard by the Commission itself rather than by a hearing
15 panel or hearing officer.

16 (b) Any party may request the disqualification of any hearing officer or Commission member,
17 before the taking of evidence at a hearing, by filing an affidavit stating with particularity the
18 grounds upon which it is ~~claimed~~ alleged that a fair and impartial hearing cannot be
19 accorded provided. Where the request concerns a Commission member, the issue shall be
20 determined by the other members of the Commission. Where the request concerns the hearing
21 officer, the issue shall be determined by the Commission itself, if the Commission itself hears the
22 case with the hearing officer; otherwise the issue shall be determined by the hearing officer.

23 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:
24 Sections 17527, 17532 and 17551, Government Code.

25 **§ 1187.4. Informal Conference.**

26 (a) An informal conference may be scheduled by the Commission or the executive director of
27 their own accord or by request of a party or interested party to the matter in question. The parties
28 and interested parties to the matter shall be invited to participate. With the consent of the parties,
29 the informal conference may be a teleconference.

30 (b) At least 10 days before any informal conference, Commission staff shall serve notice of the
31 conference to those on the mailing list for the matter in question as established pursuant to
32 section 1181.4 of these regulations.

33 (c) The purpose of an informal conference may be to:

34 (1) Set dates for receiving comments or ~~claimant~~ rebuttal comments; completing the proposed
35 decision; and hearing the matter.

36 (2) Give the claimant or requester the opportunity to present the matter and to respond to
37 questions from Commission staff and parties and interested parties for the purpose of resolving
38 or clarifying issues of fact or law.

1 (3) Consider whether a reasonable reimbursement methodology may be developed and included
2 in the parameters and guidelines.

3 (4) Review a draft reasonable reimbursement methodology and proposed statewide estimate of
4 costs that are jointly prepared by the test claimant and the Department of Finance pursuant to
5 Government Code section 17557.1.

6 (5) Identify issues and determine methods of resolving those issues.

7 (d) Any party may notify the executive director of any interested parties who should be invited to
8 attend an informal conference.

9 (e) Anything said, any document disclosed, and any new representations of fact made during an
10 informal conference shall not be made part of the administrative record of a ~~test claim~~matter
11 unless properly admitted into the record through the submission of an amendment to a ~~test~~
12 ~~claim~~matter, written comment, rebuttal, or public testimony.

13 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
14 17518.5, 17530, 17551, 17553(a) and 17557.1, Government Code.

15 **§ 1187.6. Conduct of Hearing.**

16 (a) Each party shall have the right to present witnesses, to introduce exhibits, and to propose to
17 the chairperson questions for opposing witnesses in support or rebuttal of any matter relevant to
18 the issues even ~~though~~if that matter was not covered in the direct examination. The Commission
19 chair or hearing officer, however, may limit the length of testimony to a specific amount of time,
20 or limit the time for each party or witness.

21 (b) The presiding member, Commission members, hearing panel member or hearing officer may
22 question any party or witness and may admit any relevant and material evidence.

23 (c) The taking of evidence in a hearing shall be controlled by the Commission or hearing officer
24 in the manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to
25 taking evidence, the issues and the order of presenting evidence will be explained.

26 (d) The hearing will ordinarily proceed in the following manner. ~~Staff of the Commission staff~~
27 will summarize the matter. The claimant or requester and aligned parties and interested parties
28 will state their~~its~~ positions and present ~~its~~their evidence. ~~The Department of Finance or other affected~~
29 ~~state agency~~Opposing parties or interested parties will thereafter state ~~its~~their positions and
30 present ~~its~~their evidence. The claimant or requester will then be given an opportunity to reply.

31 (e) The Commission or hearing officer may call a party, or any other person who is present, to
32 testify under oath or affirmation. Any member of the Commission, its executive director, or
33 hearing officer may question witnesses.

34 (f) The Commission or the executive director may require that prepared written testimony or
35 other evidence be ~~filed~~submitted in advance of any hearing, ~~for the purpose of facilitating to~~
36 facilitate the orderly consideration of issues at the hearing.

37 (g) Commission public hearings shall be recorded by stenographic reporter or electronic
38 recording or both. The transcript or recordings shall be kept for the period of time required by
39 applicable law governing the retention of records of state agency public proceedings, or until the
40 conclusion of administrative or judicial proceedings, whichever is later.

1 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
2 11125.7, 17527(c), 17532, 17551 and 17553(a), Government Code.

3 **§ 1187.7. Witnesses and Subpoenas.**

4 (a) A party shall arrange for the presence of its own witnesses at a hearing ~~on a claim.~~

5 (b) A subpoena may be issued upon a majority vote of the Commission. A party requesting a
6 subpoena shall ~~submit~~file a written application ~~with~~to the Commission at least six weeks prior to
7 the Commission meeting at which the request will be considered.

8 (c) An application for a subpoena to compel the attendance of a witness shall be made by
9 affidavit and shall give the name and address of the person to be subpoenaed, shall describe the
10 matters to be testified on, shall set forth in detail the relevance to the issues involved in the
11 ~~claim~~matter, shall specify the date, time, and place of the hearing on the ~~claim~~matter and that, to
12 the best of the applicant's personal knowledge, information, or belief, the person to be
13 subpoenaed has knowledge of the matters. If the applicant is unable to obtain the name of the
14 person who has knowledge of the matters, the name of the director of the state or local agency or
15 superintendent of a school district may be used for the application.

16 (d) An application for subpoena duces tecum for the production by a witness of books, papers,
17 correspondence, memoranda, or other records, including records of the claimant or requester,
18 shall be made by affidavit and shall give the name and address of the person to be subpoenaed,
19 shall describe the ~~documents~~matters or things desired to be produced, shall set forth in detail the
20 relevance to the issues involved in the ~~claim~~matter, shall specify the date on which the
21 ~~documents or things~~matters shall be produced, and that, to the best of the applicant's personal
22 knowledge, information, or belief, the witness has the ~~matters~~documents or things in his or her
23 possession or under his or her control and that none of the ~~matters~~documents or things desired to
24 be produced are public records accessible to the public pursuant to Section 6250 et seq., of the
25 Government Code. If the applicant is unable to obtain the name of the person who has possession
26 or control of the ~~matters~~documents or things desired to be produced, the name of the director or
27 superintendent or custodian of records of the state or local agency or school district may be used
28 for the application.

29 (e) When a request for subpoena or subpoena duces tecum is approved by the Commission, the
30 subpoena or subpoena duces tecum shall be issued signed by the executive director, but
31 otherwise be blank.

32 (f) Before service, all appropriate portions of the blank subpoena or subpoena duces tecum shall
33 be completed by the ~~requesting party~~applicant, and the name, address, and telephone number of
34 the ~~requesting party~~applicant shall be included on the form. Service of subpoenas and subpoenas
35 duces tecum shall be made with a copy of the affidavit and shall be arranged for by ~~requesting~~
36 ~~parties~~applicants.

37 (g) Except as otherwise provided in this section, service of subpoenas or subpoenas duces tecum
38 shall be in accordance with the provisions of Section 1985 et seq., of the Code of Civil
39 Procedure.

40 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
41 17527(d), 17551 and 17553(a), Government Code.

1 **§ 1187.8. Representation at Hearing.**

2 (a) A party may appear in person or through an authorized representative. When using an
3 authorized representative, a party shall designate in writing the authorized representative to act as
4 its sole representative and shall certify, file, and serve written notice identifying the authorized
5 representative in accordance with section 1181.3 of these regulations.

6 (b) A representative of a party shall be deemed to control all matters respecting the interest of
7 that party in the proceeding. All correspondence and communications shall be ~~forwarded~~issued
8 to the authorized representative.

9 (c) Withdrawal of appearance of any representative may be effected by filing and serving a
10 written notice of withdrawal in accordance with section 1181.3 of these regulations. Any change
11 in representation shall be authorized by the party in writing and filed and served in accordance
12 with section 1181.3 of these regulations.

13 Note: Authority cited: 17527(c), 17527(g), 17551, 17553(a), 17555, 17620, 17621 and 17622,
14 Government Code. Reference: Sections 17527(c), 17551 and 17553, Government Code.

15 **§ 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and**
16 **Continuances of Hearings.**

17 (a) Requests for Extensions of Time

18 Any party or interested party to a matter may request an extension of time by filing a request
19 with the executive director before the date set for filing of comments or rebuttals with
20 Commission staff on that matter. The request shall fully explain the reasons for the extension,
21 propose a new date for filing, and be certified, filed, and served in accordance with section
22 1181.3 of these regulations. If representations of fact are made, they shall be supported by
23 documentary or testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these
24 regulations. So long as a postponement of a hearing would not be required, there is no prejudice
25 to any party or interested party, and there is no other good reason for denial, the request shall be
26 approved. A party to a matter may request an extension of time that would necessitate
27 rescheduling a hearing, but shall also include a request for postponement of the hearing, pursuant
28 to ~~section 1187.9~~subdivision (b) of this section. Within two business days of receipt of the
29 request, the executive director shall determine whether the extension will be granted and notify
30 all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

31 (b) Requests for Postponement of Hearing

32 A party to an article 7 matter may request a postponement of a hearing on that matter, until the
33 next regularly scheduled hearing. Although postponements of hearings are disfavored, each
34 request for a postponement must be considered on its own merits. The request shall fully explain
35 the reasons for the postponement, and be certified, filed, and served in accordance with section
36 1181.3 of these regulations. If representations of fact are made, they shall be supported by
37 documentary or testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these
38 regulations. Within two business days of receipt of the request, the executive director shall
39 determine whether the postponement will be granted and notify all persons on the mailing list
40 prepared pursuant to section 1181.4 of these regulations. The executive director may postpone
41 the matter only on an affirmative showing of good cause.

42 (1) Circumstances that may indicate good cause include:

- 1 (A) The unavailability of a party, party representative, or witness because of death, illness, or
2 other excusable circumstances;
- 3 (B) The substitution of a party representative, but only where there is an affirmative showing that
4 the substitution is required in the interests of justice;
- 5 (C) The addition of a new party if:
- 6 1. The new party has not had a reasonable opportunity to prepare for hearing; or
7 2. The other parties have not had a reasonable opportunity to prepare for hearing in regard to the
8 new party's involvement in the matter;
- 9 (D) A party's excused inability to obtain essential testimony, documents, or other material
10 evidence despite diligent efforts;
- 11 (E) A significant, unanticipated change in the status of the matter as a result of which the matter
12 is not ready for hearing; or
- 13 (F) The number and complexity of the issues.
- 14 (2) Other factors to be considered: In determining whether to grant a postponement, the
15 executive director shall consider the facts and circumstances that are relevant to the
16 determination. These may include:
- 17 (A) The proximity of the hearing date;
- 18 (B) Whether there was any previous postponement, extension of time, or delay of hearing due to
19 any party;
- 20 (C) The length of the postponement requested;
- 21 (D) The availability of alternative means to address the problem that gave rise to the request for a
22 postponement;
- 23 (E) The prejudice that parties or witnesses will suffer as a result of the postponement;
- 24 (F) If the matter was granted expedited scheduling, the reasons for that status and whether the
25 need for a postponement outweighs the need to avoid delay;
- 26 (G) The Commission's backlog of matters and the impact of granting a postponement on other
27 pending matters;
- 28 (H) Whether the claimant or requester representative is engaged in a trial or other hearing that
29 conflicts with the Commission hearing;
- 30 (I) Whether, pursuant to Government Code 17554, all parties have stipulated to a postponement;
31 and
- 32 (J) Whether the interests of justice are best served by a postponement, by moving forward with
33 the hearing on the matter, or by imposing conditions on the postponement.
- 34 (3) Approval of Requests for Postponement
- 35 (A) A request filed by the claimant or requester at least 15 days before the hearing shall be
36 approved by the executive director for good cause.

1 (B) A request filed by stipulation of the parties, including the claimant or requester, shall be
2 approved by the executive director for good cause.

3 (C) A request filed by the claimant or requester less than 15 days before the hearing may be
4 approved by the executive director for good cause.

5 (D) A request filed by an interested party may be approved by the executive director for good
6 cause. If a state agency makes a request before filing comments on the test claim, that request
7 shall be accompanied by a notice of intent to oppose the test claim in whole or in part.

8 (4) Postponement on Commission Staff's Own Motion: The executive director may postpone a
9 hearing on a matter for good cause and shall notify all persons on the mailing list prepared
10 pursuant to section 1181.4 of these regulations.

11 (c) Continuance of a Hearing

12 (1) Prior to the adoption of its written decision on the matter being heard, the Commission on its
13 own motion, or upon a clear showing of good cause at the request of a party, may continue a
14 hearing to another time or place. Written notice of the time and place of the continued hearing,
15 except as provided herein, shall be in accordance with section 1187.1 of these regulations. When
16 a continuance is ordered during a hearing, oral notice of the time and place of the continued
17 hearing may also be given to each party present at the hearing.

18 (2) In determining whether there is good cause for a continuance within the meaning of
19 subdivision (a) the following policy should be taken into consideration: Continuances are not
20 favored by the Commission. The parties are expected to submit for decision all matters in
21 controversy at a single hearing and to produce at the hearing all necessary evidence, including
22 witnesses, documents and ~~all other matters~~ anything considered essential in the proof of a party's
23 allegations. Continuances will be granted only upon a clear showing of good cause.

24 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
25 17527, 17551 and 17553(a), Government Code; and California Rules of Court, Rule 3.1332.

26 **§ 1187.13. Abandonment of a Matter.**

27 (a) The executive director may deem a matter "abandoned" if any of the following ~~events~~ occurs:

28 (1) The claimant or requester does not respond, within 60 days of service, to a written
29 notification sent to the superintendent of the school district or chief administrative officer of the
30 local agency or director of a state agency that the matter will be deemed "abandoned."

31 (2) ~~The claimant or requester provides written notification to the Commission of its withdrawal~~
32 ~~from a test claim.~~

33 (3) ~~The matter has been postponed or placed on inactive status by the claimant or requester for a~~
34 ~~period of more than one year. However, delays or postponements under the following~~
35 ~~circumstances will not be considered for purposes of computing whether a matter has been~~
36 ~~postponed or placed on inactive status by the claimant or requester for more than one year:~~

37 (A) Delays or postponements made at the request of the Commission or opposing party to the
38 ~~claim or request~~ matter;

1 (B) Delays or postponements, made at the request of the claimant or ~~requesting party~~requester,
2 pending the resolution of a matter currently before the Commission of an issue similar to or
3 related to the postponed matter; and

4 (C) Delays or postponements, made at the request of the claimant or ~~requesting party~~requester,
5 pending the resolution of litigation of an issue similar to or related to the postponed matter.

6 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections
7 17530 and 17553(a), Government Code.

8 **§ 1187.14. Substitution of Parties and Dismissal of a Matter.**

9 (a) A matter, other than a test claim, that has been withdrawn in accordance with section 1187.12
10 or deemed abandoned in accordance with section 1187.13, may be dismissed by the executive
11 director. Commission staff shall ~~provide~~issue a written notice of dismissal to everyone on the
12 mailing list for the matter to be dismissed.

13 (b) A test claim that has been withdrawn or deemed abandoned may be dismissed by the
14 Commission on its own motion or by a motion of a party after notice and an opportunity to be
15 heard has been ~~made~~provided to the claimant, parties and interested parties as provided below.

16 (1) For test claims that are withdrawn, deemed abandoned, or filed by an agency that is not
17 eligible to seek reimbursement because it is not subject to the taxing and spending limitations of
18 article XIII A and B of the California Constitution, Commission staff shall serve written notice to
19 initiate dismissal of the test claim to everyone on the mailing list for the matter. The notice shall
20 announce that another local agency or school district may take over the claim by substitution of
21 parties within 60 days of the issuance of the notice. The notice shall also announce the
22 opportunity to ~~provide~~file written comments on the proposed dismissal of the test claim. A copy
23 of the notice shall also be posted on the Commission's website.

24 (2) Written comments shall be certified, filed, and served in accordance with section 1181.3 of
25 these regulations. If representations of fact are made, they shall be supported by documentary or
26 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

27 (3) If no other local agency or school district takes over the test claim by substitution of parties
28 within 60 days of the issuance of the notice, the Commission shall hear the proposed dismissal of
29 the test claim.

30 (4e) The hearing on a dismissal of a ~~matter~~test claim shall be conducted in accordance with
31 article 7 of these regulations.

32 Note: Authority cited: Sections 17527(c), 17527(g) and 17553(a), Government Code. Reference:
33 Sections 17551 and 17553(a), Government Code.

34 **§ 1187.15. Reconsideration of an Adopted Decision on a Test Claim or Incorrect Reduction**
35 **Claim.**

36 (a) Notwithstanding section 1187.11(b) of these regulations, the Commission may ~~make~~
37 ~~substantive changes to an adopted decision under this section or order a reconsideration or~~
38 amend of all or part of an adopted matter decision on a test claim (including a new test claim
39 decision adopted pursuant to a mandate redetermination) or incorrect reduction claim on petition
40 of any party, interested party, or Commission member only upon a showing of new or different
41 facts, circumstances, or law, or a clerical error. The power to order a reconsideration or amend an

1 adopted decision on a test claim decision or incorrect reduction claim shall expire 30 days after
2 the adopted decision is ~~delivered or mailed to~~served on the claimant or requester. If additional
3 time is needed to evaluate a petition for reconsideration filed before the expiration of the 30-day
4 period, the Commission may grant a stay of that expiration for no more than 30 days, solely for
5 the purpose of considering the petition. A request for reconsideration shall be deemed
6 automatically stayed for the 30-day period. If no action is taken on a petition within the time
7 allowed for ordering reconsideration, the petition shall be deemed denied.

8 ~~(b) Except as provided elsewhere in this section, any party, interested party, or Commission~~
9 ~~member may request that the Commission reconsider and change an adopted decision to correct~~
10 ~~an error of law.~~

11 (be) All requests for reconsideration from any party or interested party shall be certified, filed,
12 and served in accordance with section 1181.3 of these regulations and shall contain the
13 following:

14 (1) The name and address of the ~~requesting party~~requester;

15 (2) A copy of the Commission's adopted decision;

16 (3) A detailed statement of the clerical error or the new or different facts, circumstances, or law
17 reasons for supporting the request, ~~including and all documentation to support the request. For~~
18 the purposes of this section, an alleged new or different law shall not include a later enacted
19 statute without a retroactive application.

20 ~~(A) An explanation of the reasons for the request for reconsideration; and~~

21 ~~(B) All documentation the requester intends to submit to support the request;~~

22 (4) A description of the proposed ~~change~~amendment to the decision on the test claim or incorrect
23 reduction claim; and

24 (5) If representations of fact are made, they shall be supported by documentary or testimonial
25 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

26 ~~(dc)~~ Commission member requests may be made orally during a regularly scheduled
27 Commission meeting. Commission staff shall prepare the written request; based on the elements
28 as specified in subsections (be)(1-45) above.

29 (ed) Any signatory to a written agreement that settles a matter may not request reconsideration of
30 that matter if the matter is settled with prejudice.

31 (fe) Before the Commission considers the request for reconsideration, Commission staff shall
32 prepare a written analysis that includes ~~regarding whether the adopted decision is contrary to law~~
33 ~~which shall include but not be limited to~~ a review of the request and written comments filed by
34 other state agencies, interested parties, and the requester. ~~Commission staff shall make a~~
35 ~~recommendation in the analysis on whether the request for reconsideration should be granted.~~
36 The written analysis shall address whether the request for reconsideration is timely, complete,
37 diligent, and is based on a clerical error or new or different facts, circumstances, or law that is
38 likely to support an amendment to the findings or conclusions in the adopted decision on the test
39 claim or incorrect reduction claim, and include a recommendation on whether or not the request
40 for reconsideration should be granted. The Commission shall consider the request for
41 reconsideration and the written staff analysis at a scheduled meeting. Five affirmative votes shall

1 be required to grant the request for reconsideration and schedule the request for a second hearing
2 on the merits.

3 (gf) If the Commission grants the request for reconsideration, a second hearing shall be
4 conducted to determine if the adopted decision on a test claim or incorrect reduction claim~~in~~
5 ~~question~~ must be amended~~revised to correct an error of law~~ based on a clerical error or new or
6 different facts, circumstances, or law.

7 (1) The following procedures shall govern the Commission's reconsideration of the adopted
8 decision:

9 (A) At least eight weeks before the Commission is scheduled to ~~consider whether~~reconsider an
10 adopted decision ~~is contrary to law~~, or at another time determined~~required~~ by the executive
11 director, Commission staff shall prepare a draft proposed decision and distribute~~issue~~ it to those
12 ~~identified~~ on the mailing list for the matter established pursuant to section 1181.4 of these
13 regulations ~~and any person who requests a copy.~~

14 (B) Written comments may be filed with the Commission ~~staff concerning~~ on the draft proposed
15 decision. All representations of fact shall be supported by documentary or testimonial evidence;
16 ~~submitted~~ in accordance with section 1187.5 of these regulations. Written comments shall be
17 certified, filed, and served in accordance with section 1181.3 of these regulations. A three-week
18 period for comments shall be given, subject to the executive director's authority to expedite all
19 matters pursuant to Government Code section 17530. All written comments timely filed shall be
20 reviewed by Commission staff and may be incorporated into the proposed decision regarding
21 ~~whether the adopted decision is contrary to law and~~ presented to the Commission ~~before the~~
22 ~~scheduled meeting.~~

23 (2) The procedures set forth in article 7 shall govern the Commission's hearings and decisions
24 process, except that five affirmative votes shall be required to ~~change~~amend an adopted decision
25 on a test claim or incorrect reduction claim.

26 (hg) If the Commission changes an adopted decision on a test claim, the procedures set forth in
27 Sections 1183.7 through 1183.14 of these regulations shall govern the adoption of parameters
28 and guidelines or amended parameters and guidelines, and the statewide cost estimate, if
29 applicable.

30 (ih) Failure to seek Commission reconsideration of an adopted decision shall not affect a
31 ~~claimant's or state agency party's~~ right to seek judicial review pursuant to Government Code
32 section 17559(b).

33 (ji) This section only applies to reconsiderations requested pursuant to Government Code section
34 ~~17759(a)~~17559(a); it does not apply to remands or reconsiderations directed by the courts or by
35 statute.

36 Note: Authority cited: Sections 17527(c), 17527(g), 17553(a) and 17559(a), Government Code.
37 Reference: Sections 17532, 17551 and 17559, Government Code.

38 **Article 8. Rulemaking and Informational Hearings**

39 **§ 1188.1. Scheduling and Noticing of an Informational Hearing**

40 (a) The Commission may, upon its own motion, set an informational hearing on any subject
41 within its jurisdiction. Matters subject to informational hearings under article 8 of these

1 regulations include: a proposed assignment of an article 7 matter to a hearing officer, a
2 rulemaking proceeding, the adoption of a statewide cost estimate, and any other subject that
3 meets the definition of "informational hearing" in section 1181.2 of these regulations and is not
4 subject to hearings under article 7 of these regulations.

5 (b) An article 8 matter is set for hearing when Commission staff issues its notice and agenda
6 providing the date, time, and place of the hearing to everyone on the mailing list described in
7 section 1181.4 of these regulations.

8 (c) Commission staff shall ~~provide~~issue notice of an informational hearing in accordance with
9 Government Code section 11120 et seq. The notice shall include the following:

10 (1) A statement of the authority pursuant to which the hearing is ordered, and a reference to any
11 code sections or other provisions of law pursuant to which the information is to be gathered or
12 disseminated;

13 (2) A statement of the nature and purpose of the proceedings;

14 (3) A statement requiring the presence and participation of any persons the Commission may
15 direct, consistent with the nature and purpose of the proceedings;

16 (4) A statement indicating the time during which written comments will be received and the
17 manner by which the comments shall be filed;

18 (5) A statement that any person may make oral comments on the subject of the hearing; and

19 (6) A statement setting forth additional procedures deemed necessary by the Commission and not
20 inconsistent with these regulations.

21 Note: Authority cited: Sections 17527(c) and 17527(g), Government Code. Reference: Sections
22 11125, 17527(c) and 17532, Government Code.

23 **§ 1188.2. Rulemaking.**

24 (a) Petitions:

25 (1) Any person may petition the Commission to request rulemaking hearings. The petition shall
26 be filed and served in accordance with section 1181.3 of these regulations and shall include:

27 (A) The name, address, and telephone number of the petitioner;

28 (B) The substance or nature of the regulation, amendment, or repeal requested;

29 (C) The reasons for the request; and

30 (D) Reference to the authority of the Commission to take the action requested.

31 (2) The petition shall be filed with the executive director who shall, within seven days after its
32 filing, determine whether the petition contains the information specified in subsection (a)(1) of
33 this section.

34 (A) If the executive director determines that the petition is complete, it shall be certified in
35 writing as complete and the petitioner shall be so notified.

36 (B) If the executive director determines that the petition is not complete, it shall be returned to
37 the petitioner accompanied by a statement of its defects. The petitioner may correct the petition
38 and resubmit it at any time.

1 (3) Upon certification by the executive director, the Commission shall, within 60 days from the
2 filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the
3 petition, directing staff to prepare an appropriate order pursuant to subdivision (b) of this section.

4 (b) Commission Order to ~~Institute~~Initiate a Rulemaking Proceeding. The Commission may, upon
5 its own motion or upon granting a petition filed pursuant to subdivision (a) of this section, adopt
6 an order to ~~institute~~initiate a rulemaking proceeding in accordance with the procedures of
7 Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

8 (c) Notice.

9 (1) Notice of a rulemaking proceeding shall be given in accordance with Government Code
10 section 11346.4.

11 (2) At least 10 days prior to the first hearing in a proceeding ordered pursuant to subdivision (b)
12 of this section, the executive director shall cause notice of the hearing to be ~~mailed~~issued to
13 every person requested to participate in the proceedings, and to any person who the executive
14 director determines to be concerned with the subject matter of the proceeding, and shall post a
15 copy of the notice on the Commission's website.

16 (3) In addition to the requirements of subsections (c)(1) and (2) of this section, notice of
17 additional hearing shall be required at least 10 days prior to the commencement of the hearing
18 unless continuation is orally announced in a public hearing.

19 (4) Nothing in this section shall preclude the Commission from publishing notice in additional
20 forms or media as the executive director may prescribe.

21 (5) A copy of the order adopted pursuant to subdivision (b) of this section shall accompany the
22 initial notice prepared and ~~mailed~~issued pursuant to this section, unless a copy of the order has
23 been previously ~~mailed~~issued to those persons who would receive the notice.

24 Note: Authority cited: Section 17527(g), Government Code. Reference: Sections 11340.6,
25 11346.2, 11346.4, 11346.8, 11346.9, 17527(c), 17527(g), 17530, 11346.4 and 17551,
26 Government Code.

27 **Article 10. Mandate Redetermination Process**

28 **§ 1190.1. Filing a Request to Adopt a New Test Claim Decision.**

29 (a) A local agency or a school district, statewide association of local agencies or school districts,
30 the Department of Finance, Office of the State Controller, or other affected state agency, may file
31 a request to adopt a new test claim decision to supersede a previously adopted test claim decision
32 by making a showing that the state's liability pursuant to Article XIII B, section 6(a) of the
33 California Constitution for the previously adopted test claim decision has been modified based
34 on a "subsequent change in law" as defined by Government Code section 17570(a)(2). Such a
35 request is known as a "request for mandate redetermination."

36 (b) All requests for mandate redetermination shall be filed on a form developed by the executive
37 director and shall contain a detailed analysis of how and why the state's liability for mandate
38 reimbursement has been modified pursuant to article XIII B, section 6(a) of the California
39 Constitution and all of the elements and accompanying documents required by the form and
40 Government Code section 17570(d). If representations of fact are made, they shall be supported
41 by documentary or testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these

1 regulations.

2 (c) The detailed analysis of how and why the state's liability for mandate reimbursement has
3 been modified pursuant to article XIII B, section 6(a) of the California Constitution based on a
4 "subsequent change in law" as defined by Government Code section 17570 requires more than a
5 written narrative or simple statement of the facts and law. It requires the application of the law
6 (Gov. Code § 17570 (a) and (b)) to the facts (i.e. the alleged subsequent change in law)
7 discussing, for each activity addressed in the prior test claim decision, how and why the state's
8 liability for that activity has been modified. Specific references shall be made to statutes and
9 chapters, articles, sections, and page numbers that are alleged to impose or not impose a
10 reimbursable state-mandated program.

11 (d) A request for mandate redetermination and accompanying documents shall be certified, filed,
12 and served in accordance with section 1181.3 of these regulations.

13 (e) Within 10 days of receipt of a request for mandate redetermination, Commission staff shall
14 notify the requester if the request is complete or incomplete and refer the requester to these
15 regulations. Requests for mandate redetermination shall be considered incomplete if any of the
16 elements required in subdivisions (b), (c), or (d) of this section are illegible or are not included. If
17 a complete request for mandate redetermination is not received within 30 calendar days from the
18 date the incomplete request was returned, the executive director shall disallow the original
19 request filing date. New requests for mandate redetermination may be accepted on the same
20 subsequent change in law alleged to modify the state's liability pursuant to article XIII B, section
21 6(a) of the California Constitution.

22 (f) A request for mandate redetermination shall be filed on or before June 30 following a fiscal
23 year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal
24 year.

25 (g) A requester may not add a new subsequent change in law to a request for mandate
26 redetermination after the request has been deemed complete.

27 (h) Any request for mandate redetermination that fails to allege a "subsequent change in law," as
28 defined by Government Code section 17570, shall be returned by the executive director with a
29 written notice stating the reason that the request is being returned. These filings may include, but
30 are not limited to, requests that meet the requirements for a proposed parameters and guidelines
31 amendment or a new test claim filing.

32 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
33 Sections 17530 and 17570, Government Code.

34 **§ 1190.2. Review and Response.**

35 (a) Within 10 days of receipt of a complete request for mandate redetermination, Commission
36 staff shall ~~send~~ issue a written notice to the Department of Finance, Office of the State Controller,
37 any affected state agency, the original test claimant, and any known interested party, that:

38 (1) A copy of the request for mandate redetermination has been posted on the Commission's
39 website, and

40 (2) Written comments concerning the request for mandate redetermination may be filed within
41 30 days and evidence may also be presented at the hearing on the request for mandate
42 redetermination.

1 (b) Content and Form. Written comments on the request for mandate redetermination shall
2 contain the following documentary evidence, if applicable:

3 (1) If representations of fact are made, they must be supported by documentary or testimonial
4 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

5 (2) A copy of relevant portions of state constitutional provisions, state and federal statutes, and
6 executive orders, and a copy of administrative decisions and court decisions that may impact the
7 alleged mandate, unless the authorities are also cited in the request to adopt a new test claim
8 decision. The specific statutes and chapters, articles, sections, and page numbers must be
9 identified. Published court decisions arising from state mandate determinations by the Board of
10 Control and the Commission, article XIII B, section 6 of the California Constitution, and
11 Government Code sections 17500 et seq., are exempt from the requirements of this subsection.
12 When an omnibus bill is relevant to the response, only the relevant pages of the statute, including
13 the Legislative Counsel's Digest and the specific statutory ~~changes~~ amendments at issue shall be
14 filed.

15 (c) Filing. Written comments and supporting documentation concerning a request for mandate
16 redetermination shall be certified, filed, and served in accordance with Section 1181.3 of these
17 regulations.

18 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
19 Section 17570, Government Code.

20 **§ 1190.3. Rebuttal.**

21 (a) Parties and interested parties shall be given an opportunity to rebut written comments
22 concerning a request for mandate redetermination by filing written rebuttals within 30 days of
23 service of the comments.

24 (b) Content and Form. A written rebuttal shall contain the following documentary evidence, if
25 applicable:

26 (1) If representations of fact are made, they must be supported by documentary or testimonial
27 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations.

28 (2) A copy of relevant portions of state constitutional provisions, federal statutes, and executive
29 orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal,
30 unless the authorities are also cited in the request to adopt a new test claim decision or any
31 response thereto. The specific statutes and chapters, articles, sections, and page numbers shall be
32 identified. Published court decisions arising from state mandate determinations by the Board of
33 Control and the Commission, article XIII B, section 6 of the California Constitution, and
34 Government Code sections 17500 et seq., are exempt from the requirements of this subsection.
35 When an omnibus bill is relevant to the rebuttal, only the relevant pages of the statute, including
36 the Legislative Counsel's Digest and the specific statutory ~~changes~~ amendments at issue shall be
37 filed.

38 (c) The rebuttal to a comment concerning a request for mandate redetermination shall be
39 certified, filed, and served in accordance with section 1181.3 of these regulations.

40 Note: Authority cited: Sections 17527(g), 17553(a) and 17570(d), Government Code. Reference:
41 Section 17570, Government Code.

1 **§ 1190.5. Hearing Process and Form of Decision.**

2 Notwithstanding any other provision of these regulations, mandate redetermination process
3 hearings and decisions shall be subject to article 7 of these regulations. There shall be a two-step
4 hearing process for requests to adopt a new test claim decision as follows:

5 (a) The First Hearing:

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

13 (2) At least eight weeks before the hearing or at another time required by the executive director
14 or stipulated to by the parties, Commission staff shall prepare a draft proposed decision and
15 ~~distribute~~issue it to the parties, interested parties, and any person who requests a copy, and shall
16 post it on the Commission’s website. A request for mandate redetermination is set for the first
17 hearing when Commission staff issues its draft proposed decision. A written notice of the date,
18 time, and place of the first hearing shall be served on everyone on the mailing list described in
19 section 1181.4 of these regulations and posted on the Commission’s website.

20 (3) Written comments concerning the draft proposed decision may be filed with the~~submitted to~~
21 ~~Commission staff~~. Written comments shall be certified, filed, and served in accordance with
22 section 1181.3 of these regulations, by the date determined and ~~publicized~~noticed by the
23 executive director. A three-week period for comments shall be given, subject to the executive
24 director's authority to expedite all matters pursuant to Government Code section 17530. If
25 representations of fact are made, they shall be supported by documentary or testimonial
26 evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations. All written
27 comments timely filed shall be reviewed by Commission staff and may be incorporated into the
28 proposed decision of the request to adopt a new test claim decision.

29 (A) It is the Commission’s policy to discourage the introduction of late comments, exhibits, or
30 other evidence filed after the three-week comment period described in subdivision (a)(3) of this
31 section. The Commission need not rely on, and staff need not respond to, late comments,
32 exhibits, or other evidence filed~~submitted~~ in response to a draft proposed decision.

33 (4) Before the first hearing on the request for mandate redetermination, Commission staff shall
34 prepare a proposed decision limited to the issue of whether the requester has made a showing
35 that identifies a subsequent change in law, material to the prior test claim decision, which may
36 modify the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution.
37 This proposed decision shall consider the request, written comment, rebuttals and supporting
38 documentation filed by the parties and interested parties. The proposed decision for the first
39 hearing shall find that the requester has made an adequate showing if staff finds that the request,
40 when considered in light of all of the written comments and supporting documentation in the
41 record of this request, has a substantial possibility of prevailing at the second hearing.

42 (5) If, at the first hearing, the Commission finds that:

1 (A) The requester has not made an adequate showing, when considered in light of all of the
2 written comments, rebuttals and supporting documentation in the record and testimony at the
3 hearing, that the request for mandate redetermination has a substantial possibility of prevailing at
4 the second hearing, the Commission shall ~~publish~~issue a decision denying the request for
5 mandate redetermination.

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

11 (6) Everyone on the mailing list described in section 1181.4 of these regulations shall be
12 ~~provided~~issued written notice that the Commission's decision has been posted on the
13 Commission's website and, if applicable, that the date, time, and place of the second hearing
14 have also been posted on the Commission's website.

15 (b) The Second Hearing:

16 (1) If the Commission proceeds to the second hearing, it shall consider whether the state's
17 liability pursuant to article XIII B, section 6(a) of the California Constitution has been modified
18 based on the subsequent change in law alleged by the requester, thus requiring adoption of a new
19 test claim decision to supersede the previously adopted test claim decision. If the Commission
20 finds that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution
21 has been modified based on the subsequent change in law alleged by the requester, it shall adopt
22 a new decision that reflects the modified liability of the state.

23 (2) Before the second hearing, Commission staff shall prepare a proposed decision. At least eight
24 weeks before the hearing or at another time required by the executive director or stipulated to by
25 the parties, Commission staff shall prepare a draft proposed decision and ~~distribute~~issue it to
26 everyone on the mailing list described in section 1181.4 of these regulations and post it on the
27 Commission's website. The proposed decision shall consider the request, and any written
28 comments and rebuttals and supporting documentation filed.

29 (3) Any party or interested party may file written comments concerning the draft proposed
30 decision with the Commission ~~staff~~. Written comments shall be certified, filed, and served in
31 accordance with section 1181.3 of these regulations, by the date determined and
32 ~~publicized~~noticed by the executive director. A three-week period for comments shall be given,
33 subject to the executive director's authority to expedite all matters pursuant to Government Code
34 section 17530. If representations of fact are made, they shall be supported by documentary or
35 testimonial evidence, ~~submitted~~ in accordance with section 1187.5 of these regulations. All
36 written comments timely filed shall be reviewed by Commission staff and may be incorporated
37 into the proposed decision.

38 (A) It is the Commission's policy to discourage the introduction of late comments, exhibits, or
39 other evidence filed after the three-week comment period described in subdivision (b)(3) of this
40 section. The Commission need not rely on, and staff need not respond to, late comments,
41 exhibits, or other evidence filed~~submitted~~ in response to a draft proposed decision.

42 (4) If, at the second hearing, the Commission finds that the state's liability pursuant to article
43 XIII B, section 6(a) of the California Constitution:

1 (A) has not been modified based on a subsequent change in law as defined by Government Code
2 section 17570 (a)(2), the Commission shall ~~publish~~issue a decision denying the request.

3 (B) has been modified based on a subsequent change in law, as defined by Government Code
4 section 17570 (a)(2) the Commission shall adopt a new decision to supersede the prior decision.
5 The new decision shall be prepared in writing, based on the record, and shall include a statement
6 of reasons for the decision, findings, and conclusions.

7 (5) Everyone on the mailing list described in section 1181.4 of these regulations shall be
8 ~~provided~~issued written notice that a copy of the decision has been posted on the Commission's
9 website.

10 (6) After a decision or proposed decision has been served or posted on the Commission's
11 website, it shall not be changed except to correct clerical errors, in which case a corrected
12 decision or proposed decision shall be prepared and posted on the Commission's website.
13 Everyone on the mailing list described in section 1181.4 of these regulations shall be
14 ~~provided~~issued written notice that a copy of the revised decision has been posted on the
15 Commission's website.

16 (7) If a new decision is adopted that finds that the State's liability under article XIII B, section
17 6(a) of the California Constitution has been modified, the amount and method of reimbursement
18 shall be determined in accordance with article 3 of these regulations.

19 Note: Authority cited: Section 17527(g), 17553(a) and 17570(d), Government Code. Reference:
20 Sections 17530 and 17570, Government Code.